

ASSOCIATION OF ACCOUNTING TECHNICIANS

BY-LAWS

INTRODUCTION

Pursuant to Clause 73(2)(a) of the Constitution, the following By-Laws are made by the Board of Directors for the maintenance of sound practice and the promotion of the interests of the Association and of the paraprofessional accounting sector and for the prevention of dishonourable practices.

The following By-Laws are made to give effect to Constitutional provisions where necessary.

SECTION 1 OBJECTS

Professional Conduct

- 1.1 Pursuant to Clause 73(2)(a) of the Constitution the Board of Directors promulgates these By-laws which incorporate the principles of professional ethics. Members of the Association shall abide by these principles irrespective of their membership status and they shall seek guidance from detailed pronouncements on sound practice and conduct as the Board of Directors promulgates from time to time.
- 1.2 The ethical requirements of the Association shall be based upon the following fundamental principles by which members shall be governed in the conduct of their professional relations with others:

Integrity

A member shall be of good fame, integrity and character and apply honest and sincere principles in all facets of their professional work.

Objectivity

A member must act lawfully and in the best interests of those who engage them, be fair and must not allow prejudice or lack of impartiality to override their objectivity.

Independence

When carrying out their duties, members have regard to actual or potential conflicts of interest that may arise as being incompatible with integrity and objectivity.

Confidentiality

A member should respect the confidentiality of information acquired in the course of their work and should not disclose any such information to a third party without specific authority or unless there is a legal or professional duty to disclose.

Technical Standards

A member should carry out their professional work in accordance with the technical and professional standards relevant to that work.

Professional Competence

A member has a duty to maintain their level of competence throughout their career. They should only undertake work that they can expect to complete with professional competence.

Ethical Behaviour

Members should conduct themselves in a manner consistent with the good reputation of the Association and refrain from any conduct which might bring discredit to the Association.

SECTION 2 BOARD OF DIRECTORS

Members shall abide by the following pronouncements (as at 31 March 2010) of the Board of Directors:

- Pronouncement 1. Code of Ethics
- Pronouncement 2. Nomination, subscription, advancement and public practice certificate fees
- Pronouncement 3. Continuing Professional Education (CPE)

and any other pronouncement the Board of Directors may promulgate.

SECTION 3 MEMBERS

Admission

Affiliates

- 3.1 The Association shall enter into the Register of Members applicants who:
 - (a) apply in writing on the prescribed form and pay the prescribed fee to become an Affiliate member;
 - (b) in the case of admission as an Affiliate member, the applicant must declare they are at least 21 years of age: and
 - (c) has at least four years experience in an account keeping role.

Members

- 3.2 The Association shall enter into the Register of Members applicants who shall:
 - (a) Apply in writing on the prescribed form and pay the prescribed fee for admission;

- (b) In the case of admission as a Member, the applicant must provide certified documentary evidence of being:
 - (i) the holder of the educational qualifications approved by the Board of Directors;
 - (ii) the holder of overseas educational qualifications approved by the Board of Directors; or
 - (iii) a member of another professional association approved by the Board of Directors.
 - (iv) Experienced in account keeping or a related field for not less than 1 year, which will demonstrate the applicant's ability to understand and process financial data, and competency to produce reports, financial statements, and forecasts which are relevant to management information needs and which complies with institutional, legal, regulatory, social, and managerial standards.

Fellows

- (c) In the case of admission as a Fellow, provide documentary evidence of having at least 5 years experience as an AAT Australia Member and having at least 5 years experience in a senior/supervisory paraprofessional account keeping position or; becoming a joint member of AAT Australia and possessing equivalent membership of CPA Australia, the Association of Chartered Accountants in Australia, the National Association of Accountants, or other professional association that may be accepted upon terms determined by the Board of Directors from time to time.
- (d) comply with the AAT Australia's Continuing Professional Education requirements determined by the Board of Directors from time to time.
- (e) comply with such other conditions and possess such other qualifications as the Board of Directors may prescribe either generally or in a particular case.

Fees and subscriptions – Admission

- 3.3 Every person who applies for membership and is entitled to be admitted shall, before their name is entered in the Register of Members and before they become entitled to the privileges of membership, pay the full nomination fee, the appropriate annual subscription fee and any other fees that may be due determined by the Board of Directors from time to time. The Board of Directors may vary or waive any fee or subscription.
- 3.4 All persons being admitted to membership after July each year shall pay a pro rata amount calculated on a monthly basis commencing from the month of lodgement of the application.

Advancement in membership designation

Affiliate to Member

- 3.5 For a change of designation from Affiliate to Member, Affiliates of the Association may apply for consideration for advancement to Member and be entered into the Register of Members of this membership designation where applicants;
- (a) apply in writing on the prescribed form and pay the prescribed fee for advancement to Membership status;
 - (b) the applicant must provide certified documentary evidence of being:
 - (i) the holder of the educational qualifications approved by the Board of Directors;
 - (iii) the holder of overseas educational qualifications approved by the Board of Directors; or
 - (iii) a member of another professional association approved by the Board of Directors.
 - (iv) experienced in account keeping or a related field for not less than 1 year, which will demonstrate the applicant's ability to understand and process financial data, and competency to produce reports, financial statements, and forecasts which are relevant to management information needs and which complies with institutional, legal, regulatory, social, and managerial standards.
 - (c) provide documentary evidence of having at least 1 year experience in a senior/supervisory paraprofessional account keeping position;
 - (d) comply with such other conditions and possess such other qualifications as the Board of Directors may prescribe either generally or in a particular case.

Member to Fellow

- 3.6 For a change of designation from Member to Fellow, Members of the Association may apply for consideration for advancement to Fellow and be entered into the Register of Members of this membership designation where applicants;
- (a) apply in writing on the prescribed form and pay the prescribed fee for advancement to Fellowship status;
 - (b) provide documentary evidence of having at least 5 years experience in a senior/supervisory paraprofessional account keeping position;
 - (c) have been of Member status for a period of not less than 5 consecutive years at the time of application;

- (d) comply with such other conditions and possess such other qualifications as the Board of Directors may prescribe either generally or in a particular case.

Fees and Subscriptions – Advancement

- 3.7 All members advancing in designation shall pay the difference between the full subscriptions applicable to both membership designations as well as the advancement fee prescribed by the Board of Directors. The Board of Directors may vary or waive any fee or subscription.

Life Members and Honorary Members

- 3.8 Pursuant to Clause 121 of the Constitution a Member may become a Life Member by being nominated and elected to hold that distinction by the Board of Directors.
- 3.9 A Life Member shall be entitled to all the privileges of membership without payment of the annual subscription fee
- 3.10 Any person who is not a Member of the Association may be elected an Honorary Member by the passing of a resolution by the Board of Directors
- 3.11 Honorary Members will not be required to pay registration, admission or annual subscription fees
- 3.12 The Board of Directors may revoke Honorary Membership at any time without ascribing a reason for so doing.

Additional designations within classes of membership

- 3.13 The Board of Directors may at any time it sees fit introduce additional designations for members within the existing classes of membership in Clause 19 of the Constitution. These designations will not replace the classes of membership in Clause 19.
- 3.14 These additional designations may apply to all members or may be specialised to reflect particular skills, knowledge or education a member may have attained.
- 3.15 The Board of Directors may determine the post-nominal to be used with that additional designation. The Board of Directors may further determine how that post-nominal is to be used.
- 3.16 The Board of Directors may set and amend any requirements above and beyond the existing requirements for membership of a particular class of membership for entry into an additional designation. This may mean that the Board of Directors may set no additional requirements.
- 3.17 The Board of Directors may set an additional fee to process the application and promote the additional designation and the Board of Directors may set an additional on-going fee for maintenance of that designation for members within that designation.

Special Cases

- 3.18 The Board of Directors may by resolution passed by a majority of not less than two-thirds of the Board of Directors, present and voting dispense with all or any of the requirements of the By-laws regarding admission or a change of status and admit any person to membership of the Association in such status as it thinks fit or grant a change of status to any Member:
- (a) if that person or Member has extensive experience in accountancy; or
 - (b) if that person or Member has rendered valuable service in advancing the interests of the profession; or
 - (c) for any special reason the Board of Directors deems sufficient.

Resignation of Members

- 3.19 The Board of Directors delegates to the Association the responsibility for the removal of any name from the Register of Members who have resigned or who no longer meet the requirements to be a member as set out in the Constitution, By-Laws or Pronouncements of the Association.

Re- instatement of Members

- 3.20 For re-instatement, every applicant shall:
- (a) apply in writing and pay the prescribed fees
 - (b) comply with such other conditions as the Board of Directors may prescribe either generally or in a particular case.
- 3.21 Applications for re-instatement following a membership lapse of more than three years will not be considered unless the Association is satisfied that the applicant complies with such conditions as the Board of Directors may prescribe either generally or in particular cases.
- 3.22 All applications for re-instatement following forfeiture of membership for disciplinary reasons shall be referred to the Board of Directors for consideration.

SECTION 4 COMMITTEES

- 4.1 Pursuant to Clause 86 of the Constitution, the Board of Directors may establish a committee to look at any issue or exercise any power the Board of Directors so wishes to delegate from time to time.
- 4.2 In the following By-Laws, the term 'member' is to be defined as meaning a 'person' who is not necessarily a member of the Association.

Structure of committees of the Board of Directors

4.3 The structure for Committees shall be as follows:

- (a) Sessional Committee – Disciplinary Tribunal
- (b) Standing Committee – Disciplinary Appeals Tribunal

The Board of Directors shall appoint the committee chairman of all committees and shall ratify members of the committee.

Role of Sessional Committee – Disciplinary Tribunal

- 4.4 (a) Membership:
Seven members appointed by the Board of Directors. At least two of the members are to be lay persons.
- (b) Duties:
To determine cases referred to it by the Investigator and to impose appropriate penalties on members.
- (c) Term:
Members of the Disciplinary Tribunal are to be appointed for a term of two years. At the completion of the term, the Board of Directors may choose to re-appoint such members of the Tribunal.

Role of Standing Committee – Disciplinary Appeals Tribunal

- 4.5 (a) Membership:
Three persons appointed by the Board of Directors will constitute an Appeals Tribunal to hear appeals by the Association and members of the Association against findings of the Disciplinary Tribunal.
- (b) Duties:
To review a decision of the Disciplinary Tribunal where the member has lodged a Notice of Appeal against a decision of the Disciplinary Tribunal the effect of which is to suspend or forfeit membership.

Frequency of meetings

4.6 Meetings of the Committees are to be held on an as required basis. These meetings can be conducted either by personal representation or by electronic means.

Formation of sub-committees

4.7 Any Committee at its discretion can establish a sub-committee to report to the Committee on particular issues. This may include forming sub-committees based on geographical location.

4.8 The Committee shall establish the duties and responsibilities for their sub-committees.

4.9 The Committee shall make appointments to their sub-committees. The Committee shall seek the support of the Association to find suitable persons for sub-committees.

4.10 The sub-committees are to report to the Committee on a regular basis.

Record keeping

4.11 The Chairman of each Committee is to provide written reports on committee activities for inclusion in each Board of Directors agenda.

SECTION 5 REGISTER OF MEMBERS

5.1 No name or designation shall be entered onto the Register of Members save on the authority of the Board of Directors nor shall any name be removed from such Registers nor the status or listing therein be changed save on the like authority.

5.2 The Board of Directors delegates to the Chief Executive Officer the responsibility for entering names and designations into the Register of members when the applicant meets the requirements established by the Board of Directors as per By-Law 3.1 Members.

5.4 The Board of Directors delegates to the Chief Executive Officer the responsibility for removal of any name from the register when the member no longer meets the requirements to be a member as set out by the Board of Directors as per By-Law 5.1 Resignation of Members.

SECTION 6 INVESTIGATIONS AND DISCIPLINARY PROCEDURES

Preamble

The Association is committed to the principles of fairness and equity for all parties involved in a complaint (the member, the Complainant and the Association).

To achieve this aim, the Investigation and Disciplinary Procedures shall be independent of undue influence from any party to a complaint and always act in a prompt and timely manner.

Transparency and accountability of the Investigation and Disciplinary Procedures will assist in ensuring the Investigation and Disciplinary Procedures remain independent.

It is the duty of the Association to uphold the principles and standards of the profession and ensure that all members abide by such standards at all times. The standing of the Association and its members is dependant on the mutual upholding of the highest standards.

PROCEEDINGS OF INVESTIGATORS, INVESTIGATIONS REVIEW OFFICER AND DISCIPLINARY TRIBUNALS

In By-law 6, “Tribunal” means the Disciplinary Tribunal and “Chairman” and “Executive Officer” are of the Disciplinary Tribunal, wherever occurring, unless stipulated is appointed under the Constitution to hear and decide on complaints Tribunal” against members.

Lodging a complaint

6.1 Definitions for By-Laws 6 & 7

“Administrative Action”	means a penalty imposed by the Institute on a member in circumstances where referring the matter to the Disciplinary Tribunal or Voluntary Resolution is inappropriate.
“Arbitration”	means the determination of disputes by the decision of one or more persons called Qualified Arbitrators.
“Complainant”	means a person or persons, whether natural person or not, who lodge a complaint or complaints against a member of the Institute.
“Disciplinary Tribunal”	is appointed under the Constitution to hear and decide on complaints against members.
“Mediation”	means the resolution of complaints by the agreement of the parties to settle complaints with the facilitation of a Qualified Mediator.
“Qualified Arbitrator”	means a person or persons whom the Board of Directors recognise as being competent to conduct Arbitration between the Complainant/s and a member.
“Qualified Mediator”	means a person or persons whom the Board of Directors recognise as being competent to conduct Mediation between the Complainant/s and a member.
“Voluntary Resolution”	means a remedial course of action an Investigator may suggest to a member the subject of a complaint. The Investigator may only suggest remedial action when, with the approval of the Investigations Review Officer, it has been found that the member has a case to answer. Such remedial action may include an undertaking by the member to participate in Continuous Professional Education in a certain area.

6.2 Any complaint against a member of the Association lodged with the Association shall be referred to the Investigator.

- 6.3. Where an Investigator becomes aware that an investigation may be warranted against a member or class of members, the Investigator may, with the approval of the Investigations Review Officer undertake an investigation, regardless of whether a complaint has been lodged with the Association. The Investigator will inform the Association of the reason for undertaking such an investigation.

Handling a complaint

- 6.4 Any complaint against a member of the Association lodged with the Association shall be referred to the Investigator.
- 6.5 “Administrative Action” means a penalty imposed by the Association on a member in circumstances where referring the matter to the Disciplinary Tribunal or Voluntary Resolution is inappropriate.
- 6.6 The Investigator shall have the power to interview the member concerned and to obtain information from any source deemed necessary.

Request for information from a member

- 6.7 To assist the Investigator, a member must comply with all reasonable requests for information from the Investigator. The member must provide that assistance and information to the Investigator within reasonable time as set by the Investigator. The member may seek an extension of time to comply in writing, which the Investigator will not unreasonably deny.
- 6.8 Failure to provide assistance and information in a timely manner to all reasonable requests of an Investigator shall constitute a breach of Clause 90 of the Constitution.

Recommendation of an Investigator

- 6.9 The Investigator shall compile all relevant information in order to form an opinion from which the Investigator can recommend:
- (a) The member has no case to answer;
 - (b) Whether the complaint should be referred to Arbitration or Mediation for resolution;
 - (c) If there is a case to answer and it is appropriate to do so, recommend Administrative Action;
 - (d) If there is a case to answer and it is appropriate to do so, recommend a Voluntary Resolution of the complaint; or
 - (e) If there is a case to answer and Administrative Action or Voluntary Resolution of the complaint is inappropriate, refer the matter to the Disciplinary Tribunal to hear the case.

Reviewing the recommendation of the Investigator

6.10 The Investigator shall refer their recommendation for the approval of the Investigation Review Officer. If the Investigation Review Officer disapproves of the recommendation of the Investigator, then the Investigation Review Officer shall refer the matter to the President or their nominee for a *determination*.

Notice of determination

6.11 The Investigator will then communicate the *determination* to the member, *Tribunal (where appropriate)* and the Complainant within 14 days of the approval of the Investigator's recommendation by the Investigation Review Officer or the President or their nominee.

Other Interaction between the Investigator and the Investigations Review Officer

6.12 The Investigator may seek the opinion of the Investigations Review Officer in relation to an investigation at any time.

Regular Statistical reports

6.13 The Investigator must make regular reports to the Board of Directors and the Disciplinary Tribunal on opinions reached from their investigations. This report shall not disclose the names of the parties to the complaint.

Arbitration or mediation

6.14 The Investigator shall have the power to determine, with approval of the Investigation Review Officer, that the matter should proceed to Arbitration or Mediation.

6.15 The Investigator will refer the member and the Complainant to Arbitration or Mediation where, in the opinion of the Investigator, the complaint does not involve breaches of the Constitution, By-Laws, Regulations and Pronouncements of the Association.

6.16 The Association shall establish a list of Qualified Arbitrators and Mediators. The Investigator will refer the parties to such a Qualified Arbitrator or Mediator to hear a complaint.

6.17 The Association shall not be responsible for the conduct or costs of Arbitration or Mediation.

6.18 A member cannot be compelled to undertake Arbitration or Mediation.

6.19 Upon settlement of Arbitration or Mediation, the Investigator, with the approval of the Investigation Review Officer may decide to proceed with an investigation where the Investigator is of the opinion there are matters that should still come before a Disciplinary Tribunal.

- 6.20 If Arbitration or Mediation does not produce a settlement, the Investigator, with the approval of the Investigation Review Officer shall decide as to whether the member has a case to answer or not and whether the matter should proceed to a Disciplinary Tribunal.

Voluntary Resolution

- 6.21 Within twenty-one days of receipt of the Notice of Determination of the offer of a Voluntary Resolution, the member shall communicate their decision to accept or reject the Voluntary Resolution in writing.
- 6.22 If the member rejects the Voluntary Resolution, the complaint will proceed to a Disciplinary Tribunal.

Administrative Action

- 6.23 The Investigator may recommend Administrative Action where the Investigator believes there is a case to answer, but due to the less serious nature of the allegation, a Voluntary Resolution or to refer the matter to the Tribunal would be inappropriate.
- 6.24 Administrative Action includes but is not limited to:
- (a) requiring the member concerned to undertake specific Continuous Professional Education;
 - (b) requiring the member concerned to make undertakings to the Association;
 - (c) giving the member concerned a written warning; or
 - (d) any other remedial action deemed appropriate.
- 6.25
- (a) Upon the Tribunal receiving a Notice of Determination that the member has a case to answer, the Tribunal shall arrange to meet for the purpose of considering the matter and shall hear the case as soon as is practicable.
 - (b) Where the Notice of Determination states that in the Association's view it is appropriate, the Chairman may offer the member concerned:
 - (i) the opportunity to accept that there is a case to answer in relation to the breach alleged by the Association; and
 - (ii) to make statements in mitigation.
 - (c) The member must indicate in writing, to the Executive Officer by the date stipulated whether or not it is accepted that there is a case to answer.
 - (d) Where the member does not accept that there is a case to answer the matter will be referred to the next full hearing of the Tribunal.
 - (e) Where the member accepts that there is a case to answer the matter will proceed to the Tribunal in the following manner:
 - (i) The Chairman will select a three person panel to hear the case against the member. This will include either the Chairman or Deputy

Chairman and two other members of the Tribunal. At least one member of the panel hearing the matter shall be a lay person.

- (ii) All submissions must be in writing.
- (iii) The Association shall appoint an Advocate to prepare a written case against the member, setting out the correspondence and other information discovered in the process and the reasons the Association believes there is a case to answer. The Advocate may also state any other information believed to be relevant to a decision by the Tribunal, including any mitigating circumstances in favour of the member. The Advocate shall also state what level of penalty the Association is seeking to be imposed against the member. This material is to be made available, through the Executive Officer, to both the Tribunal and the member concerned.
- (iv) The member has 14 days from receipt of the Association's submission to provide a written submission setting out arguments in mitigation of any penalty.
- (v) The Tribunal will then review all the material before it and reach a decision about what, if any, penalty to impose. The decision will be made in writing and provided to the member and Association within 14 days of publication of the decision.

- 6.26 The Board of Directors shall appoint a panel of persons from which each Tribunal is constituted. The panel shall comprise a Chairman, a Deputy Chairman and at least five other members. At least half of the members of the panel will be lay persons.
- 6.27 The Association shall appoint an Executive Officer to manage the disciplinary process and perform such other duties as set out in these By-Laws.
- 6.28 Where appropriate, the Chairman may determine that a Tribunal of at least three panel members is to hear a complaint. This Tribunal shall comprise the Chairman or Deputy Chairman and two other panel members, at least one of whom must be a lay person.
- 6.29 In all other circumstances, a Tribunal of at least five panel members is to hear a complaint. This Tribunal shall comprise the Chairman and at least four other members, at least two of whom shall be lay persons.
- 6.30 In selecting who shall sit on a panel hearing a complaint, the Chairman shall have regard to ease of availability and any special skills that may be appropriate.
- 6.31 In the event of the unexpected unavailability of a Tribunal member or members, the hearing may proceed on the condition that the Tribunal have a minimum of three Tribunal members.
- 6.32 In the event of the unexpected unavailability of the Chairman and Deputy Chairman, the other members of the panel hearing a complaint shall appoint a Chairman from amongst their number.

Disciplinary Tribunal members - obligations

- 6.33 All Tribunal members will give an undertaking to the Association to act fairly and honestly in all cases, to excuse themselves from any case where they may be or perceived to have a conflict of interest and to be available for selection unless reasonably excused.
- 6.34 Where a Tribunal member has consistently not availed themselves to sit on hearings without reasonable excuse, the Chairman may request to the Board of Directors that the said Tribunal member be removed.
- 6.35 Tribunal members may be required to undergo training or to complete courses approved by the Board of Directors. Failure to comply with such will mean immediate removal from membership of the panel.

Disciplinary Tribunal hearing - notification

- 6.36 The member shall be informed in writing of the time and place of the hearing and of the complaint or complaints to be considered, at least twenty-one days before the date of the hearing. The member will be provided with the following documents:
- (a) a notice describing the alleged breaches by the member (including the section of the Constitution against which they allegedly have a case to answer);
 - (b) a summary of the case setting out the relevant facts and matters relied on in support of the case and a copy of the evidence to be relied upon by the Association and the name and details of any witness(es) to be relied upon;
 - (c) a summary of the procedures for appearing before the Disciplinary Tribunal; and,
 - (d) a letter inviting the member to indicate whether or not the member intends to appear before the committee in person, via teleconference (or other technological means approved by the Tribunal) or via representation by a third party and whether or not they will be represented by Counsel or by another member.

The Association may seek leave of the Chairman to provide the documents referred to in sub-clauses (a) to (d) or additional information to the member less than twenty-one days before the date set for the hearing. The Chairman will grant such leave only in exceptional circumstances and where it will not prejudice the ability of the member to make an appropriate defence.

- 6.37 At least fourteen days before the date set for the hearing, Tribunal members shall be provided with copies of all documents relating to the complaint.
- 6.38 The member must respond in writing to the letter referred to in By-law 6.36(d) not less than seven days prior to the date set for the hearing. The member must also at that time submit to the Tribunal such documentary evidence that the member wishes to make known to the Tribunal and the name and details of any witness(es) the member intends to call. Documents submitted less than seven days prior to the date of the hearing will only be considered by the Tribunal where the Chairman decides there are exceptional circumstances which do not prejudice the ability of the Association to make its case against the member. The Chairman shall provide a copy of such documents to the Association within two working days of receipt.

- 6.39 The Association shall appoint an Advocate to present the case against the member. The Association may appoint such other persons to assist the Advocate as it deems necessary, including Counsel. If the member appears with Counsel at the hearing and has not informed the Tribunal, the Chairman will make a determination whether to adjourn the hearing in order for the Association and/or the Tribunal to seek engagement of Counsel.

The costs of any adjournment caused by appearance with Counsel by the member without prior notice shall form part of any cost determination by the Tribunal if there is a finding against the member.

Presentation of case

- 6.40 On the hearing of any complaint against a member, it is for the Association to satisfy the Tribunal that a breach has occurred and the case has been proven on the balance of probabilities.
- 6.41 At the hearing of the Tribunal, the Advocate will present the Association's case first, supported by any witness(es) and such documentary evidence as is provided by the Association in accordance with By-law 6.36. The member will then respond by presenting any witness(es) and such documentary evidence as has been provided by the member in accordance with By-law 6.38. Each witness may be cross-examined by the other party. Any member of the Tribunal may ask any question(s) of either party and any witness(es).
- 6.42 Either party may request in writing to the Chairman, either at the hearing or in advance of it, that the hearing be adjourned to a future date. It is at the full discretion of the Chairman whether or not to grant such an adjournment. If an adjournment application is made by either party, the costs of the original hearing can be included in any determination with regard to apportionment of costs between the parties.
- 6.43 Once both parties have presented their case, and the Tribunal is satisfied it has enough information to make a determination, the Tribunal will retire to deliberate. Such deliberations will be "in camera" and involve only the Tribunal members.

The Tribunal's decision on a complaint is to be determined by a simple majority vote of its members. If there is no majority at first instance, the Chairman shall have the casting vote. The role of the Tribunal is to determine if the case against the member has been proven on the balance of probabilities, but not at this stage to determine the penalty to be imposed.

- 6.44 If the Tribunal determines that the case against the member has been proven it shall inform the parties accordingly. Where the member is present, either in person or represented by counsel or another member, such person will be asked to provide any evidence and other matters to be considered in mitigation by the Tribunal with regard to what is the appropriate penalty to impose. If the member is not present, the Tribunal will take into account any documentation provided by the member in mitigation of the penalty. After such arguments have been presented, (whether in person, through another or via correspondence), the Advocate will be asked to present the Association's case with regard to an appropriate penalty to be imposed.

Following such presentation, the Tribunal will retire to consider the appropriate penalty to be imposed. The Tribunal's decision is to be determined by a simple majority vote of its members. If there is no majority at first instance, then the Chairman shall have the casting vote. The Association and the member shall be informed of the penalty imposed.

- 6.45 If the Tribunal makes a finding that the case is not proven by the Association, the complaint will be dismissed (except as to any right of appeal by the Association). However, the Tribunal can still make a determination as to costs.

Costs

- 6.46 Each party shall bear its own costs of proceedings and representation.

Notification

- 6.47 The Tribunal shall provide a written statement of its decision to be communicated to both parties within 21 days, of the conclusion of the hearing.

Effective date

- 6.48 Any order of the Tribunal shall take effect on the date that it is announced by the Tribunal, unless as part of the order the Tribunal directs that all or part of the orders is to take effect on a specific date.

Upon receipt of a Notice of Appeal, the finding(s) and order(s) will be stayed until such time as the matter is determined by the Appeals Tribunal process.

Notification

- 6.49 The findings and orders of the Tribunal shall be publicised by the Association by the following means:

- (a) by way of press release in such terms and manner it directs;
- (b) publication in the AAT Australia journal in such terms and manner it directs; and/or
- (c) publication on the AAT Australia's website journal in such terms and manner it directs;

and shall, for members subject to an order of Censure, Suspension or Forfeiture of membership set out the name, the breach(es) that the member was found to have made and the finding(s) of the Tribunal and any other matters the Tribunal determines is necessary. For members subject to an order of Admonishment, Fine or other order, the Association shall determine, what, if any information is made known to the public.

Investigator - regular statistics

- 6.50 An Investigator shall furnish regular reports to the Board of Directors stating the number and type of complaints, what geographical area the complaints are originating from, the action stemming from those complaints, the opinion of the Investigator on the complaint, the decision of the Disciplinary Tribunal and the Appeals Tribunal (if applicable) and the period of time between the lodgement of the complaint and its resolution or to the stage where no further action is required.
- 6.51 The Association may use the information gathered from the Investigator's report to develop programs to alleviate areas of concern. The Association shall also pass on this information to appropriate statutory/regulatory bodies as required.

Disciplinary Tribunal - regulating hearings

- 6.52 The responsibility for regulating hearings of a Disciplinary Tribunal rests with the Board of Directors. The Board of Directors has the responsibility for establishing the procedures necessary for conducting hearings of a Disciplinary Tribunal. Interpretation of the procedures for regulating the hearings of Disciplinary Tribunals rests with the Board of Directors. The Appeals Committee can instruct a Disciplinary Tribunal to re-hear a complaint.
- 6.53 A Disciplinary Tribunal must when following procedures in hearing a complaint, implement those procedures in a manner that is reasonable and in the interests of all parties involved.

SECTION 7 APPEALS FROM DISCIPLINARY TRIBUNAL

In this By-Law (10), "Tribunal" means the Appeals Tribunal, "Executive Officer" and "Chairman" are of the Appeals Tribunal, wherever occurring, unless stipulated to the contrary.

Appeals Tribunal - procedures

- 7.1 The Tribunal shall comprise three persons appointed by the Board of Directors. The Chairman shall be a current or former judicial officer. The other members of the Tribunal shall be made up of one person who shall be a current member of the Association of good reputation and long standing and the remaining member of the Tribunal shall be a member of the public in good standing and of such skills and attributes as the Board shall determine are necessary for the position.

Pre hearing steps

Notification of Hearing Date

- 7.2 Upon receipt of a Notice of Appeal the Executive Officer will establish a process to set a time, place and date of a hearing of the appeal. The Executive Officer shall not less than 21 days prior to the date of the hearing notify all parties in writing of the date of the hearing. Provided the Chairman is satisfied that no prejudice will be suffered by any party to the appeal, the Chairman may determine that a period of less than 21 days notice to all parties be provided.

- 7.3 The appeal shall be heard at a time and place convenient to all parties, but shall be finally heard no later than six months after the lodgement of the Notice of Appeal.

Adjournment of Hearing Date

- 7.4 Either party may request in writing to the Chairman, either at the hearing or in advance of it, that the hearing be adjourned to a future date. It is at the absolute discretion of the Chairman whether or not to grant such an adjournment. If an adjournment application is made by either party, the costs of the original hearing may be included in any determination with regard to apportionment of costs between the parties.
- 7.5 Where an application is made by a party to adjourn the hearing date because of the late exchange and lodgement of documents, the party in default may be ordered to pay the costs of the other party and the Tribunal arising out of the delay.

Exchange and Lodgement of Documents and witness lists

- 7.6 The Executive Officer shall provide to the Tribunal and all parties a copy of the record of findings and orders of the Disciplinary Tribunal together with the statement of facts and documents tendered to the Disciplinary Tribunal no later than the date the Notices of Hearing Date are served.
- 7.7 Copies of all documents to be relied upon by the parties at the hearing and the name and details of any witness(es) the parties intend to call must be exchanged by the parties and lodged with the Chairman not less than 7 days prior to the hearing date. Documents exchanged by the parties and lodged with the Chairman less than 7 days prior to the hearing date will only be received in evidence by the Tribunal if the Chairman is satisfied that no party will suffer prejudice arising out of the lateness of their exchange and lodgement.

Notification of Representation

- 7.8 If a party is to be represented by Counsel or in the case of a member by another member, the name of the party's representative and contact details must be provided to the Executive Officer in writing at least 7 days prior to the hearing date.

Attendance by teleconference or other means

- 7.9 If a party wishes to provide evidence via teleconference or other technological means details of such must be provided in writing to the Executive Officer at least 7 days prior to the hearing date.

Advocate

- 7.10 The Association shall appoint an Advocate who may be counsel to present its case. The Association may appoint other persons to assist the Advocate before the Tribunal.

Procedures before the Appeals Tribunal

7.11 The Tribunal will determine its own practice and procedure, however the following processes will be followed (unless otherwise agreed to by all parties):

- (a) The appellant will be asked to present their case first, supported by the tendering of documentary evidence and the calling of any witness(es). The evidence of those witnesses may be tested by cross examination by the respondent.
- (b) The respondent may then present their case, supported by the tendering of documentary evidence and the calling of any witness(es). The evidence of those witnesses may be tested by cross examination by the appellant. The respondent will then summarise their case and then close.
- (c) The appellant may then summarise their case noting matters that were raised in the respondent's case and then close.
- (d) During the proceedings, members of the Tribunal may ask questions of either party and any witness(es).
- (e) A party wishing to contest a penalty imposed by the Disciplinary Tribunal will be provided with an opportunity to make submissions as to penalty. The other party will then be provided with the opportunity to make answering submissions as to penalty. The initial party will be allowed the opportunity to make responding submissions on the new matters submitted by the other party.

7.12 The Tribunal shall have the power:

- (a) to obtain and receive additional evidence during a hearing, including evidence from third-party experts;
- (b) to adjourn any hearing at any time if it considers it advisable to clarify any facts in dispute or to review new information that may be presented; and
- (c) to demand the production of information and documentation deemed necessary to arrive at a satisfactory decision, and may adjourn a hearing to give time for such to be provided.

7.13 The appeal shall be conducted as a rehearing.

7.14 The Tribunal shall have regard to the decision of the Disciplinary Tribunal but shall not regard it as being presumptively correct nor bound by any of its findings.

Onus of proof

7.15 On the hearing of an appeal, it is for the appellant to satisfy the Tribunal that the grounds for appeal have been proven on the balance of probabilities.

Orders of the Appeals Tribunal

7.16 Upon completion of all representations by the parties the Tribunal will retire to consider the appeal "in camera" with only the members of the Tribunal present during its deliberations.

7.17 In the case of an appeal against findings and orders/penalty of the Disciplinary Tribunal, the Tribunal may make one or more of the following resolutions to:

- (a) affirm or vary any findings of the Disciplinary Tribunal;
- (b) affirm, vary, or rescind any penalty imposed by the Disciplinary Tribunal; and/or
- (c) substitute any other penalty which the Disciplinary Tribunal could have made.

Effective date

7.18 The Tribunal shall decide the date of effect of any order it makes.

Costs

7.19 Subject to any specific orders the Tribunal makes as to costs, each party shall bear its own costs of proceedings and representation.

Notification of Findings to appellant and respondent

7.20 The Tribunal shall use its best endeavours to publish a written statement of its findings and deliver it to all parties within 21 days of the conclusion of the hearing.

Public Notification of Findings

7.21 The findings and orders of the Tribunal shall be publicised by the Association by the following means:

- (a) by way of press release in such terms and manner it directs;
- (b) publication in the AAT Australia's journal in such terms and manner it directs; and/or
- (c) publication on the AAT Australia's website journal in such terms and manner it directs.

and shall, for members subject to an order of Censure, Suspension or Forfeiture of membership set out the name, the breach(es) that the member was found to have made and the finding(s) of the Tribunal and any other matters the Tribunal determines is necessary.

For members subject to an order(s) of Admonishment, Fine or other order, the Association shall determine, what, if any information is made known to the public.

Appeals Tribunal members - obligations

7.22 All Tribunal members will give an undertaking to the Association to act fairly and honestly in all cases, to excuse themselves from any case where they may be or perceived to have a conflict of interest and to be available for selection unless reasonably excused.

7.23 Where a Tribunal member has consistently not availed themselves to sit on hearings without reasonable excuse, the Chairman may request to the Board of Directors that the said Tribunal member be removed.

7.24 Tribunal members may be required to undergo training or to complete courses approved by the Board of Directors. Failure to comply with such will mean immediate removal from membership of the Tribunal.

SECTION 8 PUBLIC NOTICE OF FINDINGS

Penalties

8.1 The following disciplinary penalties will determine the publication of a member's name:

- (a) Forfeiture of membership: Member's name published
- (b) Suspension of membership: Member's name published
- (c) Censure: Member's name published
- (d) Admonishment: Member's name not published
- (e) Any other penalty: Member's name not published

Notice of outcome of hearing

8.2 The Complainant shall be informed of the outcome of a hearing heard as a result of their complaint within 30 days of the decision being made.

Notice to Statutory Authorities

8.3 The Association shall pass on to appropriate statutory authorities information regarding members that may be required by law, regardless of whether the Association undertakes action in regard to such information itself. The Association will provide such statutory authorities with the necessary levels of support where required.

8.4 If the Association becomes aware that a member has breached the law, it shall forthwith inform the appropriate authorities in relation to such a matter.

8.5 The publication of the name of a member who has received a disciplinary penalty referred to:

- (a) in By-Laws 8.1 (a) to (c) shall be published in the official publication and on the website of the Association; and
- (b) in By-Laws 8.1 (a) and (b) shall also be made in a daily newspaper circulating in a geographic area appropriate to the place of residence and/or practice of the member.

Annual Statistics

8.6 The Association will publish annual statistics outlining the nature and frequency of complaints dealt with under its investigations and disciplinary procedures, the findings made as a result of the complaints and actions taken as a result of the findings of the Disciplinary Tribunal on the Association's website and official publications.

ANCILLARY CLAUSES

SECTION 9 PUBLIC PRACTICE

9.1 Pursuant to Clauses 117 to 120 of the Constitution, the Board of Directors prescribes the following obligations for members providing Public Practice services.

Members who must hold a Public Practice Certificate

9.2 Members who are providing BAS services pursuant to the definition in the *Tax Agent Services Act 2009* defining a BAS service and/or who are registered as a BAS agent pursuant to the *Tax Agent Services Regulations 2009*; or the *Tax Agent Services (Transitional Provisions and Consequential Amendments) Act 2009* must;

- (a) successfully complete the Institute's Public Practice Programme, or Board approved programs as suitable for holders of BAS agent registration seeking membership; and
- (b) hold a Public Practice Certificate; and
- (c) undertake at least 15 hours of continuing professional education each year; and
- (d) comply with the AAT Australia Code of Ethics; and
- (e) hold Professional Indemnity Insurance as per By-Law 9.8

Members who may hold a Public Practice Certificate

9.3 A member who is not required to be registered as a BAS agent pursuant to the *Tax agent Services Act 2009*; the *Tax Agent Services Regulations 2009*; or the *Tax Agent Services (Transitional Provisions and Consequential Amendments) Act 2009*; can demonstrate they have undertaken at least 1,400 hours of relevant experience over the preceding three years (1,000 hours for members who are also members of one of the major accounting bodies); and completed a course in basic GST/BAS taxation principles that has been approved by the Tax Practitioners Board may;

- (a) attend an AAT Australia Public Practice Programme; and
- (b) apply for a Public Practice Certificate;

Where they successfully attain their public practice certificate, they must;

- (i) undertake at least 15 hours of continuing professional education each year; and
- (ii) comply with the AAT Australia Code of Ethics; and
- (iii) hold a Professional Indemnity Insurance as per By-Law 9.8

Application for Public Practice Certificates

9.4 All members who apply to hold a Public Practice Certificate are required to comply with all other requirements for the issue of a Public Practice Certificate prior to its issue.

Issuing of Public Practice Certificates

9.5 Public Practice Certificates will be issued only in the name of a member and not in the name of a firm.

Requirements for holders of Public Practice Certificates

9.6 A member who holds a Public Practice Certificate must:

- (a) pay the annual certificate fee (if any) determined by the Board of Directors;
- (b) participate in the Public Practice annual survey;
- (c) comply with all other requirements of the Constitution, By-Laws and Pronouncements including the AAT Australia Code of Ethics;

9.7 A member who holds a Public Practice Certificate must also:

- (a) if the member is a sole practitioner, ensure that they are covered under a contract and/or scheme of professional indemnity insurance which complies with By-Law 9.8
- (b) if the member is a partner of an account keeping firm or firm registered as a BAS agent, ensure that the member and the firm and all other partners of the firm (whether or not they are members of the Association) are covered under a contract and/or scheme of professional indemnity insurance that complies with By-Law 9.8.
- (c) if the member is a director of an account keeping company or company registered as a BAS agent, ensure that the member and the company and all other directors and executive officers of the company (whether or not they are members of the Association) are insured under a contract and/or scheme of professional indemnity insurance that complies with By-Law 9.8
- (d) Each member must complete fifteen hours of continuing professional education (CPE) per calendar year. CPE is defined as any formally arranged course, either short term or longer term, within the disciplines of Accounting, Economics, Taxation or the suchlike. CPE would also include AAT approved discussion groups that offer delivered content. For example, any AAT arranged discussion group or that of any one of the recognised Accounting Bodies or Governance Bodies.

Professional Indemnity Insurance

9.8 Professional indemnity insurance cover must provide:

- (a) an amount as specified by the Board of Directors as a prescribed individual cover limit (costs exclusive) and/or an amount specified by the Board of Directors as an aggregate cover for all claims under a master policy cover;
- (b) for a policy excess or deductible of no more than an amount determined by the Board from time to time (costs exclusive);
- (e) that claims arising out of the dishonesty or fraudulent acts by an employee are not excluded;

- (e) cover for the cost of replacing or repairing documents lost, damaged or destroyed
- (f) unintentional defamation;
- (g) covers the insured for work done by agents or consultants while such agents or consultants are working for the insured.

Members not complying with this By-Law

- 9.9 If a member who is providing BAS services consistent with the definition for a BAS service in the *Tax Agent Services Act 2009*; and/or who is registered as a *BAS agent pursuant to the Tax Agent Services Regulations 2009*; or the *Tax Agent Services (Transitional Provisions and Consequential Amendments) Act 2009* does not hold a Public Practice Certificate then the member shall apply for and comply with all the requirements for the issue of a Public Practice Certificate. Such a member shall have a period of six months from the time from which they commenced providing BAS services pursuant to the *Tax Agent Services Act 2009*; and/or the *Tax Agent Services Regulations 2009*; or the *Tax Agent Services (Transitional Provisions and Consequential Amendments) Act 2009* to comply with the requirements for the issue of a Public Practice Certificate.
- 9.10 Failure to comply with any part of Section 9 - Public Practice may render a member liable to disciplinary action under Clause 90 of the Constitution.

SECTION 10 FEES AND SUBSCRIPTIONS

- 10.1 In accordance with directives given from time to time by the Board of Directors, the Association may, for reasons it considers adequate, excuse any member for such period as it may think fit from payment of subscription and fees in whole or in part.

SECTION 11 CONSTITUTION, BY-LAWS, PRONOUNCEMENTS

- 11.1 Members should have access to an up-to-date copy of AAT Australia's Constitution, By-Laws and Pronouncements in any format.

SECTION 12 ENTRY LEVEL QUALIFICATIONS

Pursuant to Clause 11(2) of the Constitution the qualification standards required for admission as a Member and BAS agent Members of the Association of the Association shall be as follows;

Member Entry Level Qualifications

With retrospective effect for all Member inductions since AAT Australia's inception, to become a voting Member of AAT Australia an applicant must have attained at least a Certificate IV Financial Services (Accounting) or Certificate IV Financial Services (Bookkeeping) or an equivalent standard of education awarded by a Registered Training Organisation or equivalent institution.

Entry Level Qualifications for Registered BAS agent Members

The qualification standard for BAS agent members is an attainment in either a Certificate IV Financial Services (Accounting) or Certificate IV Financial Services (Bookkeeping) or an equivalent standard of education awarded by a Registered Training Organisation or equivalent institution and has completed a course in basic GST/BAS taxation principles that has been approved by the Tax Practitioners Board.