

## **ASHK By-Law:**

### **Due Process for the Issuing and Amending of Disciplinary Procedures, Professional Standards, Professional Conduct Codes and Actuarial Guidance Notes**

Article 17 of the Actuarial Society of Hong Kong Articles of Association states that the Council has the power to cause to be published Disciplinary Procedures, Professional Standards, Professional Conduct Codes and Actuarial Guidance Notes (collectively referred to as “**Procedures or Standards**” hereafter), review the same from time to time and propose amendments thereto on any Procedure or Standard. The development of these Procedures and Standards (and the amendment of existing Procedures or Standards) should always follow the Due Process procedures as described below.

#### **(a) Identification Stage**

- (i) The process for issuing or amending a Procedure or Standard may be initiated by:
  - (1) the relevant Council Committee making a written proposal to the Council in that regard and the Council approving the proposal to proceed;  
or
  - (2) the Council of its own motion deciding it is appropriate to proceed.

The party which initiates the process in subsection (a)(i) – be it the Council Committee or the Council – is referred to as the “**Sponsor**” hereunder.

- (ii) At this stage, the Council shall decide whether to adopt an expedited process (referred to in subsections (b)(iii); (c)(iii); (e)(iii) and (f)(i) below) where:
  - (1) the Council Committee referred to in subsection (a)(i)(1) above considers that an expedited process is necessary and includes a request in that regard in its written proposal to the Council, stating the justifications for an expedited process; or
  - (2) the Council of its own motion considers it necessary to adopt an expedited process.

An approval for an expedited process requires a three-fourths supermajority vote of the Council.

#### **(b) First Exposure Stage**

- (i) The Council shall appoint a Standing Committee, which shall:
  - (1) arrange for the preparation of an Exposure Draft, which shall set out the text of the proposed Procedure or Standard as it will, where applicable, appear in the Members Handbook; and
  - (2) send the Exposure Draft to the Sponsor for its comments, and to the Professional Matters Committee for its comments on the Exposure Draft’s consistency with other Procedures or Standards.

- (ii) In circumstances where an expedited process has not been requested or approved as described in subsection (a)(ii) above:
  - (1) After clearance by the Professional Matters Committee and the Sponsor as described in subsection (b)(i)(2) above, the Standing Committee shall circulate the Exposure Draft to the Members and any other person or organisation in which the Sponsor and/or the Standing Committee believe(s) may have an interest.
  - (2) Depending on the nature of the proposed Procedure or Standard, the Standing Committee may organise a workshop or meeting at which the recipients of the Exposure Draft referred to in subsection (b)(ii)(1) above may comment on the Exposure Draft.
  - (3) Further or in the alternative, comments on the Exposure Draft may be provided in writing within a period no shorter than one month from the date of circulation of the Exposure Draft.
- (iii) In circumstances where an expedited process has been approved as described in subsection (a)(ii) above:
  - (1) After clearance by the Professional Matters Committee and the Sponsor as described in subsection (b)(i)(2) above, the Standing Committee shall circulate the Exposure Draft to, at a minimum, the Fellow Members for their comments.
  - (2) Depending on the nature of the proposed Procedure or Standard, the Standing Committee may call a special meeting at which the recipients of the Exposure Draft referred to in subsection (b)(iii)(1) above may comment on the Exposure Draft.
  - (3) Further or in the alternative, comments on the Exposure Draft may be provided in writing within a period no shorter than one week from the date of circulation of the Exposure Draft.
- (iv) Where the Standing Committee receives written comments referred to in subsections (b)(ii)(3) and (b)(iii)(3) above, it shall acknowledge receipt and prepare a summary of the comments.
- (v) Where the Standing Committee receives comments or has discussions with Members in workshop or meeting referred to in subsections (b)(ii)(2) and (b)(iii)(2) above, it shall prepare a summary of the comments and discussions.
- (vi) Following the process described in subsections (b)(ii) or (b)(iii) above, the Standing Committee shall recommend in writing to the Professional Matters Committee that the process be moved to either:
  - (1) the Decision Stage described under subsection (d) below; or
  - (2) the Second Exposure Stage described under subsection (c) below.

The Standing Committee should justify their recommendation and provide the summary of comments and/or discussion prepared under subsections (b)(iv) and (b)(v).

- (vii) The Professional Matters Committee shall consider the Standing Committee's recommendation provided under subsection (b)(vi) above and approve that the process be moved to the Decision Stage or the Second Exposure Stage as appropriate.

**(c) Second Exposure Stage**

- (i) Where the process is moved to the Second Exposure Stage as described in subsection (b)(vii) above the Standing Committee shall:

- (1) arrange for the preparation of a revised Exposure Draft, to which shall be attached the history of the proposed Procedure or Standard, a description of the alternatives and why such alternatives were rejected; and
- (2) send the revised Exposure Draft to the Sponsor for its comments, and to the Professional Matters Committee for its comments on the revised Exposure Draft's consistency with other Procedures or Standards.

- (ii) In circumstances where an expedited process has not been requested or approved as described in subsection (a)(ii) above:

- (1) After clearance by the Professional Matters Committee and the Sponsor as described in subsection (c)(i)(2) above, the Standing Committee shall circulate the revised Exposure Draft to the Members and any other person or organisation in which the Sponsor and/or the Standing Committee believe(s) may have an interest.
- (2) Depending on the nature of the proposed Procedure or Standard, the Standing Committee may organise a workshop or meeting at which the recipients referred to in subsection (c)(ii)(1) above may comment on the revised Exposure Draft.
- (3) Further or in the alternative, comments on the revised Exposure Draft may be provide in writing within a period no shorter than one month from the date of circulation of the revised Exposure Draft.

- (iii) In circumstances where an expedited process has been approved as described in subsection (a)(ii) above:

- (1) After clearance by the Professional Matters Committee and the Sponsor as described in subsection (c)(i)(2) above, the Standing Committee shall circulate the revised Exposure Draft to, at a minimum, the Fellow Members for their comments.
- (2) The Standing Committee may decide whether to call for comments in this stage. Where it decides not to call for comments, it must state the

reasons for its decision in the report to the Sponsor referred to in subsection (d)(i) below.

- (3) Where the Standing Committee decides to call for comments, depending on the nature of the proposed Procedure or Standard, the Standing Committee may call a special meeting at which the recipients of the revised Exposure Draft referred to in subsection (c)(ii)(1) above may comment on the revised Exposure Draft.
  - (4) Further or in the alternative, comments on the revised Exposure Draft may be provided in writing within a period no shorter than one week from the date of circulation of the revised Exposure Draft.
- (iv) Where the Standing Committee receives written comments referred to in subsections (c)(ii)(3) and (c)(iii)(4) above, it shall acknowledge receipt and prepare a summary of the comments.
  - (v) Where the Standing Committee receives comments or has discussions with Members in workshop or meeting referred to in subsections (c)(ii)(2) and (c)(iii)(3) above, it shall prepare a summary of the comments and discussions.
  - (vi) Following the process described in subsections (c)(ii) or (c)(iii) above, the Standing Committee shall recommend in writing to the Professional Matters Committee that either:
    - (1) the process be moved to the Decision Stage described under subsection (d) below; or
    - (2) the process described in subsections (c)(i) to (c)(v) be repeated.

The Standing Committee should justify their recommendation and provide the summary of comments and/or discussion prepared under subsections (c)(iv) and (c)(v).

- (vii) The Professional Matters Committee shall consider the Standing Committee's recommendation described under subsection (c)(vi) above and approve that the process be moved to the Decision Stage or the process described in sections (c)(i) to (c)(v) be repeated as appropriate.

**(d) Decision Stage**

- (i) Where the Professional Matters Committee approves that the process be moved to the Decision Stage as described in subsections (b)(vii) and (c)(vii) above, the Standing Committee shall submit a written report to the Sponsor containing, *inter alia*:
  - (1) a recommendation that the proposed Procedure or Standard be adopted, stating clearly that:
    - the Procedure or Standard is in the best interest of the public, the Actuarial Society of Hong Kong and/or the actuarial profession in general in Hong Kong;

- there is broad consensus among Members for its adoption;
  - the proposed Procedure or Standard meets the requirements of Due Process; and
  - the proposed Procedure or Standard has been reviewed and approved by the Professional Matters Committee;
- (2) a brief history of the proposed Procedure or Standard;
  - (3) a summary and a reasonable analysis of the comments received from the consultation process described under sections (b) and (c) above, and (where appropriate) the reason(s) for the Standing Committee’s decision against calling for comments under section (c)(iii)(2); and
  - (4) the recommended effective date of commencement.
- (ii) The Sponsor shall decide, by way of a simple majority vote, whether to accept the recommendation in the report submitted by the Standing Committee:
    - (1) If the Sponsor does not accept the recommendation, the proposed Procedure or Standard, together with the reasons for its rejection, shall be returned to the Standing Committee and the Professional Matters Committee for further evaluation.
    - (2) If the Sponsor accepts the recommendation, the process shall be moved to the Approval Stage as described under section (e) below.

**(e) Approval Stage**

- (i) Upon acceptance of the Standing Committee’s recommendation under subsection (d)(ii)(2), the Sponsor shall submit the final draft of the proposed Procedure or Standard to the Council for approval.
- (ii) In circumstances where an expedited process has not been requested or approved as described in subsection (a)(ii) above, the Council shall approve the final Procedure or Standard by a simple majority.
- (iii) In circumstances where an expedited process has been approved as described in subsection (a)(ii) above, the Council shall approve the final Procedure or Standard by a three-fourths supermajority vote.
- (iv) Where applicable, the Council shall resolve that the Procedure or Standard be a Disciplinary Procedure, Professional Standard, Professional Conduct Code or Actuarial Guidance Note.

**(f) Sunset Provision**

- (i) Where a Procedure or Standard is approved by the Council under an expedited process according to subsection (e)(iii) above, there shall be a provision in the approval to the effect that the Procedure or Standard will automatically cease to have effect after 12 months from its effective date.