

~~DISCIPLINARY
PROCEDURE PROCEDURES~~

(Issued  2018)

17. ~~(a) In the event of a complaint in writing being made to the Council that the conduct of a Member is unprofessional or otherwise of such a nature (fraud, criminal offence, etc.) as may be considered likely to bring discredit to the Society (whether in his relation to the Society or its Members, or otherwise) the Council shall have the power to set up a Disciplinary Committee to make such investigation and to require such information and explanations as it may think proper. The complaint may be initiated by, for example, another Fellow of the Society, a regulatory body in Hong Kong or a member of the public whose interest is served by the Fellow of the Society.~~
- ~~(b) In appropriate circumstances, the Council may in addition to taking action in accordance with the next following paragraph, refer the case to the actuarial body which has accorded membership or professional status to the Member concerned.~~
- ~~(c) In all proceedings under this Article, the Council shall decide, after having received a recommendation from a Disciplinary Committee, whether or not misconduct has occurred, and it may warn, admonish, reprimand, suspend, or expel the Member from the Society provided no action to expel the Member shall be taken except after a hearing with the Member appearing before the Council and a resolution of a majority or at least 3/4 of the members of the Council present and voting at a Special Council Meeting at which no less than twelve (12) members are present is passed. The Council shall give the Member fourteen (14) clear days of notice of the Special Council Meeting. The Member may attend but shall not be present at the voting or take part in the proceedings otherwise that as the Council applies. The Member and/or his legal representative may attend the special meeting and may be heard in defence (either by verbal representation or by a pre-prepared statement). The Member shall not be present at the voting or the discussion processes that may take place as the Council applies. Before any decisions are made by the Council, all investigations and enquiries will be kept strictly confidential.~~
- ~~(d) A Member subject to sanction by the Society as a result of the above meeting may within fourteen (14) days next after the ruling appeal from the decision of the Council to a Special Meeting of the Members which shall thereupon be convened.~~
- ~~(e) Any Member subject to disciplinary sanction will be identified to Members of the Society. The Council will determine the form of such communications and provide a brief description of the situation, proceedings, investigations and/or outcome as it feels appropriate.~~

- (f) ~~If the Society is approached by, for example, another Fellow of the Society, a regulatory body in Hong Kong or a member of the public whose interest is served by the Fellow of the Society, the Society will confirm whether or not a member has been subject to any disciplinary sanction. If the member has been subject to any disciplinary sanction then the ASHK will provide a brief written synopsis of the situation and confirm the outcome and/or any actions taken.~~

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* These rules were made by the Actuarial Society of Hong Kong on [●] and came into operation on [●].

PART I
INTERPRETATION

1. Unless the context otherwise requires:

Interpretation
[RSRBHK1]

(a) these rules adopt the interpretation and definitions in the Articles of Association of the Actuarial Society of Hong Kong unless the context otherwise requires.

(b) the following terms and phrases shall have the following meanings:

Appeal Committee means the Appeal Committee referred to in rule 41(a);

Appeal Proceedings Procedural Timetable refers to the timetable in Schedule 4;

Appellant means the Appellant referred to in rule 39;

Appellant's Case means the Appellant's Case referred to in rule 46;

Appellant's Reply means the Appellant's Reply referred to in rule 48;

Articles means the Articles of Association of the Society in force from time to time;

Chairman means the Chairman of the Disciplinary Committee referred to in rule 12(a) or the Chairman of the Appeal Committee referred to in rule 41(a) as the context requires;

Clerk is a person appointed by the Council in accordance with rule 10;

Committee means the Disciplinary Committee or the Appeal Committee as the context requires;

Complaint means the Complaint referred to in rule 9(a);

Disciplinary Committee means the Disciplinary Committee referred to in rule 12**Error! Reference source not found.**;

Disciplinary Panel means the Disciplinary Panel referred to in rule 7(a);

Disciplinary Proceedings Procedural Timetable refers to the timetable in Schedule 2;

<u>Investigating Officer</u>	<u>means the Investigating Officer referred to in rule 4;</u>
<u>Investigation Report</u>	<u>means the Investigation Report referred to in rule 6;</u>
<u>Panel Convenor</u>	<u>means the Panel Convenor referred to in rule 7(b);</u>
<u>Parties</u>	<u>means the Presenting Officer and the Respondent(s) or Appellant(s) as the context requires;</u>
<u>Presenting Officer</u>	<u>means any person appointed by the Council to present a Complaint to the Disciplinary Committee and the Appeal Committee;</u>
<u>Presenting Officer's Appeal Case</u>	<u>means the Presenting Officer's Appeal Case referred to in rule 47;</u>
<u>Presenting Officer's Case</u>	<u>means the Presenting Officer's Case referred to in rule 24;</u>
<u>Presenting Officer's Appeal Reply</u>	<u>means the Presenting Officer's Appeal Reply referred to in rule 49;</u>
<u>Presenting Officer's Reply</u>	<u>means the Presenting Officer's Reply referred to in rule 26;</u>
<u>Procedural Timetable</u>	<u>refers to either the Disciplinary Proceedings Procedural Timetable or the Appeal Proceedings Procedural Timetable, as appropriate, in the forms set out in Schedules 2 and 4 respectively;</u>
<u>Respondent</u>	<u>means any Member or former Member who is the subject of a Complaint referred to the Disciplinary Panel;</u>
<u>Respondent's Case</u>	<u>means the Respondent's Case referred to in rule 25; and</u>
<u>Respondent's Reply</u>	<u>means the Respondent's Reply referred to in rule 27;</u>

PART II
DUTY TO CO-OPERATE

2. Every Member and former Member, whether or not he is the subject of any Complaint, has a duty to cooperate fully with any investigation, process or procedure under these rules. This duty includes (and is not limited to): Members' and former Members' duty to co-operate
- (a) providing full and frank answers to questions raised by the Investigating Officer, Disciplinary Committee or Appeal Committee;
- (b) disclosing any information and/or providing any document as may be required by the Investigating Officer, Disciplinary Committee or Appeal Committee, save for any information or document which is the subject of legal professional privilege; and
- (c) complying with any directions given by the Investigating Officer, Disciplinary Committee or Appeal Committee.

Failure to comply with this duty may amount in itself to misconduct which may render the Member or former Member liable to disciplinary action.

PART III
DISCIPLINARY ISSUES

3. Where the Society becomes aware of facts or allegations which suggest that a Member or former Member (while still a Member) may have been guilty of misconduct or may not be fit and proper to be a Member, the Council may at its discretion refer the matter to an Investigating Officer for investigation in accordance with rules 4 to 6. Dealing with disciplinary issues

PART IV
INVESTIGATION

4. The Council may: Investigating Officer
- (a) appoint a person to be an investigating officer (“Investigating Officer”);
- (b) appoint one or more Investigating Officer(s) to investigate on one or more Complaints; and
- (c) replace an Investigating Officer at any time.

5. Where the Council refers a matter to an Investigating Officer for investigation, the Investigating Officer shall: Investigation
- (a) make such inquiries as the Investigating Officer considers appropriate to ascertain the facts and determine whether the Member(s) or former Member(s) may be guilty of misconduct or may not be fit and proper to be a Member; and
 - (b) invite the Member(s) or former Member(s) to submit in writing any explanation of his conduct or other relevant matters which he may have to offer.
6. The Investigating Officer shall submit a written report (the “**Investigation Report**”) to the Council containing his findings, all the submissions, documents and evidence to which he has been referred and his advice to the Council whether, in the Investigating Officer's opinion, there is a prima facie case that the Member or former Member is guilty of misconduct or is not fit and proper to be a Member (while the former Member was still a Member). Upon receiving the Investigation Report, the Council may at its discretion refer the matter to the Disciplinary Panel in accordance with rule 9. Alternatively, the Council may decide to dismiss the matter and inform the Respondent accordingly. Investigation Report

PART V
REFERRAL TO DISCIPLINARY PANEL [RSRBHK2]

7. The Council shall: Disciplinary Panel [RSRBHK3]
- (a) appoint not less than 11 Members it considers appropriate to form a standing disciplinary panel (“**Disciplinary Panel**”); and
 - (b) appoint one of the members of the Disciplinary Panel it considers appropriate to be the convenor (“**Panel Convenor**”).
8. The Council may at any time and for any reason it considers appropriate:
- (a) replace the Panel Convenor with another member of the Disciplinary Panel; and
 - (b) replace any member of the Disciplinary Panel with another Member.
9. Where the Council determines to refer the matter to the Disciplinary Panel, the Council shall: Referral to Disciplinary Panel

- (a) formulate a written complaint, being a succinct statement of the issue or issues which the Council wishes to refer to the Disciplinary Panel (“Complaint”);
 - (b) appoint a Presenting Officer to present the Complaint, who shall be the Investigating Officer responsible for investigating the matter or such other person as the Council may consider appropriate;
 - (c) appoint a Clerk in accordance with rule 10, and
 - (d) transmit to the Clerk the Complaint and the Investigation Report.
- 10. The Council may appoint a person it considers appropriate to be the Clerk to the Disciplinary Committee and/or the Appeal Committee and may appoint one or more alternates of the Clerk, who may act in place of the Clerk in the event the Clerk is precluded for any reason whatsoever from performing his functions. The Clerk may be present during the deliberations of the Disciplinary Committee and/or Appeal Committee and may advise the Disciplinary Committee and/or Appeal Committee on past practice and matters of procedure, but shall not actively participate in the making of the substantive decision. Appointment of Clerk
- 11. Upon receipt of the Complaint and the Investigation Report, the Clerk shall: Notice and Procedural Timetable
 - (a) notify the Panel Convenor; and
 - (b) send to each of the Parties:
 - (i) a notice in the form set out in Schedule 1 to these rules notifying the Parties of the commencement of the proceedings;
 - (ii) the Disciplinary Proceedings Procedural Timetable in the form set out in Schedule 2 to these rules;
 - (iii) the Complaint; and
 - (iv) the Investigation Report.
- 12. (a) Upon being notified by the Clerk under rule 11(a), the Panel Convenor shall as soon as reasonably practicable appoint three members of the Disciplinary Panel to comprise a Disciplinary Committee (“Disciplinary Committee”) and shall appoint one of them to be the chairman (“Chairman”) of the Disciplinary Committee for the purposes of hearing the Complaint. Disciplinary Committee

- (b) The Chairman and the two other members of the Disciplinary Committee shall not have been involved in investigating the Complaint or making the decision to refer the Complaint to the Disciplinary Panel, and shall have no personal interest in the Complaint. Where a member of the Disciplinary Panel is aware of facts and matters that may give rise to personal interest in the Complaint, he shall immediately notify the Panel Convenor and the Panel Convenor shall determine if the member shall resign from the Disciplinary Committee and if the Disciplinary Panel shall appoint any replacement.
- (c) If at any time and for any reason the Panel Convenor considers it appropriate to replace the Chairman or another member of the Disciplinary Committee with another member of the Disciplinary Panel, the Panel Convenor may do so.
13. The quorum for the Disciplinary Committee shall be two including the Chairman present in person or by electronic means. Decisions shall be made by simple majority. In the case of an equality of votes by whatever means, the Chairman shall be entitled to a second or casting vote. Quorum and decision making
14. The Clerk shall provide the Disciplinary Committee with copies of the Complaint and the Investigation Report. Documents to be provided by Clerk

PART VI **PROCEDURAL MATTERS**

15. The Clerk shall be the point of contact for all the Parties with the Disciplinary Committee. The Clerk shall be responsible for circulating all documents filed in the proceedings amongst the Parties. Circulation of documents
16. All enquiries on procedural matters, other than those arising during the course of a hearing, shall be directed to the Clerk in writing. Where any enquiry on a procedural matter calls for a decision, the Clerk shall refer the matter to the Chairman for determination. Enquiries on procedural matters
17. The Chairman shall be at liberty to decide all enquiries on procedural matters or to refer such matters to the Disciplinary Committee for decision at his discretion.
18. The Chairman or the Disciplinary Committee may, at their discretion and at any stage of the proceedings, upon request of the Parties or on their own motion, dispense with or vary any of the requirements of these rules (including the Procedural Timetables) or make such directions for the conduct of the proceedings as they consider appropriate. Variation of procedures and making of directions

PART VII
BURDEN OF PROOF AND FUNCTION OF DISCIPLINARY
COMMITTEE

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| 19. | <u>The function of the Disciplinary Committee is to hear the Complaint and to decide whether the Respondent has been guilty of misconduct or is otherwise not fit and proper to be a Member and, if so, to determine what disciplinary action(s) ought to be taken.</u> | <u>Function of Disciplinary Committee</u> |
| 20. | <u>The burden of proof is upon the Presenting Officer.</u> | <u>Burden of proof</u> |
| 21. | <u>The strict rules of evidence do not apply. The Disciplinary Committee may receive any material, and attach such weight to that material, as it considers appropriate.</u> | <u>Rules of evidence</u> |
| 22. | <u>If any party fails or refuses to make submissions or answer questions on any matter or issue, the Disciplinary Committee shall be entitled to draw an adverse inference against that party.</u> | <u>Drawing of adverse inferences</u> |

PART VIII
WRITTEN SUBMISSIONS

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| 23. | <u>The Parties' submissions and evidence on all material matters shall be presented to the Disciplinary Committee in writing prior to the hearing.</u> | <u>Paper based process</u> |
| 24. | <u>The Presenting Officer shall submit to the Clerk in accordance with the Procedural Timetable a written case in support of the Complaint which shall explain the case against the Respondent(s) and address all material matters, including the issue of what disciplinary action may be appropriate should the Complaint be proved ("Presenting Officer's Case"). The Presenting Officer's Case shall annex all evidence on which he relies.</u> | <u>Presenting Officer's Case</u> |
| 25. | <u>The Respondent shall submit to the Clerk in accordance with the Procedural Timetable a written response to the Presenting Officer's Case and address all material matters, including the issue of what disciplinary action may be appropriate should the Complaint be proved ("Respondent's Case"). The Respondent's Case shall annex all evidence on which he relies.</u> | <u>Respondent's Case</u> |
| 26. | <u>The Presenting Officer may submit to the Clerk in accordance with the relevant Procedural Timetable a written reply ("Presenting Officer's Reply"). The Presenting Officer's Reply shall be limited to matters arising as a consequence of the Respondent's Case and shall annex any further evidence on which the Presenting Officer relies.</u> | <u>Presenting Officer's Reply</u> |

27. The Respondent may submit to the Clerk in accordance with the relevant Procedural Timetable a written reply ("Respondent's Reply"). The Respondent's Reply shall be limited to matters arising as a consequence of the Presenting Officer's Reply and shall annex any further evidence on which the Respondent relies. Respondent's Reply
28. Unless the Chairman or the Disciplinary Committee otherwise directs, the Cases and Replies (including annexed evidence) shall constitute the written submissions and evidence in the proceedings. Status of Cases and Replies
29. Following the filing of the Cases and any Replies under rules 24 to 27, no further written submissions or evidence shall be admitted without the leave of the Chairman or the Disciplinary Committee. No further written material without leave

PART IX HEARING

30. In accordance with the relevant Procedural Timetable the Disciplinary Committee shall then schedule a date for a hearing to be conducted, the principal purpose of which is to allow the Disciplinary Committee to ask questions of the Parties and clarify matters. The Clerk shall inform the Parties of the date of the hearing in writing. Purpose of hearing
31. (a) Whilst the Parties may be accompanied by legal advisers at the hearing, oral submissions and answers should be presented by the Parties and legal advisers will not be permitted to address the Disciplinary Committee without leave of the Disciplinary Committee. Legal representation
- (b) In relation to application for leave referred to in rule 30(a):
- (i) any application for leave shall be submitted to the Clerk in writing as soon as reasonably practicable and in any event at least seven days prior to the hearing, explaining the grounds for the application and why it is necessary for the legal adviser to address the Disciplinary Committee;
- (ii) the Clerk shall then submit the application to the Disciplinary Committee as soon as reasonably practicable; and
- (iii) the Disciplinary Committee shall then consider the application and may at their discretion give or refuse to give leave with or without reasons and inform the Parties (through the Clerk) the result of the application in writing as soon as reasonably practicable.

32. At the hearing, the following order of procedure shall be observed: Order of procedure at hearing
- (a) the Chairman shall introduce the proceedings and the Disciplinary Committee shall deal with any procedural matters arising;
 - (b) the Presenting Officer may (but is not obliged to) present an oral opening submission;
 - (c) the Respondent may (but is not obliged to) present an oral opening submission;
 - (d) the Disciplinary Committee may put such questions to the Parties as the Disciplinary Committee thinks expedient;
 - (e) the Presenting Officer may (but is not obliged to) present an oral closing submission; and
 - (f) the Respondent may (but is not obliged to) present an oral closing submission.
33. Any oral submissions should be succinct and should not repeat the written submissions. Submissions as to disciplinary actions
34. Following the hearing, the Disciplinary Committee shall determine whether the Complaint has been proved and, if so, what (if any) disciplinary actions should be ordered against the Respondent as a consequence. The disciplinary actions which may be ordered by the Disciplinary Committee may include one or more of the following: Determination of Disciplinary Committee
- (a) a private or public reprimand;
 - (b) a fine of up to HK\$250,000;
 - (c) suspension from the Membership of the Society for such period as the Disciplinary Committee considers appropriate;
 - (d) expulsion from the Membership of the Society and a prohibition on the Member re-applying for admission;
 - (e) an order requiring the Member to pay any legal costs or expenses incurred by the Society in connection with the disciplinary proceedings; and
 - (f) an order requiring the Member to complete a period of education and/or training in connection with the By-laws of the Society.

35. The Disciplinary Committee shall issue its decision in writing setting out the Disciplinary Committee's reasons and the terms of any orders made. Filing and publication of decision
36. The Clerk shall cause the written decision of the Disciplinary Committee to be sent to the Parties and to the Council.

PART X
FAILURE TO COMPLY WITH RULES

37. If the Chairman or the Disciplinary Committee is of the opinion that one or more of the Parties has/have failed to appear at the hearing or has/have failed to comply with a requirement of these rules (including the Procedural Timetable) or of any direction or order, the Chairman or the Disciplinary Committee may take such steps as they consider appropriate including: Failure to comply with rules
- (a) dismissing the Complaint without requiring the Respondent to answer the allegations;
- (b) dismissing the Complaint without a hearing; or
- (c) determining the Complaint without hearing from the Respondent.
38. Where any question arises as to whether a written Case or Reply under rules 23 to 27 complies with the requirements of these rules, the Chairman and the Disciplinary Committee shall only order that the Case or Reply be rejected, revised or supplemented if, in the opinion of the Chairman or the Disciplinary Committee, the defects in the Case or Reply are such as to prejudice the ability of the other Party to the proceeding to obtain a fair hearing. Defects in Cases and Replies

PART XI
APPEAL PROCESS

39. Any Respondent aggrieved by a decision of the Disciplinary Committee may appeal by notifying the Clerk in writing of his decision to appeal within fourteen days of the date of dispatch to him of the Disciplinary Committee's written decision. Upon the lodging of the appeal, the Respondent shall be referred to as the “Appellant”. Lodging an Appeal
40. Upon receipt of the notification to appeal, the Clerk shall: Notice and Procedural Timetable
- (a) notify the Panel Convenor; and
- (b) send to each of the Parties:

- (i) a notice in the form set out in Schedule 3 to these rules notifying the Parties of the lodging of the appeal; and
- (ii) the Appeal Proceedings Procedural Timetable in the form set out in Schedule 4 to these rules.
41. (a) Upon being notified by the Clerk under rule 40, the Panel Convenor shall as soon as reasonably practicable appoint three members of the Disciplinary Panel to comprise an Appeal Committee (“Appeal Committee”) and shall appoint one of them to be the chairman (“Chairman”) of the Appeal Committee for the purposes of hearing the appeal. Appeal Committee
- (b) The Chairman and the two other members of the Appeal Committee shall not have been involved in investigating the Complaint, making the decision to refer the Complaint to the Disciplinary Panel, or the proceedings before the Disciplinary Committee, and shall have no personal interest in the Complaint. Where a member of the Disciplinary Panel is aware of facts and matters that may give rise to personal interest in the Complaint, he shall notify the Panel Convenor and the Panel Convenor shall determine if the member shall resign from the Appeal Committee and if the Disciplinary Panel shall appoint any replacement.
- (c) If at any time and for any reason the Panel Convenor considers it appropriate to replace the Chairman or another member of the Appeal Committee with another member of the Disciplinary Panel, the Panel Convenor may do so.
42. The quorum for the Appeal Committee shall be two including the Chairman present in person or by electronic means. Decisions shall be made by simple majority. In the case of an equality of votes by whatever means, the Chairman shall be entitled to a second or casting vote. Quorum and decision making
43. The appeal shall be a de novo review on the merits and the burden of proof shall be on the Presenting Officer. De novo review and burden of proof
44. The Clerk shall provide the Appeal Committee with copies of: Documents to be provided by Clerk
- (a) the Complaint and the Investigation Report;
- (b) the Cases and Replies and any other written materials submitted to the Disciplinary Committee; and
- (c) the written decision of the Disciplinary Committee.

45. Thereafter, the appeal shall proceed before the Appeal Committee in the same manner as for proceedings before the Disciplinary Committee as set out in rules 15 to 23 and in accordance with the rules below. Appeal process

PART XII WRITTEN SUBMISSIONS IN APPEAL

46. The Appellant shall submit to the Clerk in accordance with the relevant Procedural Timetable a written case in support of the appeal (“Appellant’s Case”). The Appellant’s Case shall annex all evidence on which he relies. Appellant’s Case
47. The Presenting Officer shall submit to the Clerk in accordance with the relevant Procedural Timetable a written response to the Appellant’s Case (“Presenting Officer’s Appeal Case”). The Presenting Officer’s Appeal Case shall annex all evidence on which he relies. Presenting Officer’s Appeal Case
48. The Appellant may submit to the Clerk in accordance with the relevant Procedural Timetable a written reply (“Appellant’s Reply”). The Appellant’s Reply shall be limited to matters arising as a consequence of the Presenting Officer’s Appeal Case and shall annex any further evidence on which he relies. Appellant’s Reply
49. The Presenting Officer may submit to the Clerk in accordance with the relevant Procedural Timetable a written reply (“Presenting Officer’s Appeal Reply”). The Presenting Officer’s Reply shall be limited to matters arising as a consequence of the Appellant’s Reply and shall annex any further evidence on which he relies. Presenting Officer’s Appeal Reply
50. Unless the Chairman or the Appeal Committee otherwise directs, the Cases and Replies (including annexed evidence) shall constitute the written submissions and evidence in the appeal proceedings. Status of Cases and Replies
51. Following the filing of the Cases and any Replies under rules 46 to 49, no further written submissions or evidence shall be admitted without the leave of the Chairman or the Appeal Committee. No further written material without leave

PART XIII APPEAL HEARING

52. In accordance with the relevant Procedural Timetable, the Appeal Committee shall then schedule a date for a hearing to be conducted, the principal purpose of which is to allow the Appeal Committee to ask questions of the Parties and clarify matters. The Clerk shall inform the Parties of the date of the hearing in writing. Purpose of hearing

53. (a) Whilst the Parties may be accompanied by legal advisers at the hearing, oral submissions and answers should be presented by the Parties and legal advisers will not be permitted to address the Appeal Committee without leave of the Appeal Committee. Legal representation
- (b) In relation to application for leave referred to in rule 52(a):
- (i) any application for leave shall be submitted to the Clerk in writing as soon as reasonably practicable and in any event at least seven days prior to the hearing, explaining the grounds for the application and why it is necessary for the legal adviser to address the Appeal Committee;
- (ii) the Clerk shall then submit the application to the Appeal Committee as soon as reasonably practicable; and
- (iii) the Appeal Committee shall then consider the application and may at their discretion give or refuse to give leave with or without reasons and inform the Parties (through the Clerk) the result of the application in writing as soon as reasonably practicable.
54. At the hearing, the following order of procedure shall be observed: Order of procedure at hearing
- (a) the Chairman shall introduce the proceedings and the Appeal Committee shall deal with any procedural matters arising;
- (b) the Appellant may (but is not obliged to) present an oral opening submission;
- (c) the Presenting Officer may (but is not obliged to) present an oral opening submission;
- (d) the Appeal Committee may put such questions to the Parties as the Appeal Committee thinks expedient;
- (e) the Appellant may (but is not obliged to) present an oral closing submission; and
- (f) the Presenting Officer may (but is not obliged to) present an oral closing submission.
55. In the appeal, any oral submissions should be succinct and should not repeat the written submissions. Submissions as to appeal
56. The Appeal Committee may affirm, amend, vary, or rescind any findings, decision and/or order of the Disciplinary Committee and for this purpose shall Finality of appeal

have all the powers vested in the Disciplinary Committee. The decision of the Appeal Committee shall be final.

57. The Appeal Committee shall issue its decision in writing setting out the Appeal Committee's reasons and the terms of any orders made. Filing and publication of decision
58. The Clerk shall cause the written decision of the Appeal Committee to be sent to the Parties and to the Council.

PART XIV **FAILURE TO COMPLY WITH RULES IN APPEAL**

59. If the Chairman or the Appeal Committee is of the opinion that one or more of the Parties has/have failed to appear at the hearing or has/have failed to comply with a requirement of these rules (including the Procedural Timetable) or of any direction or order, the Chairman or the Appeal Committee may take such steps as they consider appropriate including: Failure to comply with rules
- (a) dismissing or allowing the appeal without requiring the Presenting Officer and/or Appellant to make submissions;
 - (b) dismissing or allowing the appeal without a hearing; and
 - (c) determining the appeal without hearing from the Presenting Officer and/or Appellant.
60. Where any question arises as to whether a written Case or Reply under rules 46 to 49 complies with the requirements of these rules, the Chairman and the Appeal Committee shall only order that the Case or Reply be rejected, revised or supplemented if, in the opinion of the Chairman or the Appeal Committee, the defects in the Case or Reply are such as to prejudice the ability of the other Party to the proceeding to obtain a fair hearing. Defects in Cases and Replies

PART XV **MISCELLANEOUS**

61. It shall be the obligation of each Member and former Member of the Society to keep the Society updated as to their address, facsimile number and email address. Any notice or document required to be sent under these rules may be sent by hand, registered or ordinary post, facsimile or email. The notice of document shall be deemed to be received: Methods by which documents may be sent

- (a) in the case of a letter, when that letter is delivered by hand or two days after that letter is posted to the person's address as recorded by the Society; and
- (b) in the case of a facsimile or email, when that facsimile or email is sent to the person's facsimile number or email address as recorded by the Society.

62. For the avoidance of doubt, the Disciplinary Committee or Appeal Committee or the relevant Chairman may make such order for substituted service of notices and documents as in the circumstances of the case may appear just and reasonable.

SCHEDULE 1
FORM OF NOTICE OF COMMENCEMENT OF
DISCIPLINARY PROCEEDINGS

Proceedings No: _____

IN THE MATTER OF

A complaint made under rule 9(a) of the Disciplinary Procedures of the Actuarial Society of Hong Kong

CONCERNING

A.B. of

..... RESPONDENT

NOTICE OF COMMENCEMENT OF PROCEEDINGS

TAKE NOTICE THAT disciplinary proceedings have been commenced in respect of a complaint against the abovenamed Respondent. The Presenting Officer appointed to the proceedings is [].

Enclosed for your information is a copy of the Disciplinary Procedures, the procedural timetable for the proceedings and all documents which have been referred to the Disciplinary Committee in connection with the complaint.

OVERVIEW OF PROCEDURES

Written Submissions

The Disciplinary Procedures place an emphasis on written submissions. The written submissions are required to fully set out the Parties' respective positions on all relevant matters and to annex all relevant evidence on which the Parties rely. This gives all Parties fair notice of the issues in dispute and ensures that the hearing can be conducted efficiently.

The Presenting Officer must file the Presenting Officer's Case in compliance with the procedural timetable. The Presenting Officer's Case must set out the Presenting Officer's submissions on all relevant matters and must annex all documentary evidence on which the Presenting Officer relies.

The Respondent must then file the Respondent's Case in accordance with the procedural timetable. The Respondent's Case must set out the Respondent's submissions on all relevant matters and must annex all documentary evidence on which the Respondent relies (unless already annexed to the Presenting Officer's Case).

The Presenting Officer may file a Reply addressing matters arising from the Respondent's Case. Following this, the Respondent may file a Reply addressing matters arising from the Presenting Officer's Reply.

Once the Parties have submitted their Cases and Replies, no further written submissions or documentary evidence may be filed without the leave of the Chairman or the Disciplinary Committee.

Oral hearing

The Disciplinary Committee will conduct an oral hearing of the complaint, which shall be open to the public unless otherwise determined by the Disciplinary Committee. The principal purpose of the oral hearing is to allow the Disciplinary Committee to question the Parties and clarify matters. Whilst the procedures allow for oral submissions to be made by the Parties, all relevant matters should have been fully addressed in the written submissions and it is therefore anticipated that oral submissions (to the extent they are necessary at all) will be brief.

If the Disciplinary Committee considers that the complaint is or may be proved, the Disciplinary Committee will invite the Parties to make submissions as to the disciplinary actions (if any) which should be imposed. Parties should be prepared to address the question of sanctions at the initial hearing.

General matters

The strict rules of evidence do not apply. The Disciplinary Committee may receive any material and attach such weight to that material as the Disciplinary Committee considers appropriate. If any party fails or refuses to make submissions or answer questions on any matter or issue, the Disciplinary Committee shall be entitled to draw an adverse inference against that party.

The Clerk shall be the point of contact for all Parties and shall be responsible for circulating documents received by the Disciplinary Committee amongst the Parties. Written communications with the Clerk should be by way of letter. The contact details of the Clerk are:

[Here insert current contact details of the Clerk]

Any request for an extension of time for compliance with the procedural timetable shall be in writing and accompanied by reasons.

PLEASE NOTE

THESE PROCEEDINGS ARE OF A SERIOUS NATURE. IF THE DISCIPLINARY COMMITTEE IS SATISFIED THAT A COMPLAINT IS PROVEN, THE DISCIPLINARY COMMITTEE MAY IMPOSE SANCTIONS AS SET OUT IN ARTICLE 67 OF THE ARTICLES OF ASSOCIATION OF THE ACTUARIAL SOCIETY OF HONG KONG. THE DISCIPLINARY COMMITTEE

ALSO HAS A WIDE DISCRETION TO MAKE ORDERS AS TO COSTS. IF YOU HAVE NOT ALREADY DONE SO, IT IS RECOMMENDED YOU SEEK LEGAL ADVICE.

Dated

Clerk to the
Disciplinary Committee

SCHEDULE 2
PROCEDURAL TIMETABLE OF
DISCIPLINARY COMMITTEE PROCEEDINGS

	<u>Procedure</u>	<u>Timing</u>
<u>1</u>	<u>Commencement of Disciplinary Proceedings</u>	<u>[*]</u>
<u>2</u>	<u>Presenting Officer to submit to the Clerk a written case in support of the Complaint (“Presenting Officer’s Case”) with evidence relied on annexed</u>	<u>[21 days after commencement of Disciplinary Proceedings]</u>
<u>3</u>	<u>Respondent to submit to the Clerk a written response to the Presenting Officer’s Case (“Respondent’s Case”) with evidence relied on annexed</u>	<u>[21 days after the filing of Presenting Officer’s Case]</u>
<u>4</u>	<u>Presenting Officer may submit a written reply (“Presenting Officer’s Reply”) with evidence relied on annexed</u>	<u>[7 days after the filing of Respondent’s Case]</u>
<u>5</u>	<u>Respondent may submit a written reply (“Respondent’s Reply”) with evidence relied on annexed</u>	<u>[7 days after the filing of Presenting Officer’s Reply]</u>
<u>6</u>	<u>Hearing</u>	<u>To be fixed</u>

SCHEDULE 3
FORM OF NOTICE OF APPEAL

Proceedings No: _____

IN THE MATTER OF

A complaint made under rule 7(a) of the Disciplinary Procedures of the Actuarial Society of Hong Kong

CONCERNING

A.B. of

..... APPELLANT

NOTICE OF LODGING OF APPEAL

TAKE NOTICE THAT an appeal has been lodged in respect of the disciplinary proceedings no. [*].

Enclosed for your information is a copy of the Disciplinary Procedures, the procedural timetable for the proceedings and all documents which have been referred to the Appeal Committee in connection with the complaint.

OVERVIEW OF PROCEDURES

Written Submissions

The Disciplinary Procedures place an emphasis on written submissions. The written submissions are required to fully set out the Parties' respective positions on all relevant matters and to annex all relevant evidence on which the Parties rely. This gives all Parties fair notice of the issues in dispute and ensures that the hearing can be conducted efficiently.

The Appellant must file the Appellant's Case in compliance with the procedural timetable. The Appellant's Case must set out the Appellant's submission on all relevant matters and must annex all documentary evidence on which the Appellant relies (unless already included in the material involved to the Appeal Committee.)

The Presenting Officer must file the Presenting Officer's Appeal Case in accordance with the procedural timetable. The Presenting Officer's Appeal Case must set out the Presenting Officer's submissions on all relevant matters and must annex all documentary evidence on which the Presenting Officer relies (unless already included in the material provided to the Appeal Committee).

The Appellant may file a Reply addressing matters arising from the Presenting Officer's Appeal Case. Following this, the Presenting Officer may file a Reply addressing matters arising from the Appellant's Reply.

Once the Parties have submitted their Cases and Replies, no further written submissions or documentary evidence may be filed without the leave of the Chairman or the Appeal Committee.

Oral hearing

The Appeal Committee will conduct an oral hearing of the appeal, which shall be in public unless otherwise determined by the Appeal Committee. The principal purpose of the oral hearing is to allow the Appeal Committee to question the Parties and clarify matters. Whilst the procedures allow for oral submissions to be made by the Parties, all relevant matters should have been fully addressed in the written submissions and it is therefore anticipated that oral submissions (to the extent they are necessary at all) will be brief.

If the Appeal Committee considers that the appeal is or may be proved, the Appeal Committee will invite the Parties to make submissions as to the disciplinary actions (if any) which should be imposed. Parties should be prepared to address the question of sanctions at the initial hearing.

General matters

The strict rules of evidence do not apply. The Appeal Committee may receive any material and attach such weight to that material as the Appeal Committee considers appropriate. If any party fails or refuses to make submissions or answer questions on any matter or issue, the Appeal Committee shall be entitled to draw an adverse inference against that party.

The Clerk shall be the point of contact for all Parties and shall be responsible for circulating documents received by the Appeal Committee amongst the Parties. Written communications with the Clerk should be by way of letter. The contact details of the Clerk are:

[Here insert current contact details of the Clerk]

Any request for an extension of time for compliance with the procedural timetable shall be in writing and accompanied by reasons.

PLEASE NOTE

THESE PROCEEDINGS ARE OF A SERIOUS NATURE. IF THE APPEAL COMMITTEE IS SATISFIED THAT A COMPLAINT IS PROVEN, THE APPEAL COMMITTEE MAY IMPOSE SANCTIONS AS SET OUT IN ARTICLE 67 OF THE ARTICLES OF ASSOCIATION OF THE ACTUARIAL SOCIETY OF HONG KONG. THE APPEAL COMMITTEE ALSO HAS A WIDE DISCRETION TO MAKE ORDERS AS TO COSTS. IF YOU HAVE NOT ALREADY DONE SO, IT IS RECOMMENDED YOU SEEK LEGAL ADVICE.

~~Extracted from Current ASHK Articles~~

Dated

Clerk to the
Appeal Committee

SCHEDULE 4
PROCEDURAL TIMETABLE OF
APPEAL COMMITTEE PROCEEDINGS

	<u>Procedure</u>	<u>Timing</u>
<u>1</u>	<u>Lodging of Appeal</u>	<u>[*]</u>
<u>2</u>	<u>Appellant to submit to the Clerk a written case in support of the Appeal (“Appellant’s Case”) with evidence relied on annexed</u>	<u>[21 days after the lodging of the Appeal]</u>
<u>3</u>	<u>Presenting Officer to submit to the Clerk a written response to the Appellant’s Case (“Presenting Officer’s Appeal Case”) with evidence relied on annexed</u>	<u>[21 days after the Appellant’s Case]</u>
<u>4</u>	<u>Appellant may submit a written reply (“Appellant’s Reply”) with evidence relied on annexed</u>	<u>[7 days after the Presenting Officer’s Appeal Case]</u>
<u>5</u>	<u>Presenting Officer may submit a written reply (“Presenting Officer’s Appeal Reply”) with evidence relied on annexed</u>	<u>[7 days after the Appellant’s Reply]</u>
<u>6</u>	<u>Hearing</u>	<u>To be fixed</u>