

Ethical Conduct Body – Terms of Reference and Delegated Authority

1. Remit

1.1. The Ethical Conduct Body has responsibility for overseeing and implementing the Procedures for the Investigation and Determination of Misconduct by Fellows, in accordance with Statute 6.7 and Order No 4. These Terms of Reference set out the ways in which it (and Ethical Conduct and Appeals Panels formed of a subset of Body members established according to Statute 6.7) shall operate and be governed.

1.2. In summary, the role of the Body and its Panels will be to

- a) Act at all times in a manner which it considers at its reasonable discretion to be timely, fair and proportionate, while dealing with the case and any evidence presented (the “**Overriding Objective**”)
- b) Follow the Guiding Principles on Ethical Conduct adopted by Council and set out in Order No 4
- c) Examine all cases of alleged misconduct by Fellows referred to them according to the Procedures as set out in Section 2 below, where necessary conducting independent examination of the evidence
- d) Where the Body or Panel deems it necessary, to arrange for and conduct a formal hearing into any matter brought to its attention
- e) Assess the extent to which the alleged misconduct is likely to be harmful to the interests and welfare of the Society
- f) Decide whether the matter constitutes a breach of the Guiding Principles, and, if there has been a breach, to decide on an appropriate remedy or penalty to be imposed
- g) Communicate its findings and any remedy or penalty to be imposed to the Fellow or Fellows concerned, to the General Secretary and Council and, where the Body or Panel considers this appropriate, to any other interested person (such as a complainant)
- h) Implement the Body’s or the Panel’s decision, in accordance with the powers delegated to it, by making such directions to the General Secretary and the Society’s staff, as are appropriate to each case.

1.3. The Body shall convene and take on a case for consideration whenever a case of alleged misconduct is referred to it as set out in Section 2 below.

1.4. The quorum for a meeting of the Body shall be three members. The Body shall take all decisions by a simple majority and may decide matters in person, in a meeting, or in writing, provided a quorum participate. In all other respects, subject to these Terms of Reference, the Body may organise and regulate its proceedings as it sees fit, provided it deals promptly with all cases referred to it. The composition of any Panel assigned by the Body to any specific complaint shall take account, so far as practicable, of any protected characteristics of the complainant if, in the Chair’s view, that is relevant to the complaint.

1.5. The Body or Panel may delegate any matter, including investigation of facts and communications with third parties, to such person or persons, on such terms and conditions, and to such extent, as it sees fit, provided that the Body or Panel shall at all times remain responsible for reaching its own decision on any case of alleged misconduct, deciding any remedy or penalty to be imposed, and communicating its decision to the Fellow or Fellows concerned, to Council and, where the Body or Panel considers this appropriate, to any other interested person (such as a complainant).

1.6. No Body member shall participate in the consideration or determination of any case of alleged misconduct in which they have a personal interest or could reasonably be perceived as having a personal interest. All Body members must declare any such real or perceived personal interest and cease to participate in any such case as soon as reasonably practicable upon discovery of the personal interest. If the number of interested Body members reaches a point at which the other members consider it could inhibit the Body's effectiveness the Council may (on request by the Body) appoint temporary members to the Body or Panel as it sees fit for the duration of the case in question.

Membership

1.7. The Body shall have a Chair, who shall be a Fellow of at least 5 years standing who is not a serving Council member, appointed by Council. Ordinarily, there shall be no fewer than six other standing members, also to be appointed by Council, no fewer than three of whom shall be Fellows (but none of whom shall be a serving Council member or Officer), and three shall be members of related professions, though not currently Fellows, or such other number and qualification criteria as Council may resolve from time to time. Standing members drawn from the Fellowship may be selected following a call for volunteers. There shall be no *ex officio* members.

Rotation

1.8. Body membership shall be for three years, renewable for a second term of three years, but with no expectation of automatic renewal.

Size

1.9. The Body or a subset of it shall be convened on each occasion for a specific task, and shall be composed of such members as the Chair of the Body may decide from time to time. Any Panel formed by the Body to examine specific issues either of Ethical Conduct or Appeal will normally be composed of a subset of three members (Panel Chair, one Fellow, one non-Fellow).

Selection criteria

1.10. Body members shall fulfil one or more of the following criteria

- a) Knowledge and understanding of the Society's Charters, Statutes and Orders
- b) Knowledge of the range of charitable purposes of the Society
- c) Ability to evaluate evidence relating to the Society's Guidance on Ethical Conduct
- d) Appreciation of the Society's standing in the professional and cultural world

In Attendance

1.11. The Body or any Panel may invite such persons (including the General Secretary) as their Chair sees fit to attend its proceedings, unless they are disqualified by actual or perceived personal interest. Additional members may also be co-opted to join a Panel in order to ensure the specialist representation required for any specific case under Section 1.4. above.

2. Procedures for the Investigation and Determination of Misconduct

Introduction

2.1. Fellows of the Society may be removed from the Fellowship by an Ethical Conduct Panel established by the Body for Just Cause, on the ground that in the Panel's reasonable opinion the Fellow's conduct or continued Fellowship is likely to be harmful to the interests and welfare of the Society. In appropriate cases, the Panel may also issue other sanctions. In considering possible misconduct, the Panel shall

- a. decide the matter at its sole discretion;

- b. be cognisant of the need to act fairly and proportionately, including giving due opportunity to make representations on the matter in person or by other means to the Fellow who is the subject of the allegation and, where the Panel members consider it appropriate, to others who are directly affected by the matter; and
- c. give due consideration to such representations before taking its decision.

2.2. These procedures, consisting of three steps, set out the usual way in which the Society and the Panel shall apply the duties above and will respond when allegations or evidence of misconduct by Fellows arise. In individual cases, where the Panel considers it appropriate and in the interests of the Overriding Objective and its function under Statute 2.5.4 and these Terms of Reference, steps 1-3 below may be varied as the Panel sees fit. Council will review the procedures at least every three years.

Step 1 - Receipt of initial evidence or allegations

2.3. On receipt of an allegation about the misconduct of a Fellow, the General Secretary, in consultation with the President, shall consider whether the allegation, if found to be justified, would be likely to constitute a breach of the Guiding Principles of Ethical Conduct. Such an allegation will not be accepted and acted on if it is received anonymously. The General Secretary may also consider, in consultation with the President, information that comes to the Society's attention in any way, where no specific allegation has been made, that might indicate a significant breach may have occurred.

2.4. If the matter relates personally to the President, Member of Council, or General Secretary, or to someone to whom they are closely connected, the allegation will be sent directly to the Chair of the Ethical Conduct Body, who will consider whether the allegation, if found to be justified, would constitute a breach of the Guiding Principles of Ethical Conduct.

2.5. If it is clear that the allegation does not relate to a breach of the Principles, the General Secretary or the Chair of the Body (depending on the person to whom the allegation was sent for assessment) shall inform the complainant that the matter is dismissed with a brief statement of reason. The Council shall be notified of this and the reasons for the dismissal of the complaint.

2.6. Should a complaint or other information indicate a potential breach of the Principles, the General Secretary shall inform the complainant (where there is a complainant) and the Fellow concerned that the potential breach will be investigated and assessed. The complainant and the Fellow concerned shall be informed of the composition of the Panel which is to consider the complaint and may make representations to the Chair about the Panel's composition. The Chair shall consider any such representations, but the Chair's decision is final. At no time may the complainant or the Fellow concerned contact, or seek to influence, Panel members outside Panel proceedings.

2.7. A written record of all allegations received will be kept for 10 years whether or not they are referred to the Ethical Conduct Body, with details of the decision and the actions taken.

Step 2 - Investigation and assessment

2.8. Where the matter is not already before the Body (as per paragraph 2.4 above), the General Secretary shall pass the matter to the Body, whose members shall as soon as reasonably practicable consider whether any of its members have a personal interest in the matter, and appoint no fewer than three of their members to form a Panel to investigate the allegation.

2.9 The Panel shall consider the matter, including any supporting evidence and determine what, if any, further evidence or fact-finding may be required. The Panel may investigate the matter as it sees fit, including by seeking such assistance from third parties, and, provided they have no personal interest in the matter, the General Secretary shall assist the Panel. The Fellow who is the subject of a complaint has the right to present their side of the case and to address the Panel in person, (if not possible in person, by video or similar conference facilities), along with a supporting friend, who could, but need not, be a Fellow, if they so wish.

2.10. The Panel shall regulate its proceedings including the conduct of any investigation as it sees fit. The Panel may hold a formal hearing or seek written or video evidence from any person, if it deems either or both to be necessary. When the Panel considers that it possesses sufficient information, including representations from interested parties, the Panel shall determine whether or not the evidence provided constitutes a breach of the Guiding Principles, or whether no such determination is possible for any reason.

2.11. If the Panel concludes that a breach has not been established, the Chair of the Panel shall write, where appropriate with the assistance of the General Secretary, to the complainant (where there is a complainant) and to the Fellow as soon as is practically possible confirming that no breach has been established and that the decision is final.

2.12. If the Panel concludes that a breach has occurred, it may impose any of the following sanctions, including any combination of them, as follows:

- a) a formal reprimand and/or warning letter may be sent to the Fellow; or
- b) the Fellow may be suspended for up to a maximum period of 12 months during which period the Fellow has to pay his/her subscription fee but will not have access to any services or benefits; or
- c) the Fellow may be permanently removed from Fellowship in accordance with Statute 2.5.4;
- d) In the case of a Council member being found to be in breach of the Guiding Principles, they will also cease to be a Trustee of the Society.

In each case, the Panel may direct the General Secretary and staff of the Society to take such action as may be necessary to give effect to the sanctions.

2.13. The Chair of the Panel shall inform the Fellow in writing of its determination, including the reasons for that determination and to confirm the availability of and process for an appeal.

2.14. If no appeal is lodged, and at the Panel's discretion, a summary notice of the final decision may be posted on the "Fellows only" area of the Society's website.

Step 3 – Appeal

2.15. In the event of a decision by the Panel to sanction a Fellow, the Fellow shall be given the opportunity to appeal in writing within 28 full days after receiving the notice of sanction (an "Appeal").

2.16. The grounds on which an Appeal may be made are that –

- a) there has been a material failure to follow the procedures set out in this document, which has resulted in a process being followed which is contrary to the Overriding Objective; or
- b) the decision was perverse and could not reasonably have been reached by the Panel, based on the evidence seen; or
- c) the Fellow can now provide significant evidence not previously made available to the Panel and the Appeals Panel (below) is satisfied that the Fellow has provided a good reason why this was not previously made available.

2.17. An Appeals Panel, chaired by a Fellow member of the Ethical Conduct Body, assisted by two independent, non-Fellow members (all of whom shall have no personal interest in the matter and shall not have participated in the original investigation and the recommendation it made) shall then be temporarily constituted, for the purpose and duration of considering the appeal, in accordance with these Terms of Reference (which, subject to this paragraph, shall then be read as though references to "Body" and "Panel" and its members are references to "Appeals Panel" and its members, and with any such other amendments are necessary to give effect to the Appeal).

2.18. The Appeals Panel may, on reviewing the grounds for Appeal, determine that the basis for an Appeal, set out in 2.16 above, has not been met and reject the Appeal without hearing it. If the Panel accepts that an Appeal is validly made, after reviewing the case, it may:

- a) confirm the Ethical Conduct Panel's determination and sanction(s); or
- b) amend or rescind the Ethical Conduct Panel's determination and sanction(s); or
- c) issue any determinations or sanctions set out in paragraph 2.12 above, or any combination of these.

2.19 The findings of the Appeals Panel are final. At the discretion of the Appeals Panel, a summary notice of the final decision may be posted on the "Fellows only" area of the Society's website.