

## **FACULTY OF ACTUARIES**

### **RULES & BYE-LAWS**

**(as at 1 July 2009)**

#### ***Members***

- 1 The Faculty shall consist of Fellows, Honorary Fellows and Associates.
- 2 Anyone possessing qualifications fitting him for the duties of an actuary and which render his admission to the Faculty desirable may be elected a Fellow on the nomination of the Council. Such nomination must be concurred in by at least three-fourths of the Members of Council present at a meeting thereof, of which notice, specifying the nominee, shall have been issued not less than seven days previously. The nomination shall be submitted to the first General Meeting of the Faculty thereafter, at which a ballot shall be taken, and if a majority of votes be in favour of the admission of the nominee, he shall be held duly elected.
- 2A In these Rules, an EC actuary shall mean a person who:
  - (a) holds qualifications which entitle him to pursue the profession of actuary in one of the member states of the European Community other than the United Kingdom; and
  - (b) is entitled to apply for admission to membership of the Faculty pursuant to European Communities Directive No. 89/48/EEC as from time to time amended or replaced ("the Directive") or to any legislation implementing the Directive in the United Kingdom or to any agreement made by the Faculty concerning the mutual recognition by European Community national associations of actuaries of the professional qualifications of actuaries belonging to such associations pursuant to and consistent with the objectives of the Directive.

For this purpose the 'European Community' shall be taken to include any non-community European state in respect of whose national association of actuaries the Faculty has made such an agreement concerning mutual recognition.
- 2B Notwithstanding any other provisions in these Rules, the Council shall from time to time make such Bye-laws as it shall think fit and as are consistent with the objectives of the Directive for the admission of an EC actuary as a Fellow. Such Bye-laws:
  - (a) may exempt an EC actuary from the Examinations prescribed under Rule 13;
  - (b) shall empower the Council to require the EC actuary to complete an adaptation period or to take an aptitude test (as such terms are defined in the Directive), provided that no such period or test shall exceed the limits or nature permitted by the Directive.

- 2C The Council shall have power to enter into mutual recognition agreements with other actuarial associations of sufficient standing. Notwithstanding any other provision in these Rules, the Council shall from time to time make such Bye-laws as it shall think fit for the admission to Fellowship of actuaries who are members of overseas actuarial associations outside the European Union with which the Faculty has made an agreement concerning the mutual recognition of actuarial qualifications ("recognised actuaries"). Such Bye-laws:
- (a) may exempt a recognised actuary from the examinations prescribed under Rule 13;
  - (b) may empower the Council to require a recognised actuary to complete an adaptation period and/or to complete a Professionalism Course approved by the Council.
- 2D Subject to satisfactory completion of all requirements properly imposed upon him by the Council which are consistent with the objectives of the Directive referred to in Rule 2A or with the terms of the mutual recognition agreement referred to in Rule 2C and subject to the submission to the Council of an application in such form as the Council may from time to time prescribe, the Council shall admit an EC actuary or a recognised actuary respectively as a Fellow without any ballot at a General Meeting.
- 2E As a condition of admission as a Fellow Council will require an EC actuary or a recognised actuary wishing to work in the UK to have passed a UK Practice Module (as may be prescribed from time to time by Council). Council may require an EC actuary or a recognised actuary applying for admission as a Fellow to give an undertaking to Council that he will attend a Professionalism Course approved by Council within twelve months of such an actuary being admitted as a Fellow (or within such longer period as Council may allow to take account of any special circumstances applying to any individual actuary). The breach by any such actuary so admitted of his undertaking to attend a Professionalism Course as aforesaid may be referred to the Honorary Secretary in terms of rule 11.1 of the Schedule to these Rules and Bye-laws as *prima facie* evidence of Misconduct as provided for in Rule 1.12(b) of the said Schedule.
- 2F If a person who has ceased to be a Member makes written application to the Council for reinstatement, the Council may at its discretion agree to such reinstatement upon such terms and conditions as it may consider appropriate. The Council may cause notice of such reinstatement to be given to such persons and otherwise published as it thinks fit.
- 3 Anyone of distinguished attainments in mathematical, statistical or financial subjects, or who has rendered important service in promoting the objects of the Faculty, may be elected an Honorary Fellow at any General Meeting of the Faculty, upon the recommendation of the Council. It shall also be in the power of the Council to recommend to the Faculty that a Fellow who has retired from the profession after long service be elected an Honorary Fellow.

- 4A Any Student of the Faculty (see Rule 6) who has passed to the satisfaction of the Council such examinations as the Council may from time to time prescribe, has acquired or in such circumstances to be determined by the Council shall be deemed to have acquired such skills in matters relating to the profession of actuary as the Council may from time to time prescribe, has attended a professionalism course approved by the Council and has satisfied the Council that he is a fit and proper person to be an Associate may within three months of the latest of passing the final such examination, acquiring such skills as prescribed from time to time by Council and completion of the professionalism course (or within such longer period as Council may allow) apply to be admitted as an Associate. Such application should be in such form as the Council may from time to time prescribe. If his application is approved by the Council the applicant shall be declared duly admitted and his admission shall be reported to the first General Meeting of the Faculty thereafter.
- 4B Any Associate or Student of the Faculty (see Rule 6) who has passed to the satisfaction of the Council such examinations as the Council may from time to time prescribe and has satisfied the Council that he is a fit and proper person to be a Fellow may within three months of passing the final examination (or within such longer period as Council may allow) apply to be transferred to the class of or, as appropriate, admitted as a Fellow. Such application shall be in such form as the Council may from time to time prescribe and shall include an undertaking on the part of the applicant to attend a Professionalism Course approved by the Council within twelve months of the applicant being admitted as a Fellow (or within such longer period as the Council may allow to take account of any special circumstances applying to any individual applicant). If his application is approved by the Council the applicant shall be declared duly admitted and his admission shall be reported to the first General Meeting of the Faculty thereafter. The breach by any Fellow so admitted of his undertaking to attend a Professionalism Course as aforesaid may be referred to the Honorary Secretary in terms of rule 11.1 of the Schedule to these Rules and Bye-laws as *prima facie* evidence of Misconduct as provided for in Rule 1.12(b) of the said Schedule.
- 5 A Fellow or Honorary Fellow or Associate may use after his name the initials FFA or Hon. FFA or AFA respectively.

### **Students**

- 6 (a) Anyone desirous of prosecuting his studies in connection with the Faculty must be enrolled as a Student. Application shall be made on a prescribed form and shall be subject to the approval of the Council. The applicant shall also furnish evidence of educational qualifications to the satisfaction of the Council and in accordance with the appropriate Bye-Law or Bye-Laws.
- (b) The Council shall have the power to remove a Student from the Roll, provided that at the Meeting of Council when such removal be proposed not less than five-sixths of the Members of Council present shall vote in favour of such removal.

### ***Affiliates***

- 7 (a) Anyone who possesses such qualifications or experience as may be approved by the Council may, on the recommendation of a Fellow and subject to the approval of the Council and to such regulations (including the payment of an annual subscription) as may from time to time be made by the Council, be enrolled as an Affiliate. Enrolment as an Affiliate shall be subject to annual renewal.
- (b) The Council shall have power to remove an Affiliate from the Roll, provided that at the meeting of Council when such removal be proposed not less than five-sixths of the Members of Council present shall vote in favour of such removal.

### ***Council***

#### **8 Membership of Council.**

The Faculty, at a properly constituted Ordinary General Meeting shall elect by ballot from among the Fellows;

- a President,
- not more than four Vice-Presidents,
- not more than two Past-Presidents,
- an Honorary Secretary,
- an Honorary Treasurer, and
- such other additional Office-Bearers as may be required (the "Additional Office-Bearers"),

and not more than twelve other Members (the "Ordinary Members") to act as the Council of the Faculty for the ensuing year.

The Council shall have the power to co-opt the Chairman or Deputy Chairman of the Board of Examiners and the Chairman or Deputy Chairman of any Committee it may have appointed, including any Board or Committee appointed jointly with the Institute of Actuaries.

All Members of Council shall have equal voting rights save that the President shall have a casting vote if required.

#### **9 Elections to Council.**

- a) (i) At each Ordinary General Meeting ("OGM") of the Faculty (the "Relevant OGM") commencing with the OGM for the year 2004, a third of the then total number of Ordinary Members' positions as Members of the Council (including in such total number any such positions which at any time since the last OGM have become vacant due to death, resignation, or other causes (whether they have been the subject of interim appointments pursuant to Rule 10 or not) (the "Vacant Positions")) or such next whole number as exceeds a third, shall be available for election (the "Number of Ordinary Positions Available for Election").
- (ii) If, since the last OGM, the total number of Vacant Positions is less than the Number of Ordinary Positions Available for Election then the number of those Ordinary Members who have had the longest continuous service on the

Council necessary to make up the difference shall stand down with effect from the conclusion of the Relevant OGM.

- b) Those Ordinary Members standing down pursuant to Rule 9 a) (ii) will not be eligible for re-election as Ordinary Members until the expiry of one year from the Relevant OGM.
- c) Not less than eleven weeks prior to the Relevant OGM, Council will circulate to the Members by notice in writing details of those candidates which Council proposes for election to fill the Number of Ordinary Positions Available for Election at that OGM (the "Council Nominated Candidates"). A short précis of current and past employment, outline of service to the Profession or related bodies and an indication of their current practice area ("Précis") will be included in such details.
- d) For a period of not less than three weeks after the circulation to the Members by Council of the notice of the Council Nominated Candidates under Rule 9 c) above (which shall be referred to in that notice), the Membership shall be afforded the opportunity to nominate additional candidates for consideration by the Membership for election to fill the Number of Ordinary Positions Available for Election at the Relevant OGM (the "Member Nominated Candidates"). Such nominations signed by a proposer and a seconder, who should both be Members of the Faculty, should be made in writing to the Faculty Secretary and include written confirmation, signed by the nominee, that he or she is willing to be considered for election. No Member shall propose or second himself. A Précis for each Member Nominated Candidate should be included with any such nomination.
- e) Following the close of the three week period referred to in Rule 9 (d) above, the Faculty Secretary shall prepare a schedule which shall list the Council Nominated Candidates and the Member Nominated Candidates (the "Preliminary Schedule of Candidates") and shall circulate this together with their respective Précis by sending it to all those Members named in that Schedule.
- f) Candidates listed on the Preliminary Schedule of Candidates shall have one week from the date of its issue pursuant to Rule 9 e) to inform the Faculty Secretary in writing should they wish to withdraw at this stage.
- g) (i) Not less than four weeks prior to the Relevant OGM, the Faculty Secretary shall prepare a schedule which shall list all the Council Nominated Candidates and the Member Nominated Candidates who have not informed the Faculty Secretary pursuant to Rule 9 f) above that they wish to withdraw their nomination (the "Finalised Schedule of Candidates"). The Faculty Secretary shall circulate the Finalised Schedule of Candidates together with their respective Précis by sending it to each Member together with the Notice of the Relevant OGM (required pursuant to Rule 18) and a form of proxy (in such form as the Faculty Secretary shall consider appropriate) inviting them to cast their votes at the Relevant OGM in person (or by proxy) in favour of their chosen candidates.

- (ii) To be valid, duly completed proxy forms (only in the form issued by the Faculty Secretary) must be received by the Faculty Secretary at the offices for the time being of the Faculty not less than seventy-two hours prior to the time appointed for the commencement of the Relevant OGM in the Notice thereof issued to Members in accordance with Rule 18 and in default the form shall be treated as not valid.
  - (iii) At each Relevant OGM (or any adjourned meeting thereof) for every resolution proposed to the meeting in respect of the election of Ordinary Members of the Council to fill the Number of Ordinary Positions Available for Election upon the declaration by the Chairman thereof of the results of the voting on a show of hands on such resolution the Chairman of the meeting shall demand that a poll be taken at such time as he directs and any business other than that upon which a poll has been demanded may be proceeded with pending the taking of the poll. If a poll is duly demanded it shall be taken in such manner as the Chairman of the meeting directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
  - (iv) On the resolutions proposed to a Relevant OGM in respect of the election of Ordinary Members of the Council to fill the Number of Ordinary Positions Available for Election on a show of hands or a poll every Member shall have only one vote in favour of their chosen candidate in respect of each such Position. On a poll on any such resolution votes may be given in favour of a chosen candidate only either personally or by proxy. The instrument appointing a proxy shall be in writing under the hand of the appointer. A proxy must be a Member of the Faculty. A vote given in accordance with the terms of a form of proxy under the terms of this Rule 9 shall be valid notwithstanding the previous death or insanity of the principal or revocation of the proxy provided that no intimation in writing of such death, insanity or revocation as aforesaid shall have been received by the Faculty Secretary at the Faculty's offices before the commencement of the Relevant OGM or adjourned meeting at which the proxy is used.
- h) The Faculty Secretary shall keep a record of votes cast and the original forms of proxy and voting papers for a period not less than the occasion of the next OGM.
  - i) In the application of this Rule it shall be a condition that of the Members of Council (including Office-Bearers) elected in any year there shall be at least four who were not Members of Council in the previous year.

10 When a vacancy occurs among the Office-Bearers or other Members of Council in the interval between one Ordinary General Meeting and the next, the Council may make an interim appointment to fill such vacancy.

11 The Council shall manage and direct all matters which concern the Faculty in terms of the Rules and subject to the control of the Faculty. The Council shall have power to appoint a Secretary and such assistants as may be required, with such

remuneration, if any, as it may see fit, and also to appoint Committees including a joint management committee with the Institute of Actuaries, and to delegate any of its powers to such Committees.

- 12 The Council shall have power from time to time to make such Bye-Laws or such alterations to existing Bye-Laws as are not inconsistent with these Rules or with the Charter of Incorporation and as may be found necessary. Any new or altered Bye-Laws shall remain in force until the next General Meeting of the Faculty, when they shall be confirmed or annulled.
- 13 The Council shall prescribe the Examinations to be undergone by a Student before admission to the Faculty as a Member and by an Associate before transfer to the class of Fellow. It shall appoint a Board of Examiners to conduct such Examinations and, on the report of the Board, shall decide as to which candidates have passed such Examinations.
- 14 The Council shall watch over all parliamentary and other proceedings affecting the interests of the profession and shall report thereon to a General Meeting of the Faculty when such proceedings appear of sufficient importance.
- 15 The Honorary Secretaries and the Secretary shall conduct the correspondence of the Faculty under the direction of the Council, and minutes of the Meetings of the Faculty and of the Council shall be preserved.
- 16 (a) The Honorary Treasurer or the Secretary shall receive all monies due to the Faculty. An account shall be kept of receipts and disbursements, which account, made up to the last day of February in each year shall be audited by the Auditor elected as hereinafter provided, and shall be submitted to the next Ordinary General Meeting.  
  
(b) The Members, at the Ordinary General Meeting each year, shall appoint an auditor to be responsible for auditing the account to be submitted to the next Ordinary General Meeting.

### ***Meetings***

- 17 Ordinary and Special General Meetings of the Faculty shall consist of Members only - eight to be in a quorum. Only Fellows shall be eligible to vote in the election of Fellows under Rules 2 and 3. At meetings of the Council, five Members shall form a quorum.
- 18 One Ordinary General Meeting of the Faculty shall be held each year, on the fourth Monday in the month of June, or upon such other date as may be fixed by Council. Notice of such Meeting shall be issued by circular to each Member not less than seven days previous to the day of the meeting.
- 19 A Special General Meeting of the Faculty may be summoned by the Council at any time it may consider advisable. Notice of such meeting, stating the subjects to be

brought forward, shall be issued by circular to each Member not less than seven days previous to the day of the meeting.

Upon a requisition addressed to the Council, signed by not less than ten Members and stating the subject to be brought forward, the Council shall within twenty-eight days of the receipt of such requisition call a Special General Meeting of the Faculty, but for consideration only of the said subject.

- 20 The President, or in his absence the senior Vice-President present, shall take the chair at all Meetings of the Faculty and of the Council. In the absence of the President and of all the Vice-Presidents, the Meetings shall elect a Chairman.
  - 21 The Chairman of any Meeting shall have a deliberative vote and shall also have a casting vote in the event of equality.
  - 22 Sessional Meetings of the Faculty shall be held at such times as may be approved by the Council, for the purpose of receiving papers and communications upon subjects of interest to the profession, and of engaging in discussion thereon, such papers and communications having previously received the approval of the Council, and the Council shall have power to print and publish, at the expense and for behoof of the Faculty, any communications read at such Sessional Meetings, reports of the discussions thereon, and any other matters which it considers likely to be of use to the profession. Students and Affiliates (see Rules 6 and 7) shall be entitled to attend such Sessional Meetings, to contribute papers (subject always to approval of the Council as aforesaid) and to take part in the discussions. At such Sessional Meetings it shall not be competent to enter upon any business of the Faculty other than as aforesaid.
- 22A
- (a) The provisions of this Rule 22A apply subject to the provisions of Rule 9.
  - (b) At any meeting of the Faculty, arrangements shall be put in place to allow for proxy voting by Members who are not able to be present in person on any matter.
  - (c) All meeting notices must contain clear proposals or resolutions put to Members and these cannot be changed after issue (except to correct a typographical error) but can be withdrawn prior to the Meeting with the consent of the Council and the proposer.
  - (d) A form of proxy will be prepared by the Faculty Secretary (in such form as the Faculty Secretary shall consider appropriate) and shall be made available to Members at the same time as the notice of the meeting is given.
  - (e) To be valid, duly completed proxy forms (only in the form issued by the Faculty Secretary) must be received by the Faculty Secretary by hand delivery, post, facsimile or by email or by other electronic means not less than 72 hours prior to the time appointed for the commencement of the relevant meeting in the notice thereof issued to Members in accordance with Rule 18 and Rule 19 to enable the counting of votes cast by proxy in advance of the start of the meeting and in default the form shall be treated as not valid.



- (f) A Member may nominate the Chairman or any other Member who will be present at the meeting as their proxy and direct that that nominee may cast the proxy vote however the nominee shall consider appropriate, or as directed by the Member.
- (g) At any meeting of the Faculty (or at any adjourned meeting thereof) a resolution put to the vote of the meeting shall be decided on a show of hands (but in which case the votes of those present only by proxy shall also be counted) or a poll on the discretion of the Chairman of the meeting.
- (h) If a poll is requested by the Chairman it shall be taken at such time and in such manner as the Chairman of the meeting shall direct. On a show of hands every Member present in person and entitled to vote shall have one vote, and in each case votes delivered by proxy in accordance with Rule 22A (e) shall be taken into account in determining the result of the vote. On a poll every Member present in person or by proxy and entitled to vote shall have one vote.
- (i) A vote given in accordance with the terms of a form of proxy under the terms of this Rule 22A shall be valid notwithstanding the previous death or insanity of the principal or revocation of the proxy provided that no intimation in writing of such death, insanity or revocation as aforesaid shall have been received by the Faculty Secretary not less than 72 hours prior to the time appointed for the commencement of the relevant meeting at which the proxy is used.
- (j) Results shall be declared in a form that the Chairman of the meeting shall consider appropriate and will indicate separately the number of proxy votes made for and against in addition to those voting in the meeting.
- (k) The Faculty Secretary shall keep a record of votes cast and the original forms of proxy and voting papers for a period of not less than the occasion of the next meeting of the Faculty.

### ***Funds***

- 23 (a) Students shall pay upon enrolment an entrance fee. A special reduced rate entrance fee applies to students resident in certain countries or territories as determined by Council. Students shall pay on enrolment the whole or such proportion of the subscription for the then current year as Council may determine and on each succeeding 1st October the whole subscription for the ensuing year.
- (b) Council may at its discretion reduce any subscription of a Student who is shown to its satisfaction to be ordinarily resident outside the European Union on the date when the subscription falls due.
- (c) The full rate subscription, the reduced rate subscription and the entrance fee shall be agreed and set by Members at a Special or Ordinary General Meeting.
- (d) If the subscription of any Student is not paid within one month from the date on which it became due, he will be required to pay the subscription together with an

additional subscription of 10% of the subscription which was due. If the subscription is not paid within two months from the date on which it became due, he will be required to pay the subscription together with an additional subscription of 20% of the subscription which was due. If the subscription is not paid within three months from the date on which it became due, the name of the defaulter shall be removed from the Roll, but the Council shall have power to suspend the operation of this rule or to reinstate such defaulter on such terms as it may see fit if in its opinion the circumstances so warrant.

- (e) Students for whom the payment of the annual subscription is especially onerous may apply to the Council for a reduction in the amount of the annual subscription payable by them. The amount of any such reduction shall be at the discretion of the Council and shall take effect as from the first subscription falling due after the application is received unless the Council decides otherwise.
  - (f) A Student or Associate on each occasion of giving in his name for Examination shall pay a fee according to a scale. The scale of fees shall be decided by the Council and may be altered from time to time by the Council.
- 24 A Student who is elected as an Associate or a Fellow shall pay the excess of the relevant Associate's or Fellow's subscription over the relevant Student's subscription for that year except that in the last four months of any subscription year the Council may in its discretion waive this payment in whole or in part. Analogous provisions shall apply if an Associate is transferring to the class of Fellow.
- 25 Fellows elected in terms of Rule 2 or admitted in terms of Rules 2B or 2C shall pay the annual subscription for the year current at the effective date of election or admission.
- 26 (a) Fellows or Associates shall pay on 1st October of each year a full rate subscription for the ensuing year.
- (b) Council may at its discretion reduce in special circumstances any subscription of a Fellow or Associate.
- (c) The full rate subscription and the reduced rate subscription shall be agreed and set by the Members at a Special or Ordinary General Meeting.
- 27 (a) Fellows or Associates who have permanently retired from paid practice or employment or who are currently on the non-working list in terms of Rule 53 shall, on application to the Council, be entitled to a reduction in the amount of annual subscription payable by them. The amount of the reduction in the subscription shall be at the discretion of the Council and shall take effect as from the first subscription falling due after the application is received unless the Council decides otherwise;
- (b) Fellows or Associates for whom the payment of the annual subscription is especially onerous may apply to the Council for a reduction in the amount of the annual subscription payable by them. The amount of any such reduction shall

be at the discretion of the Council and shall take effect as from the first subscription falling due after the application is received unless the Council decides otherwise;

(c) On any Fellow, Associate, Affiliate or Student aged sixty years or over on 1 October 2004, attaining the age of seventy years his annual subscription shall cease. On any Fellow, Associate, Affiliate or Student, aged less than sixty years on 1 October 2004, attaining the age of eighty years his annual subscription shall cease.

28 If the subscription of any Fellow or Associate is not paid within one month from the date on which it became due, he will be required to pay the subscription together with an additional subscription of 10% of the subscription which was due. If the subscription is not paid within three months from the date on which it became due, he will be required to pay the subscription together with an additional subscription of 20% of the subscription which was due. If the subscription is not paid within six months from the date on which it became due, the name of the defaulter shall be removed from the Roll, but the Council shall have power to suspend the operation of this rule or to reinstate such defaulter on such terms as it may see fit if in its opinion the circumstances so warrant.

29 Until a Fellow or Associate shall have paid up all his arrears and given written notice of resignation, he shall be liable for all subscriptions due.

30 After payment of current expenses the Funds of the Faculty shall from time to time be applied by the Council in promoting the object of the Faculty or be invested for like purpose in such manners as the Council may determine.

31 The Council may, with the consent of a General Meeting and under such conditions as may then be prescribed, devote a sum or annual sum to an object tending in the opinion of the Council to promote the study of actuarial or cognate subjects.

### ***Library***

32 The Faculty shall maintain a Library of professional works for consultation and reference, the arrangements in regard to which shall be entrusted to the Council, subject to the approval and control of the Faculty.

33 Students and Affiliates shall have access to the Library with consent of the Council and under such regulations as it may from time to time determine.

### ***Faculty Hall***

34 For the purpose of Meetings and for the preservation of the Faculty's Library it shall be competent to the Council to rent or purchase suitable premises.

### ***Disciplinary Procedures***

35 The provisions of the Disciplinary Scheme set out in the Schedule to these Rules and Bye-laws shall form part of these Rules and Bye-laws and may be rescinded, varied or added to in accordance with rule 10.15 of the Schedule. Rules 35 to 43 comprising the previous Disciplinary Scheme have been deleted (and Rule numbers 36-43 are not presently being reused).

44 In these Rules -

(a) “designated actuary” means an actuary either who is appointed as an actuary to any body, person or fund pursuant to a requirement for the appointment of an actuary imposed by or under a statutory provision or who practises in relation to matters where Council requires that practice shall be undertaken only by an actuary duly certificated under Rule 45;

(b) “Practising Certificate” (or “PC”) means the certificate to be held by a Fellow who wishes to seek or retain an appointment as a designated actuary;

(c) “Practising Certificate Committee” (or “PC Committee”) means a committee appointed from time to time pursuant to Bye-laws made under Rule 47;

(d) “Practising Certificate Appeals Committee” (or “PC Appeals Committee”) means a committee so appointed for the purpose of dealing with appeals against the decision of the PC Committee.

45 A Fellow shall be entitled to act as a designated actuary only if he has in force a current PC of an appropriate type issued by the Council in accordance with these Rules or he has in force an equivalent certificate issued by the Institute of Actuaries.

46 A Fellow who

(a) has attained any minimum age specified by Council for the PC required, and

(b) has satisfied the Council -

(i) that he is a fit and proper person to be a designated actuary, and

(ii) that he has complied with the provisions made under Rule 47 or of any Bye-laws that apply to him

shall be entitled, upon making an application in the prescribed form and payment of the prescribed fee, to be granted an appropriate PC.

47 The Council may from time to time make, revoke, vary or add to Bye-laws, which do or are intended to do, any or all of the following :-

(a) prescribe the criteria of professional competence and experience to be met by a person applying for a PC; without prejudice to the generality of this Rule such

criteria may include requirements as to continuing professional development, appropriate practical experience and the completion of such course or courses as may be prescribed;

- (b) prescribe the procedure to be followed in any matters relating to applications for the grant or renewal of a PC (including appeals of the kind referred to in subparagraph (h) hereof);
- (c) prescribe the form or forms of a PC and the form or forms of application therefore;
- (d) provide for the keeping of a register of applications for and the issue of PCs;
- (e) prescribe the date on which a PC will have effect and the date on which it will expire;
- (f) provide for the appointment from time to time of a PC Committee, the members of which may include Fellows who are not members of the Council and may include members of the Institute of Actuaries;
- (g) provide for the appointment from time to time of a PC Appeals Committee, the members of which shall not include any members of the Council or any members of the PC Committee and may include members of the Institute of Actuaries, other than members of the Council of the Institute, and persons who are not actuaries and may also include members of the Appeals Tribunal appointed under rule 2.26 of the Schedule to these Rules and Bye-laws;
- (h) delegate to the PC Committee the consideration of all aspects of any application for a PC and to the PC Appeals Committee the consideration of any decision of the PC Committee against which the applicant has intimated an appeal to the PC Appeals Committee;
- (i) delegate to the PC Committee and to the PC Appeals Committee the power to grant PCs in the name of the Council;
- (j) enable the PC Committee and PC Appeals Committee to delegate functions to individual Committee members or to members of the secretariat of the Faculty on such terms as the Bye-laws may prescribe;
- (k) provide for co-operation by the Faculty or any committee or individual exercising functions under this Rule (by the sharing of information or otherwise) with any authority, body or person having an interest in the proper discharge of the duties of designated actuaries;
- (l) provide for the charging of fees (initial, periodic or otherwise) in connection with any of the foregoing (and so that such fees may differ as between circumstances and persons);
- (m) make different provisions for different circumstances; and

- (n) provide for anything which may be considered to be incidental, consequential or conducive to any of the foregoing.
- 48 The making of a false statement of fact by a Fellow in any application for a PC may be treated as professional misconduct by him for the purposes of these Rules, unless he proves the statement was made without intention to deceive.
- 49 The Council or the PC Committee or the PC Appeals Committee in the exercise of powers delegated to those Committees by the Council may decline to grant a PC if in its opinion the applicant is not an appropriate person for appointment as a designated actuary, and/or has failed to meet the criteria prescribed from time to time under Rule 47(a).
- 50 (a) The Council or the PC Committee or the PC Appeals Committee in the exercise of powers delegated to those Committees by the Council shall on an application being duly made and approved grant a PC to the Fellow concerned in accordance with the Bye-laws made under Rule 47.
- (b) A PC may be restricted so as to permit the applicant to accept or retain an appointment only with a named company, body, person or fund.
- (c) A PC will not be issued to any Fellow while he is suspended by the Discipline Tribunal or otherwise.
- 51 If a Fellow shall be suspended by the Discipline Tribunal or otherwise, any PC for the time being in force of that Fellow shall be withdrawn.
- 52 (a) If -
- (i) a Fellow is by reason of mental disorder admitted to a hospital and is or becomes liable to be detained there or has a guardian or tutor appointed to him;
  - (ii) a curator bonis is appointed on the estate of a Fellow;
  - (iii) the estate of a Fellow is sequestrated;
  - (iv) a Fellow grants a Trust Deed for the behoof of creditors;
  - (v) a Judicial Factor is appointed on the estate of a Fellow;
  - (vi) the equivalent circumstances in any other relevant jurisdiction to any of the circumstances described in paragraphs (i)/(v) hereof becomes applicable to a Fellow;
- then any PC for the time being in force for that Fellow shall be suspended for so long as that circumstance continues.

- (b) On the occurrence of any of the circumstances specified in paragraph (a) hereof the Fellow in question shall intimate those circumstances to the Council in writing immediately.

### ***Mental Illness***

- 53 (a) If a Fellow or Associate by reason of mental disorder is admitted to a hospital and is or becomes liable to be detained there or has a guardian, tutor or curator bonis appointed to him, or if an equivalent circumstance in any other relevant jurisdiction becomes applicable to a Fellow or Associate he shall be placed on a list of Fellows and Associates with non-working status (referred to in these Rules as “the non-working list”) for so long as that circumstance continues.
- (b) If a Fellow or Associate to whom Rule 53(a) does not apply is suffering from mental impairment and is unable to practise as a result, he may apply to the Council for non-working status, and the Council may on being satisfied of the basis of such application place the Fellow or Associate on the non-working list.
- (c) A Fellow or Associate who has been placed on the non-working list in pursuance of an application under Rule 53(b) may subsequently apply for removal from that list, and the Council shall grant such an application where it is satisfied by such medical or other evidence as it may require of the Fellow’s or Associate’s fitness for actuarial work.

### ***General Information***

- 54 The Rules of the Faculty may be repealed, altered, or added to, at an Ordinary or Special General Meeting, provided notice shall have been issued by circular specifying the proposed changes not less than fourteen days previous to the day of the meeting.
- 55 To the intent that women may be admitted to the Faculty on the same conditions as men, in the foregoing Rules and in the following Bye-Laws the masculine shall include the feminine.
- 56 The Faculty shall indemnify the following from all losses and related expenses incurred by them in or about the discharge, or purported discharge, of their respective duties undertaken for the Faculty, except such as happen from their own respective neglect or wilful default:-
- a) the Office Bearers of the Faculty;
- b) the Members of the Council and of any committee, panel, board, tribunal or the like established by the Faculty (including any lay member thereof) including, for the avoidance of any doubt in the case of any such committee, panel, board, tribunal or the like established by the Faculty jointly with the Institute of Actuaries, any members thereof who are appointed by the Faculty (or, for the avoidance of any doubt, any committee to which the Faculty has duly delegated such power of appointment); and

- c) any other Members or employees of the Faculty or others appointed to undertake duties in the management and control of the affairs of the Faculty.”

57 In relation to:-

- i) notices of a general meeting required by Rules 18 and 19;
- ii) notices and other circulars pertaining to elections to Council required by Rule 9;
- iii) notices repealing, altering, or adding to, the Rules required by Rule 54; and
- iv) any other documentation relating to the business of a general meeting

so far as such notices do not relate to disciplinary matters (including termination of membership) or to the grant or otherwise of practising certificates notices are to be treated as sent to a member if:

- a) a copy of the notice is sent by electronic mail to such address as may for the time being be notified to the Faculty by the member for that purpose; and/or
- b) a copy of the notice may be obtained by the member via an internet website, provided that the member is notified by electronic mail as specified in paragraph (a) above of the publication of the documents on the website together with the means by which the documents may be accessed;

provided further that the member has not previously elected, by written notice to the Faculty Secretary, to receive documentation by post (unless such election has been rescinded by the member).



## BYE-LAWS

### *Enrolment*

- 1 Upon application by any person for admission as a Student the applicant shall furnish, in addition to the appropriate application form, evidence of the educational qualifications required for admission as a student.

### *Examinations*

- 2 Examinations of candidates for admission as Fellows or Associates shall take place at such times as Council may think desirable.

Note - At present the full syllabus of Examinations is held in April and September of each year.

- 3 Each candidate must give the Secretary notice in writing of his intention to come forward for examination. Such notice must reach the Secretary at least four weeks before the commencing date of the Examinations, unless the candidate wishes to be examined elsewhere than in the United Kingdom or the Republic of Ireland, in which case notice must reach the Secretary at least eight weeks before the commencing date of the Examinations. The notice must be accompanied by the appropriate fee or fees.
- 4 The Examinations may be conducted in writing, or *viva voce*, or both, at the discretion of the Board of Examiners. Candidates are not allowed any means of information, except such as the Board of Examiners may supply.
- 5 Council shall cause such Examinations and Assessments to be held as it may think fit, and shall prepare and publish Examination and or Assessment Regulations in the Student Handbook or in other such fashion as Council may see fit.
- 6 The Council at its discretion may grant exemption from certain portions of the examinations to graduates who have attained a sufficiently high standard in appropriate papers of certain University degree examinations and to holders of certain actuarial or statistical qualifications.
- 7 (a) A Student or Associate shall be obliged to conform to the examination regulations which Council shall prescribe from time to time. Failure to conform to those regulations shall lead to disciplinary action which may in the case of a Student include removal from the Roll.  
  
(b) The Council at its discretion may modify the foregoing rules if, following submission by a Student or Associate of details of the relevant circumstances, the Council decides such circumstances warrant a modification.

- (c) Students completing the requirements set out in the Student Handbook for a Diploma in Actuarial Techniques shall be awarded such Diploma.
- (d) Students completing the requirements set out in the Student Handbook for a Certificate in Finance and Investment shall be awarded such Certificate.
- (e) Council may admit as an Associate any student who has met the criteria set out in the Student Handbook.

### ***Sessional Meetings and Publications***

- 8 The Council may annually nominate Fellows who are not Members of Council or Associates to act along with it, or with any Committee appointed by it, in carrying out the objects contemplated by Rule 22.
- 9 Except as may be otherwise arranged by the Council, a Sessional Meeting shall be held on one Monday in each month from November to March inclusive.
- 10 Every paper or other communication intended to be read at a Sessional Meeting shall be submitted before the date of such Meeting and the Council shall determine whether or not it shall be published or issued in printed form at the expense and for behoof of the Faculty.
- 11 Every paper or communication submitted for reading at a Sessional Meeting, or for inclusion in the published *Transactions* of the Faculty published in the *British Actuarial Journal*, shall, in the absence of any previous agreement to the contrary, be the property of the Faculty. The Council shall, if required by the Author, decide within three months from the date when such paper or communication is submitted whether or not the same is to be published or issued in printed form by the Faculty. If its decision is in the negative, or if in any case a paper or communication so submitted is not published or issued in printed form by the Faculty within two years from the said date, all right and property in the same shall be held to have been relinquished by the Faculty.
- 12 In the absence of any special arrangement, the Author of any paper published in the *British Actuarial Journal*, or in the *Annals of Actuarial Science*, shall be entitled, free of charge, to twenty-five copies of that paper.
- 13 Each Fellow, Associate, Student and Affiliate shall be entitled to receive each current part of the *British Actuarial Journal* and of the *Annals of Actuarial Science* free of cost.

### ***Library***

- 14 The Library shall be open at such times as the Council may determine.
- 15 No-one shall be allowed to borrow more than six volumes at one time, except with the sanction of the Council.

- 16 Books shall not be borrowed for a longer period than one month; but when a book is returned it may be re-borrowed, provided it has not been bespoken in the meantime. If a book is not returned within the prescribed period a fine may be levied on the borrower for each additional week or part of a week that the volume is retained by him, and no other book can be borrowed by him until such a volume has been returned and the fine paid.
- 17 Photocopies shall be supplied, subject to copyright regulations, and a small charge may be levied.
- 18 A borrower losing, injuring, or defacing any book shall supply another copy, or shall pay such sum as the Council may determine.
- 19 Cyclopaedias, works of reference, and certain unbound numbers of scientific journals and periodicals (except the *Transactions* of the Faculty or the *Journal of the Institute of Actuaries*) shall not be lent, except with the sanction of the Council, but may be consulted in the Library.

### ***Practising Certificates***

- 20 Interpretation - In these Bye-laws unless the context requires otherwise:
- (a) "designated actuary", "Practising Certificate" (or "PC"), "Practising Certificate Committee" (or "PC Committee") and "Practising Certificate Appeals Committee" (or "PC Appeals Committee") shall have the meanings attributed thereto by Rule 44;
  - (b) "application" means an application for a PC;
  - (c) "applicant" means the maker of an application;
- 21 *Application for PC* - A Fellow who wishes to obtain or to renew a Practising Certificate shall make application therefore by completing (so far as applicable to him) and signing a form in such form as may from time to time be prescribed by the Council.
- 22 *Prescribed Criteria* - The criteria of professional competence and experience to be met by an applicant shall be as prescribed by the Council from time to time.
- 23 *PC Committee* - (a) The Council shall from time to time nominate no less than seven Fellows, three of whom shall be members of the Council, to serve as members of the Practising Certificate Committee. The quorum for meetings of the PC Committee shall be two of the members so nominated. Any meeting of the PC Committee at which a quorum is present shall be competent to exercise all of the functions and powers conferred upon the PC Committee by the Rules or under these Bye-laws.
- (b) Any application for a PC shall immediately on receipt thereof by the Council be referred to the PC Committee: and the Council hereby delegates to the PC Committee and to the PC Appeals Committee the power to grant PCs on behalf of the Council.

- (c) It shall be the duty of the PC Committee to scrutinise each application received in order to satisfy itself on the basis of that application or on the basis of such further information, written or oral, as the PC Committee may require from the applicant that the applicant is a fit and proper person to be a designated actuary and satisfies all the prescribed criteria including professional development, appropriate practical experience and the completion of such course or courses as may from time to time be prescribed for a designated actuary under the Rules or under Guidance Notes issued or Bye-laws made by the Council.
- (d) The PC Committee may take into account any additional matter which shall come to its notice in considering the application of any Fellow: providing always that the applicant shall be given adequate opportunity of commenting on any such additional matter.
- (e) Before reaching any adverse decision on any application received by it the PC Committee shall give an opportunity to the applicant to make representations to the PC Committee and may in its absolute discretion give the applicant an opportunity of being heard before the PC Committee.
- (f) The PC Committee shall decline to grant a PC to any applicant if in the opinion of the PC Committee the applicant is not an appropriate person for appointment as a designated actuary, whether generally or with the company or friendly society in respect of which his application has been made and/or fails to meet the prescribed criteria of professional competence and experience.
- (g) If the PC Committee declines to grant any application the reasons for its decision shall as soon as possible be intimated in writing to the applicant.
- (h) If the PC Committee is satisfied with the application made to it it shall in the name of the Council cause a Practising Certificate to be issued to the applicant without delay.
- (i) A Practising Certificate shall be in such form as may from time to time be prescribed by the Council.

24 *Effective Dates* - Practising Certificates shall be valid for such period as may from time to time be prescribed by the Council.

25 *PC Appeals Committee* –

- (a) The Council shall from time to time appoint a PC Appeals Committee, none of the members of which shall be members of the Council or members of the PC Committee.
- (b) The members of the Appeals Tribunal appointed under rule 2.26 of the Schedule to these Rules and Bye-laws shall, unless the Council shall from time to time otherwise decide, be members of the PC Appeals Committee. The quorum for meetings of the PC Appeals Committee shall be not less than five of the members thereof of whom one shall be a Queen’s Counsel, one shall be a Solicitor, one shall be a Chartered Accountant and two shall be Fellows. Any meeting of the PC Appeals Committee at which a quorum is present shall be

competent to exercise all of the functions and powers conferred upon the PC Appeals Committee by the Rules or under these Bye-laws.

- (c) Any Fellow whose application has been rejected by the PC Committee may give written notice of appeal addressed to the Secretary not more than twenty-eight days following the intimation by the PC Committee of its decision in terms of Bye-law 23(g) requiring his application to be placed before the PC Appeals Committee.
- (d) The PC Appeals Committee shall review the decision of the PC Committee and may in such review take into account the original application, such further written information as was considered by the PC Committee, the terms of PC Committee's written decision and any written representation made by the applicant against that decision. Before reviewing any such decision the PC Appeals Committee shall give an opportunity to the applicant and to the PC Committee to make further written representations to it.
- (e) The PC Appeals Committee may if it considers it desirable, and shall if the applicant so requires, hold a hearing to consider the applicant's appeal. The PC Appeals Committee shall as soon as practicable notify the applicant of the time and place fixed for any such hearing, being not less than twenty-eight days after the date of such notification. The Appeals Committee shall give the applicant a reasonable opportunity of being heard before it and shall permit him to be represented before it by Counsel and/or by a solicitor and/or by a Fellow. If the applicant does not attend the hearing fixed as aforesaid then provided the PC Appeals Committee is satisfied that notice of that hearing has been given to the applicant the PC Appeals Committee may proceed to hear that appeal in the absence of the applicant.
- (f) The PC Committee may at its discretion appoint any servant or agent of the Faculty and/or any Fellow to appear before the PC Appeals Committee or may instruct a solicitor to appear at, or brief Counsel to appear at, any hearing fixed by the PC Appeals Committee. The PC Appeals Committee may instruct a solicitor to act or to brief Counsel as a legal assessor at any such hearing.
- (g) The PC Appeals Committee may take into consideration the record of any evidence given before and any documents produced to the PC Committee at any hearing of the application by the PC Committee and may also at its discretion rehear any witness called before the PC Committee and may on special grounds (as to which the PC Appeals Committee shall be the sole judge) receive fresh evidence.
- (h) The PC Appeals Committee may affirm, vary or rescind any decision of the PC Committee.
- (i) If the PC Appeals Committee rescinds the PC Committee's decision it shall as soon as possible cause a PC to be issued to the applicant in the name of Council, which PC shall come into effect from the date of the PC Appeals Committee's decision.

(j) An applicant whose application has been rejected by the PC Appeals Committee shall (unless the PC Committee may otherwise in its discretion so direct) not be entitled to apply again to the Faculty for a PC for a period of twelve months.

26 *Proceedings of PC Committee and PC Appeals Committee* - The PC Committee and the PC Appeals Committee shall each have power to make such regulations (not being inconsistent with the express provisions of the Rules or these Bye-laws) as may be considered by them necessary for the purpose of their respective functions hereunder.

27 *Fees* –

(a) Each applicant shall tender with his application an appropriate fee as prescribed from time to time by the Council.

(b) An applicant who intimates an appeal against a decision of the PC Committee shall pay any costs which the PC Appeals Committee may deem appropriate in the event of the PC Appeals Committee upholding the decision of the PC Committee.

28 *Register of applications and practising certificates issued* –

(a) The Council shall cause to be kept in respect of each year a Register of applications for and of each type of Practising Certificate issued.

(b) The Register shall be open for inspection by any person having an interest therein at any time during office hours without payment.

29 *Mutual Recognition*

Subject to any further conditions in the mutual recognition agreement made with the Institute of Actuaries of Australia, the Canadian Institute of Actuaries and the Society of Actuaries in the USA, on application Fellows of those bodies will be admitted as Fellows of the Faculty provided that at least the following conditions are met:-

The Fellow must –

(a) have attained full membership of the body concerned by examination and not in recognition of membership of another actuarial association;

(b) attest that he wishes to pursue actively the actuarial profession in the UK or the Republic of Ireland or advise on UK or Irish business;

(c) have at least three years' recent appropriate practical experience of which at least one year was in the UK or the Republic of Ireland;

(d) have attended an approved professionalism course.

# FACULTY OF ACTUARIES

## DISCIPLINARY SCHEME

### SCHEDULE

#### DISCIPLINARY SCHEME REFERRED TO IN RULE 35

*(Effective 1 July 2009)*

#### CONTENTS

#### Rule

1.	Introduction and Scope.....	
	• Interpretation .....	1.1 - 1.3
	• Burden and Standard of Proof .....	1.4
	• Misconduct .....	1.5 - 1.10
	• Proof of certain matters .....	1.11 - 1.15
	• Liability for disciplinary proceedings under the AADB Scheme .....	1.16 - 1.17
	• Members' Duty to co-operate .....	1.18 - 1.22
	• Disclosure of information under this Scheme .....	1.23
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
	• Appeals Tribunal .....	2.28 - 2.31

•	Disciplinary Board .....	2.32 - 2.36
•	Legal Advisers Pool .....	2.37
•	General .....	2.38 - 2.51
3.	Investigation Stage .....	
•	Allegations and assignment for investigation .....	3.1 - 3.6
•	Investigations .....	3.7 - 3.12
•	Expedited procedure for certain matters .....	3.13
•	Content of a Case Report .....	3.14 - 3.16
•	Completion of an investigation .....	3.17 - 3.19
•	Withdrawal of an Allegation .....	3.20 - 3.25
•	Interim Orders .....	3.26 - 3.42
4.	Adjudication Panels.....	
•	General.....	4.1 - 4.2
•	Advisory Reports .....	4.3
•	Case Reports .....	4.4 - 4.15
•	Charges .....	4.16 - 4.18
5.	Review by the Independent Examiner .....	
•	Grounds for review .....	5.1 - 5.6
•	Conduct of the review .....	5.7 - 5.8
•	Determination of the Independent Examiner .....	5.9 - 5.13
•	General .....	5.14 - 5.16
6.	Disciplinary Tribunal Panels .....	
•	Charges.....	6.1 - 6.3
•	Pre-hearing procedure (service of grounds of defence and documentary evidence).....	6.4 - 6.8
•	Rights of the Respondent .....	6.9 - 6.10
•	General provisions for the Disciplinary Tribunal Panel.....	6.11 - 6.15
•	Hearings.....	6.16 - 6.24
•	Costs .....	6.25



	• Communication of determination.....	6.26 - 6.27
7.	Readmission to Membership following Disciplinary Expulsion or Exclusion .....	
	• Application .....	7.1 - 7.2
	• Action on receipt of an application.....	7.3 - 7.4
	• Hearing the application .....	7.5 - 7.14
8.	Appeals.....	8.1
	• Appeal against a determination by the Disciplinary Tribunal Panel under Part 6 .....	8.2 - 8.20
	• Appeal against Interim Orders .....	8.21 - 8.35
	• Appeal against refusal of readmission to membership following disciplinary expulsion or exclusion .....	8.36 - 8.45
9.	Costs Orders and Fines.....	9.1 - 9.3
10.	Disciplinary Board .....	10.1 - 10.3
11.	General Provisions .....	11.1 - 11.17
12.	The Accountancy and Actuarial Discipline Board (the AADB).....	
	• Duty to co-operate.....	12.1
	• Call-in of cases by the AADB .....	12.2 - 12.4
	• Referral of cases to the AADB prior to an investigation under this Scheme.....	12.5 - 12.8
	• Referral of cases to the AADB during an investigation under this Scheme .....	12.9 - 12.11
	• Referral of cases to the AADB by an Adjudication Panel.....	12.12 - 12.14
	• Referral of cases to the AADB prior to a referral under rule 11.1.....	12.15 - 12.17
	• Enforcement of AADB sanctions and findings .....	12.18 - 12.19
	• Enforcement of costs awarded by the AADB.....	12.20
13.	Commencement and Transitional Provisions	
	• Commencement.....	13.1
	• Transitional Provisions.....	13.2 - 13.3
	Appendix .....	

## **1 INTRODUCTION AND SCOPE**

### ***Interpretation***

- 1.1 In the interpretation and operation of this Scheme regard shall be had to the principles of natural justice and procedural fairness and applicable articles of the European Convention on Human Rights.
- 1.2 In this Scheme:
- (a) the words defined in the Appendix to this Scheme shall have the meanings ascribed to them therein;
  - (b) words defined in the Rules and Bye-laws shall have the same meaning in this Scheme.
- 1.3 The Interpretation Act 1978 shall apply to this Scheme.

### ***Burden and Standard of Proof***

- 1.4 In all proceedings before a Disciplinary Tribunal Panel or an Appeal Tribunal Panel under this Scheme, the Faculty 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.

### ***Misconduct***

- 1.5 A Member shall be liable to disciplinary action under this Scheme if he has been guilty of Misconduct.
- 1.6 For the purposes of this 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 Rules and Bye-laws of the Faculty 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 Faculty and/or, for so long as there is a relevant Memorandum of Understanding in force, by the Board for Actuarial Standards and to all other relevant circumstances:
- 1.7 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 Faculty by the Respondent prior to being admitted as a Member shall not be Misconduct for the purposes of this Scheme
- 1.8 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 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 4.10 in respect of any Misconduct committed notwithstanding that his membership has ceased.

- 1.9 A Member may be liable for Misconduct:
- (a) where a person with whom 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 his becoming aware of any such conduct, the Member does not take such action as other Members might reasonably expect him to take in the circumstances; or
  - (b) notwithstanding that other proceedings may be taken against the Member or any firm of which he is a partner, any body corporate of which 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 him or by any such firm or body corporate.
- 1.10 For the purposes of rule 1.9 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 he is a director or employee; and
  - (c) any member or employee of a partnership of which he is a member or employee.

***Proof of certain matters***

- 1.11 For the purposes of this Scheme it shall amount to conclusive evidence of Misconduct that a Member has been subject to an adverse disciplinary determination by 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.
- 1.12 For the purposes of this 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) has failed to comply with an undertaking given pursuant to Rules 2E and 4B of the Rules and Bye-laws; and/or
- (c) 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.

1.13 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 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 this Scheme be treated as conclusive evidence of the findings of fact upon which the conviction, determination, judgement or disqualification order is based.

1.14 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 1.13 applies, shall for the purposes of this Scheme be treated as *prima facie* evidence of the findings of fact upon which the determination is based.

1.15 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 AADB Scheme***

- 1.16 All Members shall be liable to disciplinary proceedings under the AADB Scheme on the grounds set out in that Scheme, irrespective of whether the act of misconduct upon which such proceedings are based took place before or after the date of adoption of the AADB Scheme by the AADB and the date of acceptance or approval of that Scheme in writing by the Council of the Faculty.
- 1.17 Part 12 of this Scheme makes further provision in relation to the AADB Scheme.

***Members' Duty to co-operate***

- 1.18 Every Member has, at all times, a duty to co-operate fully with any investigation, process or procedure under this Scheme or under the Institute 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 3.11.
- 1.19 Every Member has a duty to disclose promptly to the Faculty any conviction, adverse finding, judgement or determination or disqualification order of a type referred to in rules 1.11, 1.12 or 1.13, to which he is subject.
- 1.20 Members working for the same employer as a Respondent under this Scheme or under the Institute Scheme, shall be obliged to co-operate in the implementation of any sanction which is binding upon the Respondent under this Scheme or the Institute Scheme.
- 1.21 Nothing in this Scheme, including rule 1.18, 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 him or expose him to criminal penalties.
- 1.22 The failure of a Member to comply with rule 1.18 and/or rule 1.19 shall amount to *prima facie* evidence of Misconduct.

***Disclosure of information under this Scheme***

- 1.23 The Faculty 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 this 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 Financial Reporting Council and/or any of its operating bodies.

## **2 APPOINTMENTS**

### ***Disciplinary Appointments Committee***

- 2.1 The Disciplinary Appointments Committee shall consist of:
  - (a) two Fellows appointed by the Council;
  - (b) two Fellows of the Institute appointed by the Council of the Institute;
  - (c) 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;
  - (d) 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 Chairman of the Disciplinary Appointments Committee shall be the Lay member appointed under rule 2.1(c).
- 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 Chairman 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.
- 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 Part 2 of this Scheme, 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 this Scheme.

### ***Disciplinary Pool***

- 2.8 The Disciplinary Appointments Committee shall appoint members of a Disciplinary Pool from which members of:
- (a) Disciplinary Tribunal Panels;
  - (b) Interim Orders Panels; and
  - (c) Adjudication Panels,
- may be selected under the provisions of this Scheme.
- 2.9 Members of the Disciplinary Pool shall consist of Fellows, Fellows of the Institute and Lay members and may include Overseas Fellow Equivalents.
- 2.10 In appointing members to the Disciplinary Pool, the Disciplinary 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 this Scheme.
- 2.11 The 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; and
  - (c) a Convener and Deputy Convener of the Adjudication 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 Appointments Committee shall appoint a Pool of Investigation Actuaries who shall consist of Fellows and Fellows of the Institute, and may include Overseas Fellow Equivalents, each holding office for a term of three years, such term being renewable.
- 2.14 The Disciplinary Appointments Committee shall nominate two of the Pool of Investigation Actuaries to be the Chairman and Deputy Chairman 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 Appointments Committee shall have regard to the numbers of Investigation Actuaries likely to be required for the purposes of the proper

functioning of this Scheme.

- 2.16 At the request of the Chairman of the Pool of Investigation Actuaries the member of the Disciplinary Appointments Committee so designated by the Disciplinary Appointments Committee for this purpose for the time being may appoint to the Pool of Investigation Actuaries a Fellow, Fellow of the Institute or Overseas Fellow Equivalent as an Investigation Actuary for the purpose of assisting the Case Manager in the investigation of a specified Allegation.

### ***Independent Examiner***

- 2.17 The Disciplinary 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 his functions under Part 5 of this Scheme, the Deputy Independent Examiner shall for the time being exercise the functions of the Independent Examiner under Part 5 of this Scheme.

### ***Interim Orders Panels***

- 2.20 Each Interim Orders Panel shall be appointed and a Chairman 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, for the purpose of hearing a particular referral made under the provisions of rule 3.28.
- 2.21 Each Interim Orders Panel shall consist of:
- (a) two persons being Fellows or Fellows of the Institute, at least one of whom shall be a Fellow; 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.
- 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, as Chairman of the panel.
- 2.24 An Adjudication Panel may consider one or more Case Reports submitted



under the provisions of rule 3.19.

- 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 4 of this Scheme, subject to the provisions of rule 5.10.

### *Disciplinary Tribunal Panels*

- 2.26 Each Disciplinary Tribunal Panel shall be appointed and a Chairman 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.
- 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.

### *Appeals Tribunal*

- 2.28 Subject to rule 2.30 the Disciplinary Appointments Committee shall appoint members of an Appeals Tribunal from whom members of Appeals Tribunal Panels shall be selected under the provisions of this Scheme.
- 2.29 Members of the Appeals Tribunal shall comprise:
- (a) a Queen's Counsel appointed by the Dean for the time being of the Faculty of Advocates;
  - (b) a Queen's Counsel appointed by the Chairman for the time being of the General Council of the Bar;
  - (c) Fellows, Fellows of the Institute and Lay members appointed by the Disciplinary Appointments Committee; and
  - (d) may include Overseas Fellow Equivalents;
- all holding office for a term of three years, such term being renewable.
- 2.30 The Chairman and the Deputy Chairman of the Appeals Tribunal shall be the Queen's Counsel appointed in accordance with the provisions of rule 2.29 each position being held for a term of three years, such term being renewable. The position of Chairman and Deputy Chairman 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.
- 2.31 When an appeal is referred to the Appeals Tribunal, the Chairman of the Appeals Tribunal shall appoint an Appeal Tribunal Panel for the purposes of hearing an appeal, comprising:
- (a) himself or the Deputy Chairman of the Appeals Tribunal who shall be the Chairman of the Appeal Tribunal Panel; and

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

### ***Disciplinary Board***

- 2.32 The Disciplinary Appointments Committee shall appoint the members of a Disciplinary Board to consist of:
  - (a) three Fellows;
  - (b) three Fellows of the Institute; and
  - (c) three Lay members,each appointed for a term of three years, such term being renewable.
- 2.33 The Disciplinary Appointments Committee shall nominate one of the Lay members appointed under rule 2.32(c) to be the Chairman of the Disciplinary Board.
- 2.34 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 Chairman of the Disciplinary Board.
- 2.35 The Disciplinary Board may convene in person or through appropriate telephone conferencing or other similar facilities, or both, and the quorum provisions of rule 2.34 shall apply taking into account those present through the telephone.
- 2.36 Decisions of the Disciplinary Board shall be made by simple majority.

### ***Legal Advisers Pool***

- 2.37 The Disciplinary Appointments Committee shall from time to time nominate a pool of barristers, advocates and solicitors (each being called or admitted in Scotland or in England and Wales 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 or an Appeal Tribunal Panel as provided for under this Scheme.

### ***General***

- 2.38 No appointment shall be made under Part 2 of this Scheme of:
  - (a) a member of the Council or of the Council of the Institute;
  - (b) a person currently or previously appointed under Part 2 of this Scheme in respect of the same Allegation, Case Report or Charge or the subject matter thereof; or
  - (c) a person previously appointed to any role under Part 2 of this Scheme in respect of the same Allegation, Case Report or Charge or the subject

matter thereof; or

(d) a member and/or director of the Financial Reporting Council or any of its operating bodies or any person carrying out functions under the AADB Scheme.

- 2.39 Any person who has been appointed under Part 2 of this Scheme who becomes a member of the Council or of the Council of the Institute shall be deemed to have resigned from his appointment under Part 2 of this Scheme with immediate effect.
- 2.40 No person who is a member of the Disciplinary Appointments Committee may be appointed to any other body or position held under Part 2 of this Scheme. Any person being appointed to the Disciplinary Appointments Committee shall be deemed to have resigned with immediate effect from any other body or position held under the provisions of this Scheme.
- 2.41 No person who is a member of the Disciplinary Board may be appointed to any other body or position held under Part 2 of this Scheme. Any person being appointed to the Disciplinary Board shall be deemed to have resigned with immediate effect from any other position or body held under the provisions of this Scheme.
- 2.42 (a) If for any reason a person appointed to any role under Part 2 of this Scheme 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 Part 2 of this Scheme, the Chairman of the Disciplinary Appointments Committee, or any person appointed by the Chairman, may make an interim nomination to fill the vacancy.
- 2.43 (a) No Member who has been found guilty of Misconduct shall be appointed to any position or body referred to in Part 2 of this Scheme or to any such body referred to in Part 2 of the Institute Scheme. Any person so appointed who is found guilty of Misconduct shall be deemed to have resigned immediately from his appointment to the relevant position referred to in Part 2 of this Scheme.
- (b) For the avoidance of doubt, a Member has been found guilty of Misconduct who has accepted an invitation issued under rule 4.4(a) by an Adjudication Panel.
- 2.44 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 he holds under Part 2 of this Scheme or under Part 2 of the Institute Scheme.
- 2.45 Any Member, Lay member or legal adviser shall stand down from any appointment to any position or body referred to in Part 2 of this Scheme or referred to in Part 2 of the Institute Scheme if 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.

- 2.46 Any Member shall, unless otherwise agreed by the Disciplinary Appointments Committee, stand down from any appointment to any position or body referred to in Part 2 of this Scheme or in Part 2 of the Institute Scheme if he is the subject of an Allegation under this Scheme, unless and until he is the subject of a determination in relation to that Allegation:
- (a) by an Adjudication Panel under rule 4.4(b) that no disciplinary action shall be taken against him; or
  - (b) by a Disciplinary Tribunal Panel that he is not guilty of Misconduct under rule 6.21; or
  - (c) by an Appeal Tribunal Panel that he is not guilty of Misconduct, under rule 8.16.
- 2.47 Any meeting of an Adjudication Panel (subject to rule 2.48) or any meeting or hearing of an Interim Orders Panel or Disciplinary Tribunal 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 chairman of the relevant panel.
- 2.48 An Adjudication Panel may convene in person or through appropriate telephone conferencing or other similar facilities, or both, and the quorum provisions of rule 2.47 shall apply taking into account those present through the telephone.
- 2.49 Any Interim Orders Panel, Adjudication Panel, Disciplinary Tribunal Panel or Appeal Tribunal Panel shall have the power to elect a temporary chairman on the day if a designated chairman is unable to perform that function.
- 2.50 The proceedings of any investigation under Part 3 of this Scheme, or before any Adjudication Panel, Interim Orders Panel, Disciplinary Tribunal Panel or Appeal Tribunal Panel or of the Independent Examiner shall be valid notwithstanding any invalidity in the appointment of any member thereof.
- 2.51 Any person appointed under this Part may continue to act in that capacity in relation to any relevant ongoing Allegation, Case Report or Charge as the case may be notwithstanding that his term of office has otherwise expired.

### **3 INVESTIGATION STAGE**

#### ***Allegations and assignment for investigation***

- 3.1 For the avoidance of doubt, the applicability of this Part 3 is subject to Part 12 of this Scheme (the AADB), which provides for certain circumstances in which action under this Scheme may require to be suspended or to cease.
- 3.2 Every Allegation received by the Faculty shall be referred by the Case Manager to the Chairman of the Pool of Investigation Actuaries.
- 3.3 The Chairman 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 Chairman of the Pool of Investigation Actuaries shall not however proceed under this rule unless he has first considered whether it is appropriate in the circumstances to make a referral for consideration by the AADB and to proceed under rule 12.6 of this Scheme.
- 3.4 As soon as reasonably practicable upon an assignment under rule 3.3, the Case Manager shall send to the Respondent:
- (a) a copy of the Allegation;
  - (b) a copy of this Scheme;
  - (c) the name of the Investigation Actuary; and
  - (d) the name and contact details of the Case Manager.
- 3.5 In making an assignment under rule 3.3, or at any time thereafter, the Chairman 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.
- 3.6 The Chairman 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.

#### ***Investigations***

- 3.7 (a) The Allegation shall form the basis of the investigation by the Faculty 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 this Scheme relating to the Respondent.

- 3.8 The Case Manager may:
- (a) appoint a Member, a Member of the Institute, a solicitor or other person or persons to carry out enquiries on the Faculty's 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 3.33 and/or to present the Charge to the Disciplinary Tribunal Panel and/or to the Appeal Tribunal Panel.
- 3.9 The Case Manager may seek and receive from the person making the Allegation and/or any other person such information as he thinks proper.
- 3.10 The Case Manager may interview any Member, the person making the Allegation, the Respondent and/or any other individual. Neither the Respondent nor his representatives shall be present during any interview or meeting arranged with any other person unless in his discretion the Case Manager consents thereto. The Investigation Actuary may, however, elect to be present.
- 3.11 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 or Member of the Institute (whether or not such Member is the subject of the investigation);
  - (b) to require any further information from any Member or Member of the Institute relating to the subject matter of the investigation;
  - (c) to require any Member or Member of the Institute (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 under rule 10.1(i); and
  - (e) to take any legal or other expert advice as to any matter relevant to the subject matter of the investigation.
- 3.12 The failure by the Respondent to comply with any undertaking accepted under rule 3.11(d) shall amount to *prima facie* evidence of Misconduct.

***Expedited procedure for certain matters***

- 3.13 (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 AADB and to proceed under rule 12.10 of this Scheme.

- (b) In a case to which paragraph (a) of this rule 3.13 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 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 6 of this 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 4.16 to 4.18 and Parts 4 and 5 of this 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 3.13, 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;
  - (v) the Faculty;

and the matter shall proceed directly to be heard by a Disciplinary Tribunal Panel in accordance with Part 6 of this 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 4.16 to 4.18 and Parts 4 and 5 of this 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 3 of this Scheme and, subject to the Respondent's right of election under rule 3.18, the matter shall be considered by the Adjudication Panel in accordance with this Scheme.
- (g) The factors to be taken into account, as applicable, by the Convener of Adjudication Panels under paragraph (c) of this rule 3.13 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 4.6;
  - (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 of the profession; and
  - (v) all other relevant circumstances.

### ***Content of a Case Report***

- 3.14 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.
- 3.15 The Case Report shall contain, but is not limited to, a report on the Allegation received under rule 3.2. 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.
- 3.16 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***

- 3.17 The signed Case Report shall be sent to the Respondent by the Case Manager.
- 3.18 The Respondent may, within 14 days of receipt of the Case Report sent under rule 3.17, by written notice to the Case Manager, elect to proceed directly to a Disciplinary Tribunal Panel. If so, Part 4 of this Scheme, save for rules 4.16, 4.17 and 4.18, shall not apply.
- 3.19 Subject to the right of the Respondent to elect to proceed directly to a Disciplinary Tribunal Panel under rule 3.18, 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 3.17, 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.

### ***Withdrawal of an Allegation***

- 3.20 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.
- 3.21 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.
- 3.22 Where, however, the Case Manager and the Investigation Actuary consider that it is in the interests of the public and/or of 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 3 of this Scheme.
- 3.23 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 that an Allegation, if found proven, would not disclose a *prima facie* case of Misconduct.
- 3.24 Rules 3.17 to 3.19 of this Scheme shall not apply in relation to the submission to the Adjudication Panel of an Advisory Report.
- 3.25 If, following consideration of an Advisory Report in accordance with rule 4.3, 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 3 of this Scheme.

### ***Interim Orders***

- 3.26 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 10.3; and/or
  - (b) suspension of any Certificate of the Respondent; or
  - (c) suspension of the Respondent from membership of the Faculty.
- 3.27 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 4.4(b);
  - (c) on the acceptance by the Respondent of an invitation issued by the Adjudication Panel under rule 4.6;
  - (d) on a determination of the Disciplinary Tribunal Panel; or
  - (e) on a determination of the Interim Orders Panel or the Chairman thereof under rule 3.38,
- whichever shall be the sooner, unless the order is renewed by a further hearing of an Interim Orders Panel.
- 3.28 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.
- 3.29 The Respondent shall forthwith be served with written notice of:
- (a) any application to the Interim Orders Panel under rule 3.28, including a copy of the Allegation and any relevant material; and
  - (b) the hearing of the Interim Orders Panel under rule 3.30.
- 3.30 On an application under rule 3.28 or at a further hearing under rule 3.36, the Interim Orders Panel shall convene a hearing and shall, subject to rules 3.34 and 3.35, determine (by simple majority) whether to make an Interim Order.
- 3.31 The Interim Orders Panel, before deciding whether to make an Interim Order under rule 3.30, 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.
- 3.32 Any election by the Respondent for an oral hearing under rule 3.31 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.
- 3.33 In the event of an oral hearing under rule 3.31:
- (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 3.31.
- 3.34 The Interim Orders Panel shall not make an Interim Order under rule 3.30 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.
- 3.35 If the Interim Orders Panel is satisfied that the conditions in rule 3.34 are fulfilled, it shall then have regard to the following considerations in deciding whether to make an Interim Order under rule 3.30 and, if so, the appropriate period to specify under rule 3.27(a):
- (a) the effect on the Respondent; and
- (b) the protection of the public, including the likelihood of further alleged Misconduct occurring.
- 3.36 The Interim Orders Panel may hold a further hearing in accordance with the provisions of this Part 3 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.
- 3.37 The Respondent may by notice under rule 8.2 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.
- 3.38 The Case Manager or the Respondent may at any time make an application to the Chairman 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.
- 3.39 Written notice of the making, rescission or variation of an Interim Order shall be served forthwith upon the Respondent and upon the Faculty.
- 3.40 The Interim Orders Panel may be advised by a barrister, advocate or

solicitor chosen from the Legal Advisers Pool.

3.41 Subject to rule 3.42 hearings of the Interim Orders Panel shall be in private.

3.42 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.

## **4 ADJUDICATION PANELS**

### ***General***

4.1 The Adjudication Panel shall meet in private.

4.2 The Adjudication Panel may consider one or more Case Reports submitted under rule 3.19 and one or more Advisory Reports submitted under rules 3.21 or 3.23.

### ***Advisory Reports***

4.3 In the case of an Advisory Report submitted to the Adjudication Panel under rule 3.21 or 3.23, 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 this Scheme.

### ***Case Reports***

4.4 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 4.6 to 4.10; 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.

4.5 Before making a determination under rule 4.4, 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 3.19.
- 4.6 In accordance with rule 4.4(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 10.1(b); and/or
  - (c) invite the Respondent to complete a period of education, retraining and/or supervised practice, on terms provided for under rule 10.3.
- 4.7 When exercising its discretion whether to issue an invitation under rule 4.6, the Adjudication Panel shall have regard to the gravity of the alleged Misconduct as set out in the Allegation and/or the Case Report.
- 4.8 A determination under rule 4.4 shall be served upon the Respondent and the Faculty forthwith.
- 4.9 When making a determination under rule 4.4 or issuing an invitation under rule 4.6, the Adjudication Panel shall provide to the Respondent and the Faculty a statement of its reasons.
- 4.10 A Respondent accepting an invitation pursuant to rule 4.6 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 this 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 8 of this Scheme shall not apply.
- 4.11 If the Respondent does not accept, within 21 days, an invitation pursuant to rule 4.6 the conduct in the Case Report shall be referred to a Disciplinary Tribunal Panel under rule 4.4(a)(ii).
- 4.12 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 4.6 and/or a determination under rule 4.4.

- 4.13 Forthwith upon the determination of the Adjudication Panel under rule 4.4(a)(ii) or rule 4.4(b), or the Respondent's acceptance under rule 4.10 of an invitation under rule 4.6, the Adjudication Panel shall communicate the determination and the reasons to the person who made the Allegation to which the Case Report refers.
- 4.14 If the Respondent has accepted an invitation issued under rule 4.6(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 4 of this Scheme.
- 4.15 The Adjudication Panel may be advised by a barrister, advocate or solicitor chosen from the Legal Advisers Pool.

### ***Charges***

- 4.16 A determination under rule 4.4(a)(ii) to refer the matter to a Disciplinary Tribunal Panel or an election by a Respondent under rule 3.18, or a direct referral under rule 3.13, shall cause the Case Manager to prepare a Charge in accordance with the provisions of rules 4.17 and 4.18, for submission to a Disciplinary Tribunal Panel.
- 4.17 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.
- 4.18 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.

## **5 REVIEW BY THE INDEPENDENT EXAMINER**

### ***Grounds for review***

- 5.1 Where:
- (a) the Adjudication Panel has determined under rule 4.4(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 under rule 3.2, made the Allegation on which the Case Report is based, is dissatisfied with the determination in so far as it relates to the Allegation he made,

then, subject to rules 5.2 to 5.3, he may refer the determination insofar as relating to his Allegation for review by the Independent Examiner.

5.2 No referral for review shall be made:

- (a) in the event of a determination under rule 4.4(a); or
- (b) of a decision pursuant to rules 12.13 and 12.14.

5.3 A referral under rule 5.1 shall be made only on the following grounds:

- (a) that the determination of the Adjudication 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 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.

5.4 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 4.4(b) to the person making the referral;
- (b) state on which of the grounds in rule 5.3 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.

5.5 If the referral was not made within the period set out in rule 5.4(a), the Independent Examiner shall refuse to accept the referral, except that, in exceptional circumstances, and upon the basis of reasonable cause shown, he shall be entitled to accept a referral outwith this time period.

5.6 (a) Subject to rule 5.5, the Independent Examiner may accept a referral if he is satisfied that the person making the referral has stated an arguable and relevant basis for that referral in accordance with rule 5.3. If accepted, the Independent Examiner shall send a copy of the referral to the Faculty.

- (b) If he is not so satisfied, in 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 his decision to the Faculty.

### ***Conduct of the review***

- 5.7 The review conducted by the Independent Examiner shall include consideration, as appropriate, of:
- (a) the determination reached by the Adjudication Panel under rule 4.4(b);
  - (b) the investigation procedures followed under Part 3;
  - (c) the procedures followed by the Adjudication Panel in making its determination;
  - (d) the Allegation made under rule 3.2;
  - (e) the Case Report and any other material considered by the Adjudication Panel;
  - (f) any representations made to the Independent Examiner by the person making the referral;
  - (g) any representations made to the Independent Examiner by the Respondent; and
  - (h) any representations made to the Independent Examiner by the Case Manager,
- having regard to the grounds set out in rule 5.3.
- 5.8 The Disciplinary Board shall have power to make regulations for the procedure of the Independent Examiner. Subject to this Scheme and such regulations made under this rule, the Independent Examiner has discretion to determine his own procedure.

### ***Determination of the Independent Examiner***

- 5.9 After concluding 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 his determination in either case.
- 5.10 When remitting papers to an Adjudication Panel under rule 5.9(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 his review or should be a newly constituted Adjudication Panel.
- 5.11 The determination of the Independent Examiner under rule 5.9 and 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; and
- (f) the Faculty.

5.12 Any decision of the Independent Examiner under rule 5.5 or rule 5.6 and any determination of his under rule 5.9 shall be final and there shall be no appeal against any such decision or determination.

5.13 The determination of an Adjudication Panel to whom a matter has been remitted under rule 5.9(b) shall not be subject to further referral to the Independent Examiner.

### ***General***

5.14 A referral to the Independent Examiner may be withdrawn at any time by the person who made it, whereupon the review under this Part 5 of this Scheme shall cease.

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

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

## **6 DISCIPLINARY TRIBUNAL PANELS**

### ***Charges***

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

6.2 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 4.4(a)(ii); or
- (b) an election by the Respondent to proceed directly to a Disciplinary Tribunal Panel under rule 3.18; or
- (c) a direct referral under rule 3.13.

6.3 As soon as reasonably practicable following receipt of the Charge submitted under rule 6.2, 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 Faculty.

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

- 6.4 The Respondent, if not intending to make an admission of misconduct shall, subject to any decision of the Chairman 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 6.2.
- 6.5 The Faculty 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.
- 6.6 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.
- 6.7 The Respondent may amend any grounds of defence served under rule 6.4, 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.
- 6.8 Where written grounds of defence have been served under rule 6.4 the Investigation Actuary and the Respondent shall, subject to any decision of the Chairman 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***

- 6.9 The Respondent shall be given a proper opportunity of answering the Charge.
- 6.10 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 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***

- 6.11 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.
- 6.12 The Chairman of the Disciplinary Tribunal Panel may require the Respondent and the Faculty and/or their representatives to appear before him from time to time for the purpose of making such orders as 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.
- 6.13 On the application of any Party, the Chairman of the Disciplinary Tribunal Panel may order the disclosure of documents in another Party's possession if they are relevant and if he considers that it is fair in all the circumstances that the documents should be so disclosed.
- 6.14 The Chairman of the Disciplinary Tribunal Panel shall not require under rule 6.13 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.
- 6.15 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***

- 6.16 Subject to rule 6.17, the Disciplinary Tribunal Panel shall hear the Charge in public.
- 6.17 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.
- 6.18 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.

- 6.19 Subject to this 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 this Scheme.
- 6.20 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:
- (a) the Disciplinary Tribunal Panel (or the Chairman 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 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 him to deal with the Charge as so amended.
- 6.21 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.
- 6.22 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 4 of this Scheme or of the Independent Examiner under Part 5 of this Scheme or to any decision under rule 3.13 in relation to the matters giving rise to the Charge.
- 6.23 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 Faculty;

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

(vii) expel the Respondent from membership of the Faculty 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 7 of this Scheme;

(viii) exclude the Respondent (being a former Member who is subject to this Scheme pursuant to rule 1.8) from membership of the Faculty 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 submitted to the Faculty in accordance with Part 7 of this Scheme;

(ix) order the Respondent to complete a period of education, retraining and/or supervised practice, on terms provided for under rule 10.3.

6.24 If a sanction has been imposed under rule 6.23(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***

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

### ***Communication of determination***

6.26 A determination of the Disciplinary Tribunal Panel shall be served upon the Respondent forthwith, which determination shall, subject to rule 9.2(a), 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.

6.27 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; and
- (d) the Faculty.

## **7 READMISSION TO MEMBERSHIP FOLLOWING DISCIPLINARY EXPULSION OR EXCLUSION**

### ***Application***

- 7.1 A Member who, in accordance with this Scheme or the AADB 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 Faculty in accordance with this Part 7 and with such regulations as may for this purpose be issued by the Disciplinary Board.
- 7.2 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***

- 7.3 Upon receipt of an application for readmission under this rule, the Chief Executive 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 AADB Scheme, the Chief Executive shall also notify the AADB.
- 7.4 The Case Manager may make such investigations, and obtain such information, documents or reports as he considers appropriate, including inquiries as to the Applicant's conduct before and after the order for exclusion or expulsion.

### ***Hearing the application***

- 7.5 The Convener of Disciplinary Tribunal Panels shall convene a Panel to hear the application or may assign the application for hearing by a Panel already convened for hearing a different matter.
- 7.6 Not later than 28 days before the hearing before a Disciplinary Tribunal Panel to consider 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 he wishes to attend the hearing; and
  - (b) inviting the Applicant, if 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.
- 7.7 The notice under rule 7.6 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.
- 7.8 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.
- 7.9 Subject to rule 7.10 the Disciplinary Tribunal Panel shall hear the application in public.
- 7.10 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.
- 7.11 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.
- 7.12 Unless the Disciplinary Tribunal Panel determines otherwise, the order of proceedings at a readmission hearing shall be as follows:
- (a) the Faculty 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 Faculty shall bear the burden of proving such facts to the standard referred to in rule 1.4.
  - (b) the Applicant may provide any relevant evidence on which he intends to rely and call witnesses in relation to any relevant matter, including 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.

7.13 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.

7.14 The provisions of rule 6.18 shall apply to the hearing, and of rules 6.26 and 6.27 to the communication of the determination.

## **8 APPEALS**

8.1 The Respondent may by notice appeal against:

- (a) a determination of a Disciplinary Tribunal Panel under Part 6 of this 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 6***

8.2 A Notice of Appeal under rule 8.1 shall be given in writing and served upon the Chairman of the Appeals Tribunal 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 Chairman of the Disciplinary Tribunal Panel may decide on the application of the Respondent).

8.3 A Notice of Appeal under rule 8.1(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 2.31 to hear the appeal.

8.4 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 him on the making of reasonable enquiry; and/or

(d) that the sanction imposed was manifestly unreasonable.

- 8.5 Upon receiving a Notice of Appeal the Chairman of the Appeals Tribunal shall, if satisfied that it discloses arguable grounds for appeal under rule 8.4, appoint an Appeal Tribunal Panel to hear the appeal in accordance with the provisions of this Scheme.
- 8.6 If the Notice of Appeal was not served within the timescale set out in rule 8.2 the Chairman of the Appeals Tribunal shall refuse leave to appeal, except that, in exceptional circumstances, and upon the basis of reasonable cause shown, he shall be entitled to accept a referral outwith this time period.
- 8.7 If in the Chairman's absolute discretion leave to appeal is not granted, the determination of the Disciplinary Tribunal Panel shall continue to apply.
- 8.8 Where the Respondent has been expelled, excluded or suspended under rule 6.23 or where any Certificate of the Respondent has been withdrawn or suspended under rule 6.23, the Respondent shall remain suspended, excluded or expelled from membership and the Certificate of the Respondent shall remain withdrawn or suspended as the case may be until the appeal has been determined.
- 8.9 The secretary of the Appeals Tribunal shall provide to the Chairman of the Appeals Tribunal as soon as reasonably practicable:
- (a) the determination of the Disciplinary Tribunal Panel;
  - (b) any record of the proceedings before it; and
  - (c) any documentary evidence and any other evidence and written submissions placed before it.
- 8.10 The Chairman 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 Respondent withdrawing his Notice of Appeal.
- 8.11 At any time before the determination of the appeal by the Appeal Tribunal Panel the Respondent may withdraw 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 8.16(c).
- 8.12 Subject to rule 8.13, the hearing of the appeal shall normally be by way of review of the papers provided under rule 8.9 and shall be conducted in private.
- 8.13 The Appeal Tribunal Panel may, at the absolute discretion of its Chairman,

permit an oral appeal hearing and:

- (a) give the Respondent 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.

8.14 Subject to rule 8.15, any oral hearing of the Appeal Tribunal Panel shall be in public.

8.15 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.

8.16 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 Respondent or Faculty as it considers appropriate.

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

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

8.19 A determination of the Appeal Tribunal Panel shall be served upon the Respondent forthwith, which determination shall, subject to rule 9.2(a), be effective from the date of its making. The Appeal Tribunal Panel's reasons shall be served upon the Respondent when the determination is served or as soon as reasonably practicable thereafter.

8.20 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 under rule 3.2;
- (d) the Disciplinary Board; and

(e) the Faculty.

### ***Appeal against Interim Orders***

- 8.21 A Notice of Appeal under rule 8.1(b) shall be given in writing and served upon the Case Manager and upon the Chairman of the Appeals Tribunal no later than 14 days after the making of an Interim Order under rule 3.30 (or such longer period as the Chairman of the Appeals Tribunal may decide on the application of the Respondent).
- 8.22 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.
- 8.23 The Interim Order shall remain in force until the appeal is determined.
- 8.24 The secretary of the Appeals Tribunal shall notify the person who made the Allegation under rule 3.2 of any appeal under rule 8.1(b).
- 8.25 The Chairman 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 Respondent withdrawing his Notice of Appeal.
- 8.26 At any time before the determination of the appeal by the Appeal Tribunal Panel the Respondent may withdraw 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 8.16(c).
- 8.27 Subject to rule 8.28, the hearing of the appeal shall normally be by way of review of the papers and shall take place in private.
- 8.28 The Appeal Tribunal Panel may, at the absolute discretion of its Chairman, permit an oral hearing and:
- (a) give the Respondent 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.
- 8.29 Subject to rule 8.30, any oral hearing of the Appeal Tribunal Panel arising from an appeal against an Interim Order shall be in private.
- 8.30 Oral hearings of the Appeal Tribunal Panel arising from an appeal against

an Interim Order shall be held in public whenever the Respondent 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.

- 8.31 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 Respondent or Faculty as it considers appropriate.
- 8.32 The Appeal Tribunal Panel shall make its determination by simple majority.
- 8.33 The determination of the Appeal Tribunal Panel shall be final.
- 8.34 A determination of the Appeal Tribunal Panel shall be served upon the Respondent forthwith, which determination shall be effective from the date of its making. The Appeal Tribunal Panel's reasons shall be served upon the Respondent when the determination is served or as soon as reasonably practicable thereafter.
- 8.35 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 under rule 3.2;
  - (d) the Disciplinary Board; and
  - (e) the Faculty.

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

- 8.36 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 him, serve in writing a notice of appeal addressed to the Chairman of the Appeals Tribunal.
- 8.37 The determination of the Disciplinary Tribunal Panel regarding readmission to membership shall remain in force until the appeal is determined.
- 8.38 (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 Chairman of the Appeals Tribunal considers that there is an arguable basis for the appeal on any of the foregoing grounds 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 Chairman.

(e) If the Chairman decides not to grant leave to appeal, he shall issue to the Parties and the Disciplinary Board written reasons for his decision, and his decision shall be final.

8.39 At any time before the determination of the appeal by the Appeal Tribunal Panel the Respondent may withdraw 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 8.44(d).

8.40 Subject to rule 8.41, the hearing of the appeal shall normally be by way of review of the papers and shall take place in private.

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

(a) hear new evidence adduced pursuant to rule 8.38(b)(iii); and/or

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

8.42 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.

- 8.43 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.
- 8.44 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 7.1); 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 8.38(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) may make an award of costs against the Respondent and/or Faculty/Institute as it considers appropriate.
- 8.45 The provisions of rules 8.17 to 8.20 shall also apply to appeals under this rule.

## **9 COSTS ORDERS AND FINES**

- 9.1 A fine or an award of costs made by the Disciplinary Tribunal Panel or by the Appeal Tribunal Panel shall be recoverable by the Party in whose favour the order is made as a debt due from the Party against whom the order is made.
- 9.2 Any fine payable or costs ordered to be paid shall be paid by the Respondent within 28 days:
- (a) of the receipt 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 Appeal Tribunal Panel's decision to refuse leave under rule 8.7, or of the dismissal of the appeal under rule 8.11, or of the determination of the appeal under rule 8.16; or
  - (b) of the Respondent's acceptance of the invitation of the Adjudication Panel under rules 4.6 and 4.10.
- 9.3 If a Respondent does not pay any fine or award of costs imposed under this Scheme or the AADB Scheme in the time required, he may be guilty of

Misconduct and further disciplinary proceedings may be commenced against him under this Scheme.

## **10 DISCIPLINARY BOARD**

- 10.1 The functions of the Disciplinary Board shall comprise:
- (a) overseeing the management and operation of this Scheme;
  - (b) deciding the maximum fine which an Adjudication Panel may invite a Respondent to pay under rule 4.6(b);
  - (c) providing bi-annual reports to the Council and the Council of the Institute and such other interim reports on specific issues as it deems necessary;
  - (d) producing an annual report to the profession;
  - (e) setting and monitoring time frames for investigations and proceedings under this Scheme;
  - (f) organising training of those involved in this Scheme;
  - (g) receiving and considering reports from the Independent Examiner, from any Chairman, committee, panel or tribunal appointed under this Scheme, from the AADB regarding Allegations considered under the AADB Scheme and from the Chief Executive of the Profession on the operation of this Scheme;
  - (h) making and varying such regulations (not being inconsistent with the provisions of the Charter, the Supplemental Charter, the Rules and Bye-laws or this Scheme) as it may consider necessary for the implementation of this Scheme and for the performance by Investigation Actuaries, Interim Orders Panels, Adjudication Panels, Disciplinary Tribunal Panels and Appeal Tribunal Panels of their respective functions under this Scheme;
  - (i) providing guidance on procedure it considers appropriate not being inconsistent with this Scheme for the performance of functions under this Scheme;
  - (j) giving feedback to the Council, the Council of the Institute and/or the Financial Reporting Council and/or any of its operating bodies on lessons learned from any proceedings conducted under this Scheme, 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 Faculty of functions under rule 1.23;
  - (l) providing advice and guidance to the Council and the Council of the Institute about entering into mutual disciplinary agreements with actuarial regulatory bodies 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 and the Council of the Institute.

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

10.3 The Disciplinary Board shall from time to time provide guidelines for the manner in which sanctions involving education, retraining and/or supervised practice under this Scheme may be imposed. Such guidelines shall be published by the Faculty.

## **11 GENERAL PROVISIONS**

11.1 Subject to rule 12.15, where, having regard to the interests of the public and/or of the profession, an Honorary Secretary of the Faculty considers it appropriate that a matter relating to the conduct of a Member should be investigated, such matter may be referred by him for consideration as an Allegation under this Scheme; thereafter the matter shall proceed for the purposes of this Scheme as if the Allegation had been made to the Faculty under rule 3.2 save that the provisions of Part 5 of this Scheme shall not apply.

11.2 In this Scheme, any function which may be undertaken by:

(a) the Chairman of the Disciplinary Appointments Committee;

(b) the Chairman 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 Chairman of the Appeals Tribunal; or

(g) the Chairman of the Disciplinary Board,

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

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



- 11.4 It is intended that this Scheme shall be operated in conjunction with the disciplinary scheme of the Institute and accordingly:
- (a) any investigation into the conduct of a Member or Members may be undertaken in conjunction with an investigation into the conduct of a Member or Members of the Institute;
  - (b) save where fairness requires otherwise, any proceedings under this Scheme may be dealt with, or heard, with related proceedings under the disciplinary scheme of the Institute;
  - (c) an Allegation concerning a person who is a Member and a member of the Institute shall proceed under this Scheme and under the disciplinary scheme of the Institute simultaneously with a single Case Manager, Investigation Actuary, Interim Orders Panel, Adjudication Panel, Disciplinary Tribunal Panel and Appeal Tribunal Panel as the case may be;
  - (d) a Case Manager or an Investigation Actuary appointed by the Institute under its disciplinary scheme shall have the power to require of a Member those matters specified in rule 3.11(a), 3.11(b), and 3.11(c) of this Scheme; a Member who fails to comply with such obligations, or to cooperate in accordance with rules 1.18 to 1.21, and a Member who hinders or frustrates a Case Manager or an Investigation Actuary appointed by the Institute may be liable for Misconduct;
  - (e) any person appointed to a position or body under Part 2 of this Scheme may be appointed to an equivalent position or body under the disciplinary scheme of the Institute;
  - (f) the provisions of rules 2.40 and 2.41 shall apply to a person who is appointed to the Disciplinary Appointments Committee or the Disciplinary Board under the provisions of the disciplinary scheme of the Institute; and
  - (g) the provisions of rules 2.43 and 2.45 shall apply as if for “Member” there is substituted the term “member of the Institute”, for “Misconduct” there is substituted the term “Misconduct under the disciplinary scheme of the Institute”, and for “this Scheme” there is substituted the term “the disciplinary scheme of the Institute”.

11.5 An Interim Orders Panel, an Adjudication Panel, a Disciplinary Tribunal Panel and an Appeal Tribunal Panel (or the Chairman 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 this Scheme and to adjourn any meeting or hearing. Any such Panel or Chairman shall at their discretion be entitled to accept written undertakings from the Respondent.

- 11.6 The failure by a Respondent to comply with an undertaking accepted under rule 11.5 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 this Scheme.
- 11.7 An Interim Orders Panel, Adjudication Panel, Disciplinary Tribunal Panel or Appeals Tribunal Panel (or the Chairman of any such Panel) or the Convener of Adjudication Panels may at their discretion suspend an investigation and/or any disciplinary proceedings under this Scheme. 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, and shall consider any such submissions made by the Respondent. Any such Panel or Chairman, or the Convener of Adjudication Panels, may, on the application of either party, direct that a suspended investigation is resumed.
- 11.8 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 11.5.
- 11.9 Provided that an Interim Orders Panel, a Disciplinary Tribunal 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 his case.
- 11.10 All documents put before an Interim Orders Panel, an Adjudication Panel, a Disciplinary Tribunal 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.
- 11.11 Any notice or other document required by any provision of this Scheme to be given or sent to a Party may be sent by pre-paid post addressed to him at his address notified to the Faculty for communications, or, if the Faculty is aware that this address is no longer current for him, to 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.

- 11.12 The Disciplinary Board shall, as soon as reasonably practicable, be given:
- (a) by the Case Manager brief particulars of any Allegation made under this Scheme after it is assigned for investigation; and
  - (b) by the Chairman of each of an Interim Orders Panel, an Adjudication Panel, a Disciplinary Tribunal Panel or an Appeal Tribunal Panel (as the case may be) a report on the proceedings under this Scheme, containing such particulars as he shall consider appropriate.
- 11.13 The following matters shall be made public by the Faculty as soon as reasonably practicable in accordance with arrangements prescribed by the Disciplinary Board under rule 11.14:
- (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 4.4(a)(ii);
  - (c) the determination and, where applicable, any sanction imposed by an Adjudication Panel resulting from the acceptance by a Respondent under rule 4.10 of an invitation by the Adjudication Panel under rule 4.6;
  - (d) any final determination of a Disciplinary Tribunal Panel; and
  - (e) any final determination of an Appeal Tribunal Panel.
- 11.14 The Disciplinary Board 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 3.18;
  - (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 this Scheme.
- 11.15 At any hearing of an Interim Orders Panel, a Disciplinary Tribunal Panel (including any procedural hearing before the Chairman) or an Appeal Tribunal Panel, the Respondent may be:
- (a) represented by a solicitor, barrister or advocate, or another Member or

member of the Institute or such other person as the Chairman 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 his family, or by another Member or member of the Institute, but the accompanying person may remain during any private session of the relevant panel only with the agreement of the panel.

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

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

(b) The Disciplinary Board 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 this Scheme.

11.17 Provisions of this Scheme shall form part of the Rules and Bye-laws and may be rescinded, varied or added to accordingly.

## **12 THE ACCOUNTANCY AND ACTUARIAL DISCIPLINE BOARD (the AADB)**

### ***Duty to co-operate***

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

### ***Call-in of cases by the AADB***

12.2 If, before the making of any determination under rule 4.4, or as the case may be the exercise by the Respondent of the right of election under rule 3.18, the Faculty receives notice in writing from the AADB that the AADB is considering whether an Allegation currently being dealt with under this Scheme should be investigated under the AADB Scheme, then:

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

(b) the Respondent, the person who made the Allegation under rule 3.2, the Investigation Actuary, the Disciplinary Board and, if appropriate, the Adjudication Panel shall be informed that investigation of the Allegation is suspended pending the

determination of the AADB as to whether the Allegation should be investigated under the AADB Scheme.

12.3 Where the AADB determines that the Allegation should be investigated under the AADB Scheme:

- (a) no further investigation shall be undertaken, and no determination shall be made, under this Scheme; and
- (b) the Respondent, the person who made the Allegation under rule 3.2, the Investigation Actuary, the Disciplinary Board and, if appropriate, the Adjudication Panel shall be informed that the Allegation will be investigated by the AADB.

12.4 Where the AADB determines that the Allegation should not be investigated under the AADB Scheme:

- (a) any action in relation to that Allegation under this Scheme may be recommenced; and
- (b) the Respondent, the person who made the Allegation under rule 3.2, the Investigation Actuary, the Disciplinary Board and, if appropriate, the Adjudication Panel shall be informed that investigation of the Allegation under this Scheme has resumed.

***Referral of cases to the AADB prior to an investigation under this Scheme***

12.5 Where an Allegation is received under rule 3.2 by the Faculty that relates to matters that are the subject of an investigation under the AADB Scheme no action shall be taken by the Faculty in relation to that Allegation under this Scheme.

12.6 Where the Chairman of the Pool of Investigation Actuaries considers that the Allegation should be referred for consideration under the AADB Scheme he shall refer the Allegation to the AADB to determine whether or not to accept the referral.

12.7 Where the AADB decides to accept a referral under rule 12.6 the Chairman of the Pool of Investigation Actuaries shall:

- (a) take no further action under this Scheme in relation to the Allegation; and
- (b) inform the Respondent, the person who made the Allegation under rule 3.2, and the Disciplinary Board that the Allegation will be investigated by the AADB.

12.8 Where the AADB declines to accept a referral made under rule 12.6, the Chairman of the Pool of Investigation Actuaries shall proceed under rule 3.3 of this Scheme with the investigation of the Allegation.

***Referral of cases to the AADB during an investigation under this Scheme***

- 12.9 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 AADB Scheme, the Case Manager and/or Investigation Actuary shall immediately refer the Allegation to the Chairman of the Pool of Investigation Actuaries.
- 12.10 Upon receipt of a referral under rule 12.9, where the Chairman of the Pool of Investigation Actuaries considers that the Allegation should be referred for consideration under the AADB Scheme, he shall:
- (a) forthwith suspend any further investigation of the Allegation under this Scheme; and
  - (b) proceed in accordance with rules 12.6 and 12.7.
- 12.11 Where the AADB declines to accept a referral under rule 12.10, the Chairman of the Pool of Investigation Actuaries shall, in accordance with rule 3.3, assign the Allegation to an Investigation Actuary to recommence investigation under this Scheme. Any assignment under this rule may be to the Investigation Actuary who acted under rule 12.9, or to an Investigation Actuary newly appointed under rule 3.6.

***Referral of cases to the AADB by an Adjudication Panel***

- 12.12 Before making any determination under rule 4.4, if the Adjudication Panel considers that any matter raised by the Allegation included in a Case Report should be referred for consideration under the AADB scheme, the Chairman of the Adjudication Panel shall:
- (a) refer the Allegation to the AADB 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 under rule 3.2 and the Investigation Actuary accordingly.
- 12.13 Where the AADB decides to accept the referral under 12.12 the Chairman of the Adjudication Panel concerned shall:
- (a) arrange for the Adjudication Panel to take no further action under this Scheme in relation to the Case Report; and
  - (b) inform the Respondent, the person who made the Allegation under rule 3.2, the Investigation Actuary and the Disciplinary Board, that the Allegation will be investigated by the AADB.
- 12.14 Where the AADB declines the referral made under rule 12.12:
- (a) an Adjudication Panel shall resume consideration of the Case Report under this Scheme; and
  - (b) the Convener of Adjudication Panels shall determine whether the Adjudication Panel should be the Panel which acted under rule 12.12 or

a Panel newly appointed for the purpose.

***Referral of cases to the AADB prior to a referral under rule 11.1***

- 12.15 Before proceeding under rule 11.1 the Honorary Secretary shall first consider whether, having regard to all the circumstances, it is appropriate that the matter is referred to the AADB scheme and, if so, he shall refer the matter for decision by the AADB whether to accept the referral.
- 12.16 Where the AADB decides to accept the referral, the Honorary Secretary shall:
- (a) take no further action under this Scheme in relation to the matter; and
  - (b) inform the Respondent and the Disciplinary Board of the referral.
- 12.17 Where the AADB declines the referral the Honorary Secretary shall proceed under rule 11.1.

***Enforcement of AADB sanctions and findings***

- 12.18 Subject to rule 12.19, any finding made or sanction imposed under the AADB Scheme shall be put into effect, for the purposes of enforcement only, as if it were made or imposed under this Scheme.
- 12.19 Rule 12.18 only has effect in relation to a finding or sanction against which there is no possibility of appeal within the AADB 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 AADB within the time limit set out under the AADB Scheme.

***Enforcement of costs awarded by the AADB***

- 12.20 Where costs are awarded against a Member in accordance with the AADB Scheme, that Member shall pay the costs so ordered in accordance with the AADB Scheme.

**13 COMMENCEMENT AND TRANSITIONAL PROVISIONS**

***Commencement***

- 13.1 The provisions of this version of this Scheme shall come into force on such day(s) as the Council may by resolution determine and shall be applicable to all matters arising from Allegations received under rules 3.2 or 11.1, on or after that date.

***Transitional provisions***

- 13.2 Subject to rule 13.3, all matters arising from Allegations received under rules 3.2 or 11.1 prior to the date on which this version of this Scheme comes into force shall be dealt with in accordance with the version of this Scheme in force at the date on which the Allegation was received; and the provisions of that version of this Scheme shall continue in force for the

purpose of the consideration and determination of any such matter.

- 13.3 All persons appointed to the Disciplinary Appointments Committee, Disciplinary Pool, Appeals Tribunal, Pool of Investigation Actuaries, Disciplinary Board or Legal Advisers Pool, and the person appointed to the role of Independent Examiner, immediately prior to this version of this Scheme coming into force, shall be deemed to continue to be so appointed under this version of this Scheme on its coming into force.



## APPENDIX

In this Scheme, unless the context otherwise requires:

'AADB'	means the board established by the Articles of Association of The Accountancy and Actuarial Discipline Board Limited (and any other person or body exercising functions on behalf of or in succession to such board);
'AADB Scheme'	means the disciplinary scheme for the Actuarial Profession made and adopted by the AADB as amended and in force from time to time;
'Adjudication Panel'	means a panel appointed under rule 2.22;
'Advisory Report'	means a report referred to in rules 3.22 and 3.23;
'Allegation'	means a statement in writing addressed to the Faculty 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 Honorary Secretary under rule 11.1, and includes such an Allegation relating to a person whose membership is suspended under this Scheme;
'Appeals Tribunal'	means the Appeals Tribunal referred to in rule 2.29;
'Appeal Tribunal Panel'	means a panel of the Appeals Tribunal appointed under rule 2.31;
'Applicant'	means a former Member, who has been expelled or excluded from membership and is applying for readmission to membership;
'Appropriate person'	means a person of good character who is fit to carry out a role under this Scheme;
'Board for Actuarial Standards'	means the operating body of that name appointed by the Financial Reporting Council Limited;
'Case Manager'	means a person appointed by the managements of the Institute and Faculty 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 3.14;
'Certificate'	means any certificate issued pursuant to the Rules and Bye-laws;

‘Charge’	means a formal allegation that a Member has been guilty of Misconduct defined in the document prepared by the Investigation Actuary under rule 4.16;
‘Chief Executive of the Profession’	means the person appointed by the Council for the purpose of submitting reports to the Disciplinary Board pursuant to rule 10.1(g) on behalf of the Faculty;
‘Council’	means the Council of the Faculty of Actuaries;
‘Council of the Institute’	means the Council of the Institute of Actuaries;
‘Disciplinary Appointments Committee’	means the committee appointed in rule 2.1;
‘Disciplinary Board’	means the board referred to in rule 2.32;
‘Disciplinary Pool’	means the pool referred to in rule 2.8;
‘Disciplinary Tribunal Panel’	means a panel referred to in rule 2.26;
‘Faculty’	means the Faculty of Actuaries;
‘Fellow’	means a Fellow of the Faculty of Actuaries;
‘Fellow of the Institute’	means a Fellow of the Institute of Actuaries;
‘Independent Examiner’	means the person appointed under rule 2.17;
‘Institute’	means the Institute of Actuaries;
‘Institute Scheme’	means the Disciplinary Scheme of the Institute of Actuaries adopted under Rule 69 of the Bye-laws of the Institute;
‘Interim Order’	means an order provided for in rule 3.26;
‘Interim Orders Panel’	means a panel referred to in rule 2.20;
‘Investigation Actuary’	means an investigation actuary referred to in rule 3.3;
‘Lay member’	means a person who is not and has never been a Member, Fellow, Associate, Affiliate or student of the Institute or of the Faculty or an Overseas Fellow Equivalent;
‘Lead Investigation Actuary’	means a member of the Investigation Actuaries Pool nominated under rule 3.5(b);
‘Legal Advisers Pool’	means the pool of barristers, advocates and solicitors nominated under rule 2.37;
‘Memorandum of Understanding’	means an agreement entered into between, on the one hand, the Faculty and, on the other hand, the Board for Actuarial Standards and/or the Financial Reporting Council Limited which provides, amongst other things, for the Board for

	Actuarial Standards to issue standards and the Faculty to recognise those standards in its Disciplinary Scheme;
‘Member’	means a member of the Faculty of any class other than an Honorary Fellow, and for the purpose of this Scheme students of the Faculty shall be deemed to be Members;
‘Misconduct’	means misconduct under rule 1.6;
‘Overseas Fellow Equivalent’	means a person possessing a qualification which the Disciplinary Appointments Committee considers to be the local equivalent of the Faculty's Fellowship obtained from an overseas actuarial regulatory body which is a full member of the International Actuarial Association;
‘Party’	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 Faculty for this purpose;
‘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 or Appeal Tribunal Panel;
‘rule’	means a rule of this Scheme;
‘Rules and Bye-laws’	means the Rules and Bye-laws of the Faculty in force from time to time;
‘Scheme’	means this Disciplinary Scheme adopted under Rule 35 of the Rules and Bye-laws.

*1 July 2009*