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By-Laws of Australian Computer Society Limited

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Contents

Preliminary	1
1. Definitions	1
2. Interpretation	2
Membership	3
3. Membership Grades	3
4. Qualifications for admission to Grades	3
4.1 Fellow.....	3
4.2 Senior Member.....	3
4.3 Ordinary Member.....	3
4.4 Associate.....	4
5. Procedure for admission to a Grade	4
6. Special Categories of membership	4
7. Qualifications for admission to a Special Category	4
7.1 Honorary Life Member.....	5
7.2 Honorary Fellow.....	5
7.3 Honorary Member.....	5
7.4 Continuing Member.....	5
7.5 Retired Member.....	5
7.6 Unemployed Member.....	5
7.7 Student Member.....	5
7.8 Online Member.....	6
8. Nomination of persons for Special Categories	6
8.1 Honorary Life Member.....	6
8.2 Honorary Fellow.....	6
8.3 Honorary Member.....	7
8.4 Continuing Member.....	7
8.5 Retired Member.....	7
8.6 Unemployed Member.....	7
8.7 Student Member.....	7
9. Ongoing qualification requirements for Special Categories	8
10. Divisions and Divisional Councils	8
11. Voting Members and Non-Voting Members	8
12. Transfer of membership	9
13. Rights of members	9
14. Re-admission of former Members	9
15. Disciplining of members	10
15.1 Nature of complaints and disciplinary action.....	10
15.2 Form of preliminary assessment of complaint.....	10
15.3 Pre-hearing mediation and constitution of Disciplinary Hearing Panel.....	12
15.4 Hearing by Disciplinary Hearing Panel.....	12
15.5 Determination by Disciplinary Hearing Panel.....	14
15.6 Compliance.....	15
15.7 Confidentiality.....	15
15.8 Legal Representation.....	15
15.9 Right of appeal.....	15
15.10 Constitution of Appeal Panel.....	16
15.11 Hearing by Appeal Panel.....	17

15.12 **Determination of appeal**.....18
15.13 **Publication of decisions and determinations**.....19
15.14 **Expenses**.....19
16. Amendment of By-Laws19



By-Laws

Preliminary

1. Definitions

In these By-Laws:

Accredited Course means a course of study accredited by the Company under the ACS Course Accreditation Scheme.

ACS Course Accreditation Scheme means the criteria for accrediting courses of study in ICT and the requirements for making and processing applications for accreditation approved from time to time by the Board or a delegate of the Board.

Appeal Panel means a panel appointed by the chairperson of the Disciplinary Committee under Article 15.10(a).

Board means the Board of Directors of the Company.

Chief Executive Officer means the Chief Executive Officer appointed by the Board in accordance with the Constitution.

Company means the Australian Computer Society Limited.

Constitution means the Constitution of the Company.

Core Body of Knowledge means the knowledge of information technology described as such in the most recent version of "The ACS Core Body of Knowledge for ICT Professionals", published by the Board or a delegate of the Board.

Director means a director of the Company, duly appointed in accordance with the terms of the Constitution.

Disciplinary Committee means the committee established for the purpose of overseeing the process of disciplining of members outlined in Article 15.

Disciplinary Hearing Panel means a panel appointed by the chairperson of the Disciplinary Committee under Article 15.3(b).

Division means any geographical territory as determined by the Board from time to time and as at the date of these By-Laws are the Divisions of the Company located in:

- (a) Canberra;
- (b) Victoria;
- (c) Queensland;
- (d) South Australia;
- (e) Western Australia;
- (f) Tasmania;
- (g) New South Wales;

- (h) Northern Territory or
- (i) Overseas.

Divisional Council means a council established by the Board in respect of a Division for the purposes of providing advice, access and advocacy in support of the Company's mission to build relevant technology capacity and capability in Australia and to be a catalyst for innovative creation and adoption of technology for the benefit of commerce, governments and society.

Grade means any one of the categories of membership listed in Article 3.

Guidelines for Membership means the criteria for admission to Grades and for classification to Special Categories and the requirements for making and processing applications for admission to Grades and for classification to Special Categories approved most recently by the Board or a delegate of the Board.

ICT means information and communication technology.

Industry Experience means experience in ICT described as such in the Guidelines for Membership.

National Funds means funds of the Company and its Subsidiaries to finance its operations.

Overseas Division means a Division which is not located in Australia.

Relevant Professional Experience means professional experience in ICT described as such in the Guidelines for Membership.

Special Category means any one of the categories of membership listed in Article 6.

2. Interpretation

- (a) Unless otherwise expressly defined in these By-Laws, capitalised terms has the meaning given to those terms in the Constitution.
- (b) Headings are for convenience only and do not affect interpretation. Unless the context indicates a contrary intention, in these By-Laws:
 - (i) a word importing the singular includes the plural (and vice versa);
 - (ii) a word indicating a gender includes every other gender;
 - (iii) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
 - (iv) the word "includes" in any form is not a word of limitation;
 - (v) a reference to something being "written" or "in writing" includes that thing being represented or reproduced in any mode in a visible form;
 - (vi) a notice or document required by these By-Laws to be signed may be authenticated by any other manner permitted by the Corporations Act or any other law; and
 - (vii) a reference to a statute includes its delegated legislation and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments and replacements.

- (c) A decision by the Board on the interpretation of any provision of these By-Laws is binding on all members.

Membership

3. Membership Grades

The Company consists of four membership Grades, namely:

- (a) Fellow;
- (b) Senior Member;
- (c) Ordinary Member; and
- (d) Associate.

4. Qualifications for admission to Grades

4.1 Fellow

To be eligible for admission as a Fellow, a person must:

- (a) have made a distinguished contribution to the field of ICT in Australia;
- (b) be an Ordinary Member at the time of admission or satisfies all of the requirements to be admitted as an Ordinary Member at the time of admission; and
- (c) satisfy the criteria for admission of Fellows set out in the Guidelines for Membership.

4.2 Senior Member

To be eligible for admission as a Senior Member, a person must:

- (a) satisfy the following criteria:
 - (i) have undertaken a significant amount of postgraduate academic training and/or professional development;
 - (ii) have undertaken a significant amount of demanding and challenging Industry Experience in a position of major responsibility; or
 - (iii) whilst not having undertaken a significant amount as required by Article 4.1(a) or Article 4.1(b) individually, have undertaken an acceptable amount, in aggregate, of postgraduate academic training and/or professional development and/or demanding and challenging Industry Experience in a position of major responsibility; and
- (b) be an Ordinary Member at the time of admission or satisfies all of the requirements to be admitted as an Ordinary Member at the time of admission; and
- (c) satisfy the criteria for admission of Senior Members as set out in the Guidelines for Membership.

4.3 Ordinary Member

To be eligible for admission as an Ordinary Member, a person must:

- (a) satisfy the Company that he or she has acquired the Core Body of Knowledge;

- (b) have the requisite Relevant Professional Experience; and
- (c) satisfy the criteria for admission of Ordinary Members set out in the Guidelines for Membership.

4.4 **Associate**

To be eligible for admission as an Associate, a person must:

- (a) be over the age of 16 years;
- (b) be engaged in or training for ICT practice which, either directly or indirectly, calls upon his or her ICT knowledge, skills and experience; and
- (c) satisfy the criteria for admission of Associates set out in the Guidelines for Membership.

5. **Procedure for admission to a Grade**

- (a) An application for admission to a Grade from a non-member is an application for admission to the Company as a Member (to the particular the Grade applied for), and if:
 - (i) the application is from an overseas applicant it must be for admission to the Overseas Division; or
 - (ii) the application is from a person other than an overseas applicant, it may be for admission to the relevant Division.
- (b) Application for admission to a Grade must be made in accordance with the Guidelines for Membership by:
 - (i) the person affected; or
 - (ii) by any other person with the consent of the person affected.
- (c) Applications for admission to a Grade will be processed in accordance with the Guidelines for Membership.

6. **Special Categories of membership**

The Special Categories of membership of the Company are:

- (a) Honorary Life Member;
- (b) Honorary Fellow;
- (c) Honorary Member;
- (d) Continuing Member;
- (e) Retired Member;
- (f) Unemployed Member;
- (g) Student Member; and
- (h) Online Member.

7. **Qualifications for admission to a Special Category**

7.1 **Honorary Life Member**

To be eligible for classification as an Honorary Life Member, a person or Member must have rendered:

- (a) exceptional and distinguished service to the Company;
- (b) long and valued service to the Company by playing an active and commendable part in the affairs of the Company for at least 10 years (including service to a society which later became part of the Company); or
- (c) both (a) and (b).

7.2 **Honorary Fellow**

A person who is not a Member may be classified as an Honorary Fellow by the Board if such classification satisfies the relevant criteria set out in the Guidelines for Membership.

7.3 **Honorary Member**

A Member or a person who is not a Member, may be classified as an Honorary Member by the Board or a delegate of the Board if such classification satisfies the relevant criteria set out in the Guidelines for Membership.

7.4 **Continuing Member**

To be eligible for classification as a Continuing Member, a Member must be a member of a Division who:

- (a) expects to be out of Australia for at least 12 months; and
- (b) satisfies the relevant criteria set out in the Guidelines for Membership.

7.5 **Retired Member**

To be eligible for classification as a Retired Member, a Member must:

- (a) have been a Member for at least 10 years;
- (b) have retired from regular employment; and
- (c) satisfy the relevant criteria set out in the Guidelines for Membership.

7.6 **Unemployed Member**

To be eligible for classification as an Unemployed Member, a Member must:

- (a) have been a Member for at least 2 years, during which period, the Member must not have been a member of a Special Category;
- (b) be unemployed;
- (c) expect to be out of employment for at least 12 months; and
- (d) satisfy the relevant criteria set out in the Guidelines for Membership.

7.7 **Student Member**

To be eligible for classification as a Student Member, a Member must:

- (a) be enrolled in a full-time course of study meeting the requirements set out in the Guidelines for Membership; and
- (b) satisfy the relevant criteria set out in the Guidelines for Membership.

7.8 Online Member

To be eligible for classification as an Online Member only, the person or existing Member must be engaged through an ACS professional partner program using the criteria approved most recently by the Board of a delegate of the Board.

8. Nomination of persons for Special Categories

8.1 Honorary Life Member

- (a) A nomination for classification as an Honorary Life Member must be initiated and endorsed by:
 - (i) a delegate of the Board, or
 - (ii) the Board, or
 - (iii) any committee of the Board, to which responsibility for such nomination has been delegated.
- (b) The Board may appoint such number of Honorary Life Members in any calendar year as it determines.
- (c) The initiating committee must supply to the Chief Executive Officer the nomination and supporting documentation at least 8 weeks before the Board meeting which is to consider the nomination.
- (d) Classification of a member as an Honorary Life Member must be by the Board by an affirmative vote by a 2/3 majority.
- (e) Payment of fees
 - (i) Subject to Article 8.1(e)(ii) an Honorary Life Member is not required to pay any fees.
 - (ii) An Honorary Life Member must pay any fee relating to conferences, seminars or other professional activities of the Company other than admission fees.
- (f) The Board may award a suitably inscribed object to a member on classification as an Honorary Life Member.

8.2 Honorary Fellow

- (a) Classification of a person who is not a member as an Honorary Fellow must be by the Board by an affirmative vote by a 2/3 majority.
- (b) Honorary Fellows are elected for such period as the electing committee determines.
 - (i) The Board electing the Honorary Fellow determines the privileges to which the Honorary Fellow is entitled but, in every case, subject to Article 8.2(b)(ii) Honorary Fellows are not required to pay any fees.
 - (ii) Honorary Fellows must pay any fee relating to conferences, seminars or other professional activities of the Company other than admission fees,

unless otherwise determined, and must pay any charge relating to fee recovery.

8.3 **Honorary Member**

- (a) Classification of a Member or a person who is not a Member, as an Honorary Member must be by the Board or any delegate of the Board by an affirmative vote by a 2/3 majority and, if by a delegate of the Board, must be reported to the Board.
- (b) Honorary Members are elected for such period as the electing committee determines.
- (c) Payment of fees:
 - (i) The Board or the delegate of the Board electing the Honorary Member determines the privileges to which the Honorary Member is entitled but, in every case, subject to Article 8.3(c)(ii) Honorary Members are not required to pay any fees.
 - (ii) Honorary Members must pay any fee relating to conferences, seminars or other professional activities of the Company other than admission fees, unless otherwise determined, and must pay any charge relating to fee recovery.

8.4 **Continuing Member**

- (a) A Member wanting to be classified as a Continuing Member must submit an application to the Chief Executive Officer.
- (b) The Board or Chief Executive Officer may classify that member as a Continuing Member during the member's period of absence from Australia.
- (c) Continuing Members are entitled to the goods and services, if any, as set out in the Guidelines for Membership.

8.5 **Retired Member**

- (a) A Member wanting to be classified as a Retired Member must submit an application to the Chief Executive Officer.
- (b) The Board or Chief Executive Officer may classify a Member as a Retired Member.
- (c) Retired Members are entitled to the goods and services, if any, as set out in the Guidelines for Membership.

8.6 **Unemployed Member**

- (a) A Member wanting to be classified as an Unemployed Member must submit an application to the Chief Executive Officer.
- (b) The Board or Chief Executive Officer may classify that Member as an Unemployed Member for the Member's period out of employment.
- (c) Unemployed Members are entitled to the goods and services, if any, as set out in the Guidelines for Membership.
- (d) Unemployed Members must notify the Chief Executive Officer of any change in their employment status.

8.7 **Student Member**

- (a) A Member wanting to be classified as a Student Member must submit an application to the Chief Executive Officer.
- (b) The Board or Chief Executive Officer may classify a Member as a Student Member.
- (c) Student Members are entitled to the goods and services, if any, as set out in the Guidelines for Membership.

9. **Ongoing qualification requirements for Special Categories**

- (a) A Member classified as a Continuing Member, Unemployed Member or Student Member must submit proof of ongoing qualification for the classification as set out in the Guidelines for Membership when renewing membership.
- (b) A Member who fails to submit such proof of ongoing qualification required under Article 9(a) will cease to be classified into the relevant Special Category with effect from that membership renewal date.

10. **Divisions and Divisional Councils**

- (a) The Board must ensure that a Divisional Council is established for each Division.
- (b) Subject to Article 10(c), each Divisional Council is to comprise of candidates successfully voted onto that Divisional Council by Voting Members of the Company in accordance with any Divisional Council Charter approved by the Board from time to time.
- (c) Notwithstanding the terms of any Divisional Council Charter and excluding appointments to fill a casual vacancy on a Divisional Council, a person may be appointed or removed from a Divisional Council from time to time by resolution of the Board passed with at least a two-third majority of the Board.

11. **Voting Members and Non-Voting Members**

- (a) Subject to Article 11(b), as at the date of these By-Laws, the following groups, categories or Grades of Members constitute the Voting Members:
 - (i) Fellow;
 - (ii) Senior Member;
 - (iii) Member;
 - (iv) Associate;
 - (v) Honorary Life Member;
 - (vi) Continuing Member;
 - (vii) Retired Member; and
 - (viii) Unemployed Member.
- (b) As at the date of these By-Laws, the following groups, categories or Grades of Members constitute the Non-Voting Members:
 - (i) Members of the Overseas Division;
 - (ii) Honorary Fellows;

- (iii) Honorary Members who were not members before classification as Honorary Members;
- (iv) Student Members; and
- (v) Online Members.

12. **Transfer of membership**

- (a) Any member of a Division may transfer to another Division without incurring any additional fee for the current year, provided that the Member:
 - (i) has paid all fees due in that year;
 - (ii) satisfies the Board or a delegate of the Board that he or she the transfer to another Division is reasonable.
- (b) A member of the Overseas Division may transfer to a Division only with the approval of the Board or the Chief Executive Officer.

13. **Rights of members**

- (a) Subject to Article 13(b), all Voting Members may:
 - (i) attend, speak and vote at general meetings of the Company and at general meetings of the member's Division; and
 - (ii) be eligible for election or appointment to the Division Council of the member's Division.
- (b) At least one half of the Divisional Councillors of a Division Council must be members of the Professional Group.
- (c) Members of a Professional Group are eligible for election or appointment to the Board.
- (d) For clarity, Non-Voting Members may not vote at general meetings of the Company.

14. **Re-admission of former Members**

- (a) A person who ceases to be a Member may apply for re-admission and may be re-admitted to the Company on payment of the current membership fee, any re-admission fee notified and, unless waived by the Chief Executive Officer, any unpaid fees
- (b) Any re-admission of a person to the Company is at the discretion of the Chief Executive Officer.
- (c) A Member re-admitted pursuant to this Article 14 is:
 - (i) not entitled to any Member Benefits retrospectively;
 - (ii) subject to 14(c)(iii), to be admitted to such Grade and, subject to satisfying the requirements of the Guidelines for Certification at the time of application for re-admission, Certification, not higher than the Grade and Certification equivalent to that held by the person at the time membership ceased, as is decided by the Chief Executive Officer; and
 - (iii) if the person seeking re-admission had resigned because continued membership was incompatible with an appointment taken up by the

member involving service to the Company, to be re-admitted to the equivalent of the Grade and Certification previously held, without regard to the then current requirements for admission to that Grade and Certification.

15. Disciplining of members

15.1 Nature of complaints and disciplinary action

- (a) A complaint may be made against any member who acts or fails to act in the course of his or her professional activities in such a way as to justify the taking of disciplinary action, including:
- (i) failing to observe, whether intentionally or unintentionally, the Constitution or these By-Laws;
 - (ii) failing to comply with, whether intentionally or unintentionally, any ethical, professional or technical standards published by the Company;
 - (iii) acting or failing to act so that, as a consequence, whether intended or not, the Company is or is likely to be brought into disrepute or suffer loss or damage; and
 - (iv) any combination of (i), (ii) and (iii).
- (b) If the complaint is substantiated, the Member may be disciplined by:
- (i) expulsion from the Company;
 - (ii) suspension from the rights of membership for a period of up to 3 years or until imposed conditions are met;
 - (iii) being required to comply with conditions imposed as to the carrying out of the Member's occupation;
 - (iv) being required to complete specified courses of training or instruction;
 - (v) caution, censure or reprimand; or
 - (vi) any combination of 2 or more of (i), (ii), (iii), (iv) and (v).
- (c) The Company is not entitled to make an award of compensation or damages or levy any fine or other financial penalty.

15.2 Form of preliminary assessment of complaint

- (a) Any complaint about a Member must:
- (i) be in writing and under cover of a completed complaint summary form as most recently published by the Company;
 - (ii) be delivered or sent by post to the Chief Executive Officer so that it is received within 6 months after the conduct is alleged to have occurred;
 - (iii) disclose the name, address and other contact details of the complainant;
 - (iv) be signed by the complainant;
 - (v) clearly state the nature and circumstances of the complaint and explain precisely which provisions of Article 15.1(a) are alleged to have been

contravened and how and annex such documentary or other evidence as the complainant relies on in making the complaint;

- (vi) disclose the names, addresses and other contact details of persons whose evidence will be relied on by the complainant and include a written summary of the evidence of each such person;
 - (vii) include a statement setting out the steps, if any, taken by the complainant to resolve the subject matter of the complaint with the accused member;
 - (viii) include a statement authorising the copying of the complaint and supporting documentation and its distribution to the accused Member and such Members, lay persons and support staff as may be involved in processing the complaint except any information that may reasonably identify the complainant must be redacted if the complainant expressly requested that his or her identity remain confidential or if in the reasonable opinion of the Chief Executive Officer the identity of the complainant should remain confidential; and
 - (ix) in relation to third party complaints, the process in Article 15.2(b) must also be followed.
- (b) Before a complaint made by a third party on behalf of a Member is taken to be formally made, the Chief Executive Officer at his or her discretion may require the third party to provide further information in relation to the complaint which may include attending an interview to substantiate the complaint. The Member on whose behalf the complaint is proposed to be lodged must be made aware of the complaint before it is formally made.
- (c) If, in the opinion of the Chief Executive Officer, the complaint does not comply with Article 15.2(a), the Chief Executive Officer must, within 7 days of receipt of the complaint:
- (i) notify the complainant in writing that the complaint does not comply with Article 15.2(a) and has not been accepted; and
 - (ii) outline to the complainant the basis for the determination of non-compliance.
- (d) If, in the opinion of the Chief Executive Officer, the complaint complies with Article 15.2(a), the Chief Executive Officer must, within 7 days of receipt of the complaint, refer the complaint, including annexed evidence, to the chairperson of the Disciplinary Committee.
- (e) Within 14 days of receipt of a referral under Article 15.2(d), the chairperson of the Disciplinary Committee must determine whether the complaint makes out a *prima facie* case under Article 15.1(a) and, if it does not, prepare a statement in writing setting out the basis for the determination.
- (f) If the chairperson of the Disciplinary Committee determines that the complaint does not make out a *prima facie* case under Article 15.1(a), he or she must instruct the Chief Executive Officer to:
- (i) notify the complainant in writing of the determination and that the Company will not process the complaint further; and
 - (ii) outline to the complainant the basis for the determination.

- (g) If the chairperson of the Disciplinary Committee determines that the complaint constitutes a prima facie case under Article 15.1(a), he or she must instruct the Chief Executive Officer to:
- (i) notify the complainant in writing of the determination; and
 - (ii) notify the accused member in writing of the determination and the accused Member's right under Article 15.4(c) and provide a copy of the complaint, including annexed evidence, to the accused Member.

15.3 Pre-hearing mediation and constitution of Disciplinary Hearing Panel

- (a) Where a notification has been given under Article 15.2(g), the chairperson of the Disciplinary Committee or another member of the Disciplinary Committee nominated by the chairperson must, within 14 days of the notification having been given under Article 15.2(g)(ii), seek the agreement in writing of the complainant and the accused Member:
- (i) to refer the complaint to mediation for resolution and to participate in such mediation; and
 - (ii) to any mediator, including the chairperson of the Disciplinary Committee, on whom both the accused member and the complainant can agree, failing which agreement within 10 business days, to a mediator nominated by the chairperson of the Disciplinary Committee.
- (b) If:
- (i) the agreements required under Article 15.3(a) are not effected within the period specified in Article 15.3(a), or such longer period as the chairperson of the Disciplinary Committee, the complainant and the accused Member may agree; or
 - (ii) the mediation fails to resolve the complaint within 60 days of the appointment of the mediator,
- the chairperson of the Disciplinary Committee must, within a further 14 days, appoint a Disciplinary Hearing Panel and refer the complaint to that Disciplinary Hearing Panel for hearing and determination.
- (c) A Disciplinary Hearing Panel is constituted by the chairperson of the Disciplinary Committee and 2 members of the Disciplinary Panel, one of whom is a lay person, who are willing and available for such appointment provided that, if the chairperson of the Disciplinary Committee is unwilling or unavailable, a Disciplinary Hearing Panel is constituted by 3 members of the Disciplinary Panel, one of whom is a lay person, who are willing and available for such appointment.
- (d) The chairperson of the Disciplinary Committee or, if the chairperson of the Disciplinary Committee is unwilling or unavailable, a member of the Disciplinary Hearing Panel who is also a member of the Disciplinary Committee will preside at all meetings and hearings of the Disciplinary Hearing Panel.
- (e) Voting on Disciplinary Hearing Panel business must be by simple majority and, if the votes are equal, the chairperson must exercise a casting vote.

15.4 Hearing by Disciplinary Hearing Panel

- (a) Preliminary steps

- (i) As soon as practicable after a complaint has been referred to it under Article 15.3(b), the Disciplinary Hearing Panel must notify the complainant, the accused Member and the Chief Executive Officer in writing of the time, date and place for the hearing, which must be no sooner than 21 days after the date that the notice is sent.
 - (ii) No later than 7 days before the date notified for the hearing under (i), the complainant must send to the accused Member a copy of any documents that the complainant proposes to rely on at the hearing.
 - (iii) The complainant must not seek to rely at the hearing on any documentary or other evidence not forming part of the complaint without leave of the chairperson of the Disciplinary Hearing Panel.
- (b) For the purposes of Article 15.5(a)(i), the complainant, the accused Member and the Disciplinary Hearing Panel must try to resolve the matter without proceeding to a hearing using any method of dispute resolution thought appropriate by the Disciplinary Hearing Panel and agreed to by the complainant and the accused member.
- (c) All hearings of the Disciplinary Hearing Panel, which the accused Member has the right to attend, must be held in a capital city within the accused Member's Division if the accused Member so requests no later than 21 days after the notification under Article 15.2(g)(ii) is sent.
- (d) Nothing in this Article 15.4 entitles the accused Member to attend any meeting or deliberation of the Disciplinary Hearing Panel, other than a hearing under Article 15.4(c), without leave of the chairperson of the Disciplinary Hearing Panel and such meeting or deliberation may be held at such time, such date and at such place or such places linked by simultaneous communication as the chairperson of the Disciplinary Hearing Panel decides.
- (e) At any hearing:
- (i) the complainant must present to the Disciplinary Hearing Panel the evidence and the submissions relied on to substantiate the complaint;
 - (ii) the accused Member must be given the opportunity to cross-examine the complainant and the complainant's witnesses;
 - (iii) at the conclusion of the presentation of the complainant's evidence and submissions, the Disciplinary Hearing Panel must decide whether that evidence and those submissions are sufficient to substantiate the complaint;
 - (iv) if the Disciplinary Hearing Panel decides the evidence and submissions are not sufficient to substantiate the complaint, it must dismiss the complaint;
 - (v) if the Disciplinary Hearing Panel decides the evidence and submissions are sufficient to substantiate the complaint, the accused Member must be given the opportunity to give any explanation or defence and to call evidence to support such explanation or defence (if any);
 - (vi) the complainant is not entitled to cross-examine the accused Member without leave of the chairperson of the Disciplinary Hearing Panel which may be granted generally or in relation to specific questions or issues but is entitled to cross-examine the accused Member's witnesses;

- (vii) the members of the Disciplinary Hearing Panel may at any time question the complainant, the accused member or any person attending the hearing;
- (viii) when in the opinion of the chairperson of the Disciplinary Hearing Panel, all relevant matters have been considered, the Disciplinary Hearing Panel must deliberate and, as soon as practicable, decide;
 - A. whether the complaint is proved; and
 - B. if proved, the disciplinary action, if any, to be imposed on the accused Member under Article 15.1(b);
- (ix) attendance at the hearing must be limited to:
 - A. the members of the Disciplinary Hearing Panel and their advisers;
 - B. the complainant;
 - C. the accused Member and any representatives appointed by the accused Member; and
 - D. the executive officer appointed under Article 15.4(g);
- (x) persons giving evidence may only be present while they give evidence unless the Disciplinary Hearing Panel decides that they ought to be present at other times.
- (f) The Disciplinary Hearing Panel may retain a lawyer to advise it about the hearing of any complaint.
- (g) Appointment of executive officer:
 - (i) The Chief Executive Officer must appoint an executive officer to perform administrative tasks relating to the hearing of the complaint by a Disciplinary Hearing Panel.
 - (ii) In performing those administrative tasks, the executive officer will be instructed by and will report to the chairperson of the Disciplinary Hearing Panel.
- (h) Subject to these By-Laws, the Disciplinary Hearing Panel may set its procedures for conducting a hearing of any complaint.

15.5 **Determination by Disciplinary Hearing Panel**

- (a) Where a complaint is referred to a Disciplinary Hearing Panel, the Disciplinary Hearing Panel must within 60 days of the referral:
 - (i) subject to Article 15.4(b) and with the prior consent of both the complainant and the accused Member, resolve the matter without proceeding to a hearing; or
 - (ii) decide the complaint by conducting a hearing and decide the disciplinary action, if any, to be imposed under Article 15.1(b).
- (b) The Disciplinary Hearing Panel may, as part of its decision about a complaint, direct:

- (i) the complainant to pay all or any of the costs of the accused Member; or
- (ii) the accused Member to pay all or any of the costs of the complainant,

and failure to comply with a direction under (a) or (b) within 7 days of the giving of the statement to the Chief Executive Officer under Article 15.5(d)(i) will result in the rights of membership of the defaulting Member being suspended until payment in full has been made.

- (c) Within 21 days after it resolves or decides a complaint, or such longer period as the chairperson of the Disciplinary Committee may allow if, in his or her opinion, the complaint involved issues of fundamental principle or unusual complexity, the Disciplinary Hearing Panel must give a written statement of the resolution or decision, including reasons for the decision, on the same day, to:
 - (i) the complainant; and
 - (ii) the accused Member.
- (d) If, within 21 days after the giving of the written statement under Article 15.5(c) or within such longer period as may be agreed under Article 15.9(b)(ii) and Article 15.9(c)(iii), the accused Member has not appealed under Article 15.9, the chairperson of the Disciplinary Committee must give a copy of the written statement under Article 15.5(c) to:
 - (i) the Chief Executive Officer; and
 - (ii) the chairperson of the accused Member's Division.

15.6 **Compliance**

A Disciplinary Hearing Panel must comply with the principles of natural justice and must otherwise conduct disciplinary proceedings in accordance with these By-Laws.

15.7 **Confidentiality**

Steps involved in the disciplining of Members before referral of the complaint to a Disciplinary Hearing Panel under Article 15.3(b) are confidential and the complainant, the accused Member, the Chief Executive Officer and the chairperson of the Disciplinary Committee must take all reasonable measures to preserve such confidentiality, including, in particular, the identity of the complainant and the accused Member, the nature and substance of the complaint, any documents, any discussions, any decisions taken and determinations made in the course of effecting those steps.

15.8 **Legal Representation**

The complainant and the accused Member are not entitled to legal representation during attempts to resolve the complaint without a hearing but are entitled to legal representation at their own expense during a hearing by any Disciplinary Hearing Panel into the complaint.

15.9 **Right of appeal**

- (a) An accused Member may appeal a decision of the Disciplinary Hearing Panel that imposes disciplinary action under Article 15.1(b) if and only if such decision was demonstrably affected by one or more of the following to the detriment of the accused Member:
 - (i) an error or errors made by the Disciplinary Hearing Panel; or

- (ii) a denial of natural justice to the accused Member during the course of the hearing.
- (b) Any appeal must:
 - (i) be in writing and under cover of a completed appeal summary form as most recently published by the Company;
 - (ii) be delivered or sent by post to the Chief Executive Officer so that it is received within 21 days of the date of the written statement under Article 15.5(c) or within such longer period as may be agreed by the chairperson of the Disciplinary Committee;
 - (iii) be signed by the accused Member;
 - (iv) clearly identify the nature and circumstances of:
 - A. each alleged error; and
 - B. the facts, matters and circumstances which it is alleged constitute each instance on which natural justice was denied to the accused Member,

and explain how such error or errors and/or denial of natural justice affected the decision of the Disciplinary Hearing Panel to the detriment of the accused Member;
 - (v) include a statement authorising the copying of the appeal and supporting documentation and its distribution to such members as may be involved in processing the appeal; and
 - (vi) include the request (if any) under Article 15.11(c).
- (c) If, in the opinion of the Chief Executive Officer, the appeal does not comply with Article 15.9(b), the Chief Executive Officer must, within 14 days of receipt of the appeal:
 - (i) notify the accused Member in writing that the appeal does not comply with Article 15.9(b) and has not been accepted;
 - (ii) provide to the accused Member a list of the paragraphs of Article 15.9(b) on which the non-compliance is based; and
 - (iii) notify the accused Member of any extension of time agreed to by the chairperson of the Disciplinary Committee for receipt of the amended appeal.
- (d) If, in the opinion of the Chief Executive Officer, the appeal complies with Article 15.9(b), the Chief Executive Officer must, within 7 days of receipt of the appeal:
 - (i) notify the accused Member in writing that the appeal has been accepted; and
 - (ii) refer the appeal to the Disciplinary Committee.

15.10 Constitution of Appeal Panel

- (a) Within 14 days of the receipt by the Disciplinary Committee of the referral under Article 15.9(d)(ii), the chairperson of the Disciplinary Committee must appoint an Appeal Panel and refer the appeal to that Appeal Panel for determination.

- (b) Subject to Article 15.10(c), an Appeal Panel is constituted by the members of the Disciplinary Committee who are willing and available for such appointment.
- (c) An Appeal Panel must not include any member of the Disciplinary Hearing Panel which made the decision being appealed.
- (d) A member of an Appeal Panel appointed by the chairperson of the Disciplinary Committee must chairperson all meetings of the Appeal Panel.
- (e) Voting on Appeal Panel business must be by simple majority and, if the votes are equal, the chairperson must exercise a casting vote.

15.11 Hearing by Appeal Panel

- (a) As soon as practicable after an appeal has been referred to it under Article 15.10(a) the Appeal Panel must notify the complainant, the accused Member and the Chief Executive Officer in writing whether it intends to conduct a hearing under Article 15.12(a)(ii) and, if so, the time, date and place for any such hearing, which must be no sooner than 14 days after the date that the notice is sent.
- (b) A hearing conducted by an Appeal Panel must be for the purpose of assisting the Appeal Panel to review the conduct of the hearing by and decision of the Disciplinary Hearing Panel and must not be a re-hearing of the complaint.
- (c) All hearings of an Appeal Panel, which the accused Member has the right to attend, must be held in a capital city within the accused Member's Division if the accused Member so requests under Article 15.9(b)(vi).
- (d) Nothing in this Article 15.11 entitles the accused Member to attend any meeting or deliberation of the Appeal Panel, other than a hearing under Article 15.11(c), without leave of the chairperson of the Appeal Panel and such meeting or deliberation may be held at such time, on such date and at such place or such places linked by simultaneous communication as the chairperson of the Appeal Panel decides.
- (e) At any hearing:
 - (i) the members of the Appeal Panel may at any time question the complainant, the accused Member or any person who attended the hearing conducted by the Disciplinary Hearing Panel;
 - (ii) the complainant and the accused Member must be given the opportunity to make submissions in response to any such questioning but only at a time and date or times and dates decided by the Appeal Panel;
 - (iii) when in the opinion of the chairperson, all relevant matters have been considered, the Appeal Panel must conclude the hearing and finalise the review.
 - (iv) attendance at any hearing must be limited to:
 - A. the members of the Appeal Panel and their advisers;
 - B. the complainant;
 - C. the accused Member and any representatives appointed by the accused Member; and
 - D. the executive officer appointed under Article 15.11(g).

- (v) persons being questioned may only be present while they are being questioned unless the Appeal Panel decides that they ought to be present at other times.
- (f) The Appeal Panel may retain a lawyer to advise it about the hearing of any complaint.
- (g) Appointment of Executive Officer:
 - (i) The Chief Executive Officer must appoint an Executive Officer to perform administrative tasks relating to the review conducted by an Appeal Panel.
 - (ii) In performing those administrative tasks, the Executive Officer will be instructed by and will report to the chairperson of the Appeal Panel.
- (h) Subject to these By-Laws, the Appeal Panel may set its procedures for conducting a hearing.

15.12 Determination of appeal

- (a) Where an appeal is referred to an Appeal Panel, the Appeal Panel must, within 60 days of the referral under Article 15.9(d)(ii):
 - (i) review the conduct of the hearing by and decision of the Disciplinary Hearing Panel to such extent as may be necessary for the Appeal Panel to form its views about the grounds of the appeal;
 - (ii) conduct a hearing if the Appeal Panel considers it appropriate and, where a denial of natural justice is alleged, call such persons to give evidence at the hearing as the Appeal Panel considers necessary; and
 - (iii) determine the appeal.
- (b) The Appeal Panel must determine the appeal by:
 - (i) allowing the appeal in whole,
 - (ii) dismissing the appeal in whole,
 - (iii) allowing the appeal in part and dismissing it in part; and
 - (iv) determine the disciplinary action, if any, to be imposed under Article 15.1(b) in place of the disciplinary action, if any, imposed by the Disciplinary Hearing Panel.
- (c) The Appeal Panel may, as part of its decision about an appeal, where a hearing takes place, direct:
 - (i) the Company to pay all or any of the costs of the accused Member; or
 - (ii) the accused Member to pay all or any of the costs of the Company.
- (d) Within 30 days after it determines an appeal, the Appeal Panel must give a written statement of the determination, including reasons for the determination, on the same day, to:
 - (i) the complainant;
 - (ii) the accused Member;

- (iii) the Disciplinary Committee;
 - (iv) the Board;
 - (v) the chairperson of the accused Member's Divisional Council.
- (e) The accused Member is entitled to legal representation during any hearing by the Appeal Panel into the appeal.

15.13 Publication of decisions and determinations

- (a) The Company must publish the determinations of any Appeal Panel and, if there is no appeal, the decisions of any Disciplinary Hearing Panel, including reasons for the determinations and decisions, in such form and by such means as the Board may decide from time to time.
- (b) Such publication must not identify the complainant by name or description and except to the extent that the accused Member expressly consents, must also not identify the accused Member in any way.
- (c) Where considered appropriate by the Board, determinations and decisions may be edited or redacted before publication but not so as to render unintelligible the reasons for such determinations or decisions.

15.14 Expenses

- (a) Expenses properly incurred by the Disciplinary Committee, any Disciplinary Hearing Panel or any Appeal Panel must be paid from National Funds.
- (b) If disciplinary action is imposed by a Disciplinary Hearing Panel and upheld on an appeal (if any) then the reasonable out-of-pocket expenses of the complainant as certified by the Chief Executive Officer must be paid or reimbursed from National Funds to the extent that they are not met pursuant to an order under Article 15.5(b) and Article 15.12(c).
- (c) If a complaint is dismissed by a Disciplinary Hearing Panel or an Appeal Panel, the reasonable out-of-pocket expenses of the accused Member as certified by the Chief Executive Officer must be paid or reimbursed from National Funds to the extent that they are not met pursuant to an order under Article 15.5(b) and Article 15.12(c).

16. Amendment of By-Laws

The Board has the sole authority to approve revisions to these By-Laws in accordance with the requirements of the Constitution.