



**PERSATUAN AKTUARI MALAYSIA
ACTUARIAL SOCIETY OF MALAYSIA**

DISCIPLINARY SCHEME

Effective 28 February 2014

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1. Application

- 1.1 The Disciplinary Scheme applies to all members of the Actuarial Society of Malaysia (ASM).

2. Introduction

- 2.1 A member of the ASM shall be liable to disciplinary action under this Scheme if he/she has been guilty of misconduct.
- 2.2 For the purposes of this Scheme, misconduct shall mean:
- a) a breach of the Professional Code of Conduct (PCC);
 - b) a breach of the Continuous Professional Development (CPD) requirements by a Fellow member; or
 - c) any conduct which is unprofessional or otherwise of such a nature as may be considered likely to bring discredit to the Society, whether that conduct is in relation to the Society or its members, or otherwise.
- 2.3 Misconduct may include
- a) any act, omission or behaviour that has contributed to the misconduct of another person; or
 - b) failure to take reasonable action upon gaining knowledge of the misconduct of another person.

3. Disciplinary Panel

- 3.1 The Disciplinary Panel shall comprise of three (3) persons:
- a) the Chairperson of the Disciplinary Panel;
 - b) a member of the ASM Council as appointed by the ASM Council; and
 - c) any other Fellow member of the ASM as appointed by the Chairperson of the Disciplinary Panel.
- 3.2 The Chairperson of the Disciplinary Panel shall be a Fellow of the ASM, and shall be appointed by the Council for a term of two (2) years, such term being renewable.
- 3.3 In the event the Chairperson of the Disciplinary Panel is deemed to be unable to fulfil his/her function due to conflict of interest or other reasons, the Chairperson position shall be taken by a different member, in the following order:
- a) the President of the ASM;
 - b) the Vice President of the ASM;
 - c) any other ASM member as appointed by the ASM Council.
- 3.4 The Disciplinary Panel shall be responsible for the investigation process and the recommendation to the ASM Council on disciplinary action to be taken.

4. Appeal Panel

- 4.1 In the event an appeal is made on the decision by the ASM Council, an Appeal Panel shall be formed which comprises of three (3) persons:
- a) the Chairperson of the Appeal Panel;
 - b) any two (2) other Fellow members of the ASM, as appointed by the Chairperson of the Appeal Panel.
- 4.2 The Chairperson of the Appeal Panel shall be a past President of the ASM as appointed by the ASM Council.
- 4.3 In the event the Chairperson of the Appeal Panel is deemed to be unable to fulfil his/her function due to conflict of interest or other reasons, the Chairperson position shall be taken by another past President or past Council Member of the ASM, as appointed by the ASM Council.
- 4.4 All members of the Appeal Panel must not have:
- a) been a member of the Disciplinary Panel for the case under appeal ; or
 - b) been part of the ASM Council which has voted on the original recommendation of the Disciplinary Panel; or
 - c) participated in the original investigation process either as complainant, respondent, or witness questioned.

5. Complaint Process

- 5.1 Written complaints against an ASM member shall be submitted in writing to the ASM Council, at the official correspondence address of the ASM at the time of complaint.
- 5.2 Written complaints are to be accompanied by a Statutory Declaration.

6. Investigation Process

- 6.1 The investigation process for alleged misconduct may be initiated:
- a) upon receipt by the ASM Council of a written complaint against a member; or
 - b) if the ASM Council deems an investigation is appropriate in the interests of the public and/or the actuarial profession.
- 6.2 Every investigation shall first be referred by the ASM Council to the Chairperson of the Disciplinary Panel.
- 6.3 The full Disciplinary Panel for the case shall be formed within thirty (30) days of the referral to the Chairperson of the Disciplinary Panel.
- 6.4 The Disciplinary Panel shall seek written explanation from the respondent on the alleged misconduct.

- 6.5 Further, the Disciplinary Panel shall have the power to:
- a) seek further information from the complainant, respondent, any ASM member or any other person deemed appropriate;
 - b) interview the complainant, respondent, any ASM member or any other person either separately or together; and
 - c) seek advice from members of other professions as to any matter relevant to the investigation.
- 6.6 Where costs are involved in seeking advice from members or other professions, such costs shall be borne by the ASM, subject to prior budget approval by the ASM Council.
- 6.7 The complainant, respondent and any ASM member involved in the investigation shall ensure his/her full and prompt cooperation with the Disciplinary Panel. In particular, all information and copies of documents requested by the Disciplinary Panel that are relevant to the investigation shall be provided without delay. Failure to cooperate by ASM members may lead to membership status being reviewed by the ASM Council.

7. Disciplinary Action

- 7.1 The Disciplinary Panel shall, by simple majority of votes, arrive at the recommendation:
- a) that no misconduct was committed; or
 - b) that the respondent has been guilty of misconduct, and:
 - i) a warning or admonishment is to be issued to the respondent; or
 - ii) a private hearing is to be carried out to arrive at the recommendation.
- 7.2 If a hearing is to be carried out, the respondent and the Disciplinary Panel may be represented at the hearings by an Advocate and Solicitor.
- 7.3 In preparation for the hearing, the respondent and the Disciplinary Panel may seek advice from members of other professions.
- a) Where advice is sought by the respondent, costs shall be borne by the respondent himself/herself.
 - b) Where advice is sought by the Disciplinary Panel, costs shall be borne by the ASM, subject to prior budget approval by the ASM Council.
- 7.4 Following the hearing, the Disciplinary Panel shall, by simple majority of votes, arrive at the recommendation:
- a) that no misconduct was committed; or
 - b) that the respondent has been guilty of misconduct, and:
 - i) a warning or admonishment is to be issued to the respondent; or
 - ii) a reprimanding is to be issued to the respondent; or
 - iii) the respondent is to complete a specified program of education or training;
 - iv) membership is to be suspended for a specified period, up to a maximum of two (2) years; or
 - v) the respondent is to be expelled from the Society, after which re-admission may be applied for following a specified period, up to a maximum of five (5) years;

- 7.5 The Disciplinary Panel shall prepare a written report to the ASM Council on its findings and recommendation.
- 7.6 The ASM Council shall deliberate on the findings and recommendation of the Disciplinary Panel and, by simple majority of votes, arrive at the decision to agree or disagree with the recommendation, at the next Council meeting following receipt of the report from the Disciplinary Panel. ASM Council members who were members of the Disciplinary Panel shall not vote on this decision.
- 7.7 If the ASM Council disagrees to the recommendation, it shall decide on the disciplinary action to be applied and inform the Disciplinary Panel of its decision with reasons.
- 7.8 The ASM Council shall communicate their decision to the respondent within 14 days after the decision has been made as per rule 7.6. The decision shall take effect thirty (30) days from the date of such communication, if no written appeal has been received by the end of the thirty (30) days.

8. Appeal

- 8.1 Within thirty (30) days of communication of the decision to the respondent, the respondent may submit a written appeal to the ASM Council.
- 8.2 Upon receipt of the written appeal, an Appeal Panel shall be set up subject to rule 4.1.
- 8.3 A hearing shall be carried out where the Appeal Panel may:
- a) review all documents relating to the investigation and decision in private;
 - b) conduct an oral appeal hearing in private; or
 - c) conduct a hearing as a combination of the above.
- 8.4 The respondent and the Appeal Panel may be represented at the hearing by an Advocate and Solicitor.
- 8.5 In preparation for the hearing, the respondent and the Appeal Panel may seek advice from members of other professions.
- a) Where advice is sought by the respondent, costs shall be borne by the respondent himself/herself.
 - b) Where advice is sought by the Appeal Panel, costs shall be borne by the ASM, subject to prior budget approval by the ASM Council.
- 8.6 Fresh evidence may be taken into account at the hearing should the Appeal Panel deem appropriate and in the interests of justice.
- 8.7 The Appeal Panel shall, by simple majority of votes, arrive at the decision:
- a) to uphold the decision of the ASM Council;
 - b) to reduce the severity of the disciplinary action; or
 - c) to reverse the decision of the ASM Council.

- 8.8 The Appeal Panel shall prepare a written report to the ASM Council on its findings and decision.
- 8.9 The ASM Council shall communicate the decision of the Appeal Panel to the respondent within 14 days of receiving the report from the Appeal Panel. The decision shall take effect from the date of such communication.
- 8.10 The decision of the Appeal Panel shall be final until such time that there are grounds for a fresh appeal, in particular, if there is, obtained and submitted, new evidence not presented before, or previously submitted evidence deemed inaccurate based on new information that could lead to a different judgement.

9. Withdrawal of Allegation

- 9.1 In the event the complainant withdraws the allegation, the Disciplinary Panel shall consider whether to discontinue proceedings on the case.
- 9.2 Should the case be discontinued, the Disciplinary Panel shall prepare a written report to the ASM Council on the reasons for discontinuation.
- a) Under such circumstances, the ASM Council shall have the right to recover from the complainant any costs incurred for the investigation to date.
- 9.3 Should the Disciplinary Panel decide to continue proceedings on the case, the investigation shall be carried out in accordance with the standard procedures above.

10. General Provisions

- 10.1 The hearings of the Disciplinary Panel and Appeal Panel shall be valid even if the respondent fails to attend or state his/her case in person or is not represented.
- 10.2 The ASM Council may communicate its decisions and those of the Appeal Panels to any parties it deems appropriate and in the interests of the public.