

# ACADEMY OF MEDICAL SCIENCES

## Disciplinary Regulations

### 1. Purpose of these Regulations

- 1.1 The Academy of Medical Sciences (the “**Academy**”) is not a regulatory body and it exists to promote its charitable objects. The purpose of these Regulations is to enable the Academy to protect its reputation should any Fellows or Honorary Fellows of the Academy (together referred to in these Regulations as “**Fellow(s)**”) fail to maintain sufficient standards of professional or relevant personal conduct.
- 1.2 The Council has the duty to oversee all disciplinary decisions to ensure that the principles of fairness and natural justice are followed. The Council has ultimate responsibility for disciplinary matters and has delegated its powers through these Regulations to the President, Investigating Officer, the Conduct Committee and the Appeal Panel, as appropriate, in accordance with Standing Order 60 of the Council’s Standing Orders.
- 1.3 The President may order any procedure under these Regulations to be suspended at any stage should the General Medical Council, the courts, any other appropriate regulator, or a Fellow’s employer commence proceedings against a Fellow on the same or related grounds.

### 2. Misconduct

For the purposes of these Regulations, misconduct covers all and any behaviour by a Fellow which the Council shall in its reasonable discretion consider to be seriously injurious to the reputation or interests of the Academy. Such behaviour may include (but is not limited to):

- 2.1 undertaking any clinical practice or scientific research in a manner that is deemed unacceptable, as determined by reference to any guidelines published by the Academy and/or any regulatory body in the UK from time to time;
- 2.2 involvement in commercial fraud or malpractice;
- 2.3 academic offences such as research fraud or plagiarism;
- 2.4 acting in a personal or professional capacity in such manner as is likely to bring the Academy into disrepute or to endanger a Fellow’s own professional standing or that of his or her colleagues;
- 2.5 making any form of statement in the public domain which is purported to be either on behalf of the Academy or endorsed by the Academy, without prior written authorisation from the Academy;

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- 2.6 damaging or misusing any Academy property or resources;
- 2.7 abusing any privilege enjoyed by virtue of holding any Academy office, whether elected or unelected;
- 2.8 being charged with an indictable offence or convicted of a criminal offence for which a custodial sentence is given (including a suspended sentence); and
- 2.9 behaving towards any employee of the Academy, another Fellow or any visitor to the Academy, in a violent, indecent, threatening, disorderly or offensive manner, or subjecting them to racial, sexual or religious harassment or any other form of harassment or abuse;

and is referred to in these Regulations as “**Misconduct**”.

### **3. Stage 1 - Initial Investigation**

- 3.1 The Executive Director shall be notified of:
  - (a) any allegations of Misconduct made against Fellows received by the Academy, whether from the general public, elected officers of the Academy, other Fellows or employees of the Academy; or
  - (b) any matter of which the Academy becomes aware from publicly available sources which may require investigation under these Regulations.
- 3.2 The Executive Director shall inform the President that an investigation into alleged Misconduct is required and the President shall appoint an appropriate member of the Council to oversee the investigation into the allegation or report of Misconduct (the “**Investigating Officer**”). The Investigating Officer may seek assistance to carry out the investigation from the Executive Director, any administrative staff of the Academy and/or the Academy’s legal advisers, as appropriate.
- 3.3 If, following initial investigation, the Investigating Officer finds that there is no prima facie case to answer, or that the allegation of Misconduct is frivolous or vexatious and therefore not in the interests of the Academy to pursue, the Investigating Officer shall consult with the President and, if the President agrees, take no further action beyond noting in the Academy’s records that the allegation or report was unfounded, frivolous or vexatious. The President shall also decide whether the investigation and the decision to take no further action shall be reported to the Council.
- 3.4 If the Investigating Officer finds that there is sufficient evidence of possible Misconduct to warrant further investigation, the Investigating Officer shall recommend to Council that the allegation should be referred to:
  - (a) the Conduct Committee;
  - (b) an appropriate regulator; and/or

(c) the employer of the Fellow about whom the allegation has been made.

3.5 The Investigating Officer has unfettered discretion to inform the source of the allegation, in general terms, of the outcome of the initial investigation and whether the matter has been referred to the Conduct Committee.

#### **4. Stage 2 – Hearing by the Conduct Committee**

4.1 The “**Conduct Committee**” shall be a standing committee of the Academy, comprising 3 members of the Council who are not also Honorary Officers, selected by the Council from time to time.

4.2 The Conduct Committee may, from time to time, co-opt up to two Fellows who have expertise relevant to any specific allegation of Misconduct being investigated by the Conduct Committee, to sit on the Conduct Committee as full members for the duration of that investigation.

4.3 If any member of the Conduct Committee has any conflict of interest or loyalty (including any personal friendship, relationship or animosity) with either the source of the allegation or report or the Fellow who is being investigated, they shall declare their interest to the President and shall not sit on the Conduct Committee in relation to that allegation of Misconduct. In such a situation the Council shall elect a substitute member of Council (who is not an Honorary Officer) to sit on the Conduct Committee.

4.4 If the General Medical Council, the courts, any other appropriate regulator, or the Fellow’s employer has already investigated the allegations of Misconduct brought against the Fellow and has passed judgment, the Conduct Committee shall rely on the findings of that body and not re-consider the substantive issues in the allegation or hold a hearing attended by the Fellow unless, in their absolute discretion, the Conduct Committee considers it is necessary or appropriate in the circumstances.

4.5 Prior to any hearing by the Conduct Committee, the Investigating Officer shall inform the Fellow who is being investigated of the allegation of Misconduct made against them and of the timetable for the investigation and proposed hearing (if any) by the Conduct Committee, including (where appropriate):

(a) the date, time and place of the hearing (if any);

(b) a detailed summary of the allegation or report, including the details of the case against the Fellow;

(c) copies of evidence that will be presented and/or the names of any witnesses who will be called to give evidence at the hearing (if any); and

(d) the dates by which the Fellow must file documentary material and/or witnesses in his or her defence or mitigation.

4.6 No evidence may be relied on or referred to at a hearing or witnesses called by the Fellow or by the Academy if copies of that evidence and/or names of those witnesses

have not been provided to the Fellow or the Investigating Officer (as the case may be) within the timetable set by the Conduct Committee.

- 4.7 A decision by the chair of the Conduct Committee on any point of procedure at any hearing of the Conduct Committee shall be binding. Provided that the proceedings are fair to the Fellow and the principles of natural justice have not been compromised, no objection relating to a technical defect in the procedure of the investigation of the allegation or report or of the convening and process of the hearing shall be upheld.
- 4.8 Subject to Regulation 4.7, the Fellow being investigated has the right to be present during the hearing and may be accompanied by a friend, a legal adviser (at their own expense) or a representative of their union or medical protection body. However, the hearing may be held in the absence of the Fellow if they fail to attend having been given reasonable notice in accordance with Regulation 4.5.
- 4.9 The Conduct Committee shall make decisions by a majority vote but the votes of the individual Fellows on the Conduct Committee shall be confidential. In order to find that a Fellow's behaviour is considered to be Misconduct, the Conduct Committee must conclude that the evidence against the Fellow is true on the balance of probabilities.
- 4.10 The Conduct Committee shall send a report of its decision, together with the reasons for that decision, to the Executive Director for circulation to the Council. If the Conduct Committee concludes that there is sufficient evidence of Misconduct, the Conduct Committee's report shall include a recommendation as to which of the sanctions in Regulation 5.1 it considers most appropriate.
- 4.11 If the Conduct Committee has concluded that there is sufficient evidence of Misconduct, the Council shall, prior to any consideration and discussion of a report received from the Conduct Committee, nominate one Vice-President and two Honorary Officers (who may not also be the President or the Investigating Officer) to hear any appeal which may be brought by that Fellow (the "**Appeal Panel**"). For the avoidance of doubt, the Appeal Panel shall not be present during the Council's deliberations and decision as to whether to impose one or more of the sanctions set out in Regulation 5.1.

## **5. Sanctions**

- 5.1 The Conduct Committee may recommend to the Council that it imposes any one or more of the following sanctions:
- (a) order the Fellow who was the subject of the allegation or report to pay compensation in respect of Academy property that has been damaged, misused or lost or in respect of any privilege that has been abused;
  - (b) require the Fellow who was the subject of the allegation or report to make a written or oral apology to any other Fellow, person or employee of the Academy as a condition of that Fellow's continuing membership of the Academy;
  - (c) issue a formal written warning to the Fellow who was the subject of the allegation or report and place a copy of it on that Fellow's record;

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- (d) suspend the Fellow from the Academy pending the outcome of an on-going investigation by another regulatory body, the Fellow's employer, or the police/criminal proceedings; and/or
  - (e) expel the Fellow from the Academy.
- 5.2 Any formal written warning issued under Regulation 5.1(c) above must include the following information:
- (a) the nature of the allegation or report against the Fellow;
  - (b) the Conduct Committee's conclusion from its investigation; and
  - (c) what conduct the Fellow needs to address for the future.
- 5.3 Subject to Regulation 4.11, the Council shall consider the report and recommendations of the Conduct Committee and shall:
- (a) impose any one or more of the sanctions set out in Regulation 5.1; or
  - (b) decide that no sanction shall be imposed.
- 5.4 The Council shall make decisions by a majority vote but the votes of individual members of the Council shall be confidential.
- 5.5 An expelled Fellow shall lose all rights of Fellowship. The Fellowship fee of a Fellow who has been expelled from the Academy shall not be returned or refunded to the expelled Fellow.
- 5.6 The Council shall have discretion to reduce the Fellowship fee payable by a suspended Fellow during the period of their suspension. A suspended Fellow shall lose all rights of Fellowship other than receiving Academy publications.
- 5.7 The Council shall have the discretion to refuse any expelled or suspended Fellow access to any Academy premises and/or to any Academy event which is open to non-Fellows.
- 5.8 The Investigating Officer shall send a copy of the decision made by the Council, together with:
- (a) the reasons for the decision;
  - (b) any sanction imposed; and
  - (c) how the Fellow can appeal the decision;
- to the Fellow within seven days of the Council's decision. The Investigating Officer may also send a copy of the decision, any sanction imposed and the reasons for it to the Fellow's employer and the source of the allegation, where appropriate.

## **6. Stage 3 – Appeals**

6.1 A Fellow wishing to appeal against a sanction imposed by the Council must submit a written appeal request to the President supported by a statement and any relevant documentation or evidence setting out the reasons for the appeal, within 30 days of receiving the letter from the Investigating Officer informing the Fellow of the decision of the Council.

6.2 Upon receipt of an appeal request the President must decide either to dismiss the appeal or to allow the appeal to be heard. The President shall allow an appeal to be brought if either:

- (a) the Fellow has fresh evidence that could not have been, or for good reason was not, made available at the time of the hearing;
- (b) the Fellow provides evidence of significant procedural error on the part of the Investigating Officer or the Conduct Committee before or during the hearing; and/or
- (c) the Fellow provides evidence of significant procedural error on the part of the Council following the hearing;

PROVIDED that the President has the discretion to take into account any other relevant grounds when deciding whether or not to allow the appeal to be heard.

6.3 If the President decides to allow the appeal to be heard, the Appeal Panel shall be convened. The Appeal Panel shall make decisions by a majority vote but the votes of individual members of the Appeal Panel shall be confidential.

6.4 The Investigating Officer shall write to the Fellow and inform them of the outcome of their request for an appeal and, if the appeal is to be heard, the date on which the hearing of the Appeal Panel will be held.

6.5 No evidence may be relied on or referred to at the hearing of the Appeal Panel, or witnesses called by either the Academy or the appellant Fellow, if copies of that evidence and names of those witnesses have not been provided to the other party at least seven days before the hearing. The procedures and process set out in Regulations 4.7 and 4.8 shall also apply to any hearing by the Appeal Panel.

6.6 The Appeal Panel shall have the delegated authority of the Council to:

- (a) dismiss the appeal; or
- (b) allow the appeal and remove any one or more of the sanctions imposed; or
- (c) remove any one or more of the sanctions imposed and/or impose a different sanction or sanctions from among those listed in Regulation 5.1.

6.7 The Appeal Panel shall send its decision, together with the reasons for that decision, to the Executive Director for circulation to the Council. The Investigating Officer shall send a copy of the Appeal Panel's decision, together with reasons, to the appellant Fellow

within seven days of the date of the hearing UNLESS the Appeal Panel has imposed a sanction of suspension or expulsion in place of a lesser sanction, in which case the Appeal Panel's decision must be ratified by the Council prior to its communication to the Fellow by the Investigating Officer.

- 6.8 The Investigating Officer may, where appropriate, send a copy of the Appeal Panel's decision (with or without the reasons given for that decision) to the appellant Fellow's employer and/or the source(s) of the allegation or report.
- 6.9 The decision of the Appeal Panel shall be final (subject to any ratification required by the Council in accordance with Regulation 6.7) and there shall be no further right of appeal.

## **7. Miscellaneous**

- 7.1 The Academy may seek legal advice to advise and support the Investigating Officer, President, Conduct Committee and/or the Appeal Panel in relation to any alleged Misconduct being investigated in accordance with these Regulations, PROVIDED that prior authorisation is obtained from the Director of Finance and Resources for the estimated level of legal fees to be incurred.
- 7.2 Fellows shall have the right to view all information held by the Academy in respect to any allegation or report in which they are named in accordance with Data Protection law.
- 7.3 These Regulations may be amended from time to time by resolution of the Council PROVIDED that any disciplinary matter arising under them shall be adjudicated by reference to the Regulations in force at the date of the conduct giving rise to the allegation or report.

**Adopted by resolution of the Council on 16 October 2014**

### **Note to Complainants:**

**The Academy seeks to protect complainants from victimisation or harassment as a result of bringing a complaint. The Academy will, where possible, investigate all complaints received by it in confidence and protect the identity of the complainant if a complainant wishes to remain anonymous.**