

# ENFORCEMENT BYELAW

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## Purpose

The purpose of this Byelaw is to -

1. specify those persons who are subject to the *enforcement jurisdiction* of the *Society*;
2. make provision for the *Council* to order *inquiries* and commence *enforcement proceedings* against persons who are subject to the *enforcement jurisdiction* of the *Society*;
3. specify the circumstances in which *enforcement proceedings* may be commenced and the sanctions that may be imposed or orders that may be made as a result of *enforcement proceedings*;
4. provide for the establishment of *Enforcement Committees*, specify the powers of the *Enforcement Committees* and to permit the *Council* to make requirements regarding the conduct of proceedings before the *Enforcement Committees*;
5. provide for the establishment of an *Appeal Tribunal*, specify the powers of the *Appeal Tribunal* and to permit the *Council* to make requirements regarding the conduct of proceedings before the *Appeal Tribunal*;
6. specify the circumstances in which a person who is subject to the *enforcement jurisdiction* of the *Society* may make an application to the *Council* to invite it to modify or grant dispensation from any sanction imposed as a result of *enforcement proceedings*;
7. provide for the *Council* to issue *intervention orders* to persons who are subject to the *enforcement jurisdiction* of the *Society*; and
8. provide for the *Council* to impose *administrative fines* on *persons* who are subject to the *enforcement jurisdiction* of the *Society* for failure to comply with any provisions of Lloyd's Act 1871-1982 or any *requirement of the Council*.

The Byelaw also revokes –

1. The Inquiries and Investigations Byelaw (No. 3 of 1983);
2. The Suspension: Supplementary and Consequential Matters Byelaw (No. 19 of 1983);
3. The Administrative Suspension Byelaw (No. 7 of 1987);
4. The Misconduct (Reporting) Byelaw (No. 11 of 1989);
5. The Misconduct and Penalties Byelaw (No. 30 of 1996);
6. The Disciplinary Committees Byelaw (No. 31 of 1996);
7. The Appeal Tribunal Byelaw (No. 32 of 1996);
8. The Council Stage of Disciplinary Proceedings Etc. Byelaw (No. 33 of 1996);

9. The Appeal Tribunal (Amendment) Byelaw (No. 22 of 2000);
10. The Fit and Proper Person Determination Byelaw (No. 23 of 2000); and
11. The Restitution Orders Byelaw (No. 24 of 2000).

Words and terms shown in italics have the meaning set out in the Definitions Byelaw.

This Byelaw was made by the *Council* on 7 December 2005 in exercise of its powers under sections 6(2) and 7 of, and paragraphs (21), (22), (23), (24), (25), (26), (27), (28), (29), (30), (31), (33), (34) and (35) of Schedule 2 to, Lloyd's Act 1982 and may be referred to as the Enforcement Byelaw (No. 6 of 2005).

The headings and these notes are for guidance only and do not form part of the Enforcement Byelaw.

### **Amendments**

This byelaw was amended by

- Miscellaneous Provisions Byelaw (No. 4 of 2006)
- Amendments (Appointments to Senior Positions) Byelaw (No. 1 of 2008)
- Major Syndicate Transactions (Amendment No. 4) Byelaw (No. 2 of 2008)
- Intermediaries (Claims Determination) Amendment Byelaw (No. 1 of 2012)
- Constitutional Arrangements Amendment Byelaw (No. 2 of 2019)
- Enforcement (Administrative Fines) Amendment Byelaw (No. 1 of 2022)
- Miscellaneous Provisions (Amendment No. 1) Byelaw (No. 3 of 2023)

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## Part A – Enforcement Jurisdiction

Persons subject to the enforcement jurisdiction

1. The following *persons* shall be subject to the *enforcement jurisdiction* of the *Society* –
  - (a) a *member*;
  - (b) an *underwriting agent*;
  - (c) an *approved run-off company*;
  - (d) a *Lloyd's broker*;
  - (e) an *annual subscriber* (other than in respect of any *misconduct* committed in the *annual subscriber's* capacity as a director, partner or employee of a *Lloyd's broker*);
  - (f) a director or partner of any *person* (other than a *member* who is an individual) referred to in paragraph 1(a) to (c) above;
  - (g) a *person* who works for any *person* (other than a *member* who is an individual) referred to in paragraphs 1(a) to (c);
  - (h) a member of any *member* which is a *limited liability partnership*; or
  - (i) any *person* that has agreed to submit to the *enforcement jurisdiction* of the *Society* (within such scope and according to such limitations as may be agreed between the *person* and the *Society* from time to time);
2. A *person* shall remain subject to the *enforcement jurisdiction* of the *Society* after he or it has ceased to be a *person* referred to in paragraph 1 but only in respect of acts committed by, or omissions of, that *person* while he or it was a *person* referred to in paragraph 1.

## Part B – Misconduct

Meaning of misconduct

3. *Misconduct* means –

- (a) engaging in or being associated with or conspiring with another *person* to engage in discreditable or improper conduct, whether or not connected with the business of insurance;
- (b) conduct that is detrimental to the interests of the *Society, members, underwriting agents* ~~or~~, Lloyd’s policyholders, employees of underwriting agents, employees of other entities doing business in the Lloyd’s market, or others doing business\_ at in the Lloyd’s market;
- (c) (save in respect of a contravention or failure prescribed under paragraph 36B(a) (*administrative fines*)) a contravention or failure to observe –
  - (i) any provision of Lloyd’s Acts 1871-1982;
  - (ii) any *requirement of the Council* including any byelaw; or
  - (iii) any direction or order of the *Enforcement Board, an Enforcement Tribunal* or the *Appeal Tribunal*.
- (d) a deliberate or repeated act that causes any entity within the enforcement jurisdiction of the Society to breach the Principles For Doing Business at Lloyd’s, or such analogous oversight regime as may replace it from time to time.
- (e) anyone who is implicated in or aware of any alleged or actual misconduct or associated enforcement proceedings under this byelaw acting improperly towards a witness or whistleblower, including (but not limited to) by:
  - (i) intimidating, suborning false testimony from, or otherwise subjecting to detriment a witness or whistleblower;
  - (ii) revealing or publishing the identity of a witness or whistleblower or being complicit in the same; or
  - (iii) discussing a witness or whistleblower’s involvement in the alleged or actual misconduct in question, other than for the direct purpose of and in connection to responding to an investigation or proceedings under this byelaw.

3A. The following non-exhaustive list of behaviours are capable of amounting to misconduct, for the purposes of paragraphs 3(a) and 3(b):

- (a) Any act of dishonesty;
- (b) The misappropriation, or causing or permitting the misappropriation, of money or other property (especially for direct or indirect personal gain);
- (c) The creation or use, or causing or permitting the creation or use, of false or misleading documents or other information;
- (d) Breaching or causing or permitting a breach of a person's fiduciary or agency obligations related to the conduct of business in the Lloyd's market (for example, by making or permitting the making of a secret profit or failing to account for monies);
- (e) Failure or causing or permitting a failure to deal openly and honestly with, or provide clear and accurate information to, members, policyholders, counterparties or other relevant parties;
- (f) Any act or omission, or the causing or permitting of any act or omission, capable of damaging Lloyd's brand, licences or the Central Fund or otherwise likely to bring Lloyd's or the Lloyd's market into disrepute;
- (g) Failure or causing or permitting a failure to manage or safeguard properly, honestly or prudently monies or other assets held on behalf of policyholders or members in accordance with the terms of any applicable trust or agreement;
- (h) Failure or causing or permitting a failure to deal with Lloyd's in an open, honest and transparent manner or to ensure that Lloyd's is promptly informed of any matter which it reasonably ought to know;
- (i) Failure or causing or permitting a failure to organise and control the business of an underwriting agent in a responsible manner or to maintain proper records and systems for the conduct of its business and the management of risk;
- (j) Any act or omission or permitting any act or omission amounting to either i) the harassment (whether sexual or otherwise) or bullying of another person or persons; ii) discrimination against a person or persons on the grounds of any protected characteristics that are prescribed by law; or (iii) an improper abuse of power or authority over individuals in a more junior position;
- (k) Conducting Lloyd's business or representing a Lloyd's business when either i) under the influence of alcohol where it leads to unprofessional behaviour or behaviour that risks bringing the Lloyd's name into disrepute; or ii) under the influence or in possession of illegal drugs.

3B. Misconduct may be discreditable and/or improper where such conduct is unacceptable and/or unlawful by reference to the standards of conduct and behaviour reasonably to be expected of those subject to the enforcement jurisdiction of the Society in the light of prevailing and applicable legal requirements and/or legislation (including those pertaining to employment,

equality and protection from harassment) whether or not such conduct has or is capable of having an effect upon the Society at an institutional level (whether by means of effecting the Society's institutional reputation or otherwise).

3C. *Misconduct* need not take place in a professional environment in order to amount to *misconduct* for the purposes of this byelaw. In particular, but without limitation, so long as there is a material connection to the Lloyd's market, such as the presence of other market participants, conduct that falls within paragraph 3A(j) may occur in a social or other non-professional setting.

3D. Harassment has the same meaning in this Byelaw as in section 26 of the Equality Act 2010, as amended and interpreted by courts, tribunals, and statutory Codes of Practice from time to time.

Bullying, for the purposes of this Byelaw, is unwanted behaviour from a person or group that is either:

- (a) offensive, intimidating, malicious or insulting; or
- (b) an abuse or misuse of power that undermines, humiliates, or causes physical or emotional harm to someone.

In assessing whether conduct amounts to bullying, regard must be had to all the circumstances, including the following relevant factors, insofar as they apply:

- (i) whether the conduct is repeated or part of a pattern;
- (ii) the duration of the conduct;
- (iii) the size of the impact on the subject of the conduct and on those who witnessed or heard about or may hear about the conduct;
- (iv) the likelihood of damage to any person or the Society's work culture and the possible size of such damage (although this does not mean that conduct is permissible because a culture of bullying already exists);
- (v) the seniority of the person whose conduct is in question;
- (vi) the difference in seniority between the person whose conduct is in question and the subject of the conduct (although this does not mean that bullying towards someone more senior than the person is permissible);
- (vii) whether the conduct is related to a protected characteristic under the Equality Act 2010;



- (viii) whether the person concerned has been warned or disciplined for similar conduct by the firm, a previous employer, the police or a regulator;
- (ix) whether the person has previously undertaken not to do the act or engage in the behaviour in question; and
- (x) whether the conduct is criminal or would justify dismissal.

## Part C – Reporting Obligations

4. Any *person* subject to the *enforcement jurisdiction* of the *Society*, who ~~believes or has reason to believe that that *person* or any other *person* subject to the *enforcement jurisdiction* of the *Society*~~ reasonably believes that -
- ~~(a) has failed to comply with any provision of Lloyd’s Acts 1871–1982 or is likely to do so;~~
  - (a) there is or has been, or may be or may have been, a material contravention of any provision of Lloyd’s Acts 1871-1982, by that *person* or any other *person* subject to the *enforcement jurisdiction* of the *Society*;
  - ~~(b) has failed to comply with~~ there is or has been, or may be or may have been, a material contravention of any of the *requirements of the Council* or any *Financial Services Conduct Authority’s requirements* ~~or is likely to do so~~ by that *person* or any other *person* subject to the *enforcement jurisdiction* of the *Society*; or
  - ~~(c) has~~ that *person* or any other *person* subject to the *enforcement jurisdiction* of the *Society* is (or may be) committing, has (or may have) committed or intends (or may intend) to commit material *misconduct* within the meaning of this Byelaw or any of the following byelaws –
    - (i) the Misconduct, Penalties and Sanctions Byelaw (No. 5 of 1983);
    - (ii) the Misconduct Penalties and Sanctions Byelaw (No. 9 of 1993);
    - and
    - (iii) the Misconduct and Sanctions Byelaw (No. 30 of 1996);

shall notify the *Council* of their belief in writing as soon as practicable and provide any documents or other material which they believe to be relevant to their notification.

In this Part, a matter is “*material*” where the *person* reasonably believes that it may be of material significance to the *Society* in determining whether to exercise, in relation to the *person* concerned, any functions conferred on the *Society*, including disciplinary functions.

## Part D - Inquiries

### Power to order inquiries

5. The *Council* may order an *inquiry* into –
  - (a) the suitability, conduct or affairs of any *person* who is subject to the *enforcement jurisdiction* of the *Society*; or
  - (b) any frauds, crimes, malpractices or *misconduct*, or circumstances having the appearance of frauds, crimes, malpractices or *misconduct* committed or intended to be committed in connection with the business of insurance at Lloyd's;

where the *Council* considers that such an *inquiry* is necessary or appropriate.

### Conduct of inquiries

6. An *inquiry* shall be conducted by such *person* as may from time to time be nominated by the *Council* and the *Council* may from time to time prescribe requirements relating to the conduct of *inquiries*.

### Inquiry powers

7. Where it appears to a *person* conducting an *inquiry* that any *person* who is subject to the *enforcement jurisdiction* of the *Society* has in his or its possession, custody, power or control information, documents or other materials relating to or connected with any matter being inquired into, then the *person* conducting the *inquiry* may require that *person* –
  - (a) to attend before him or his agents at such time and such place as he may specify;
  - (b) to give oral evidence to him or his agents and to answer questions or otherwise provide information to him or his agents;
  - (c) to produce or give to him or his agents all such documents or other materials in his or its possession, custody or power;

where the *person* conducting the review requires the information, documents or other materials for the purposes of the *inquiry*.

8. Where a *person* conducting an *inquiry* has required the production of documents or other materials under paragraph 7 above, that *person* may require any *person* who is subject to the *enforcement jurisdiction* of the *Society* –
- (a) to provide him or his agents with all reasonable facilities in its premises for the purposes of examining or reviewing any such documents or other materials;
  - (b) to permit him or his agents to copy or take extracts from them on the premises or elsewhere;
  - (c) to provide an explanation of them; and
  - (d) if any of such documents or materials are not produced, to state, to the best of his or its knowledge and belief, where such documents or other materials are.

Power to require production of a skilled person report

9. The *Council* may require any *person* that is subject to the *enforcement jurisdiction* of the *Society* to provide it with a report on any matter about which the *Council* may order an *inquiry* of under paragraph 5 of the Enforcement Byelaw. The *Council* may require that the report –
- (a) be undertaken by a *person* nominated or approved by the *Council* with every assistance of any *person* who is subject to the *enforcement jurisdiction* of the *Society* in question as the *person* conducting the *inquiry* may reasonably require;
  - (b) contain such information and be in such form as the *Council* may determine;
  - (c) be undertaken at the cost of the relevant *person* that is subject to the *enforcement jurisdiction* of the *Society*; and
  - (d) be submitted to the *Council* by no later than such date as it may prescribe.

## Part DA – Early Account Scheme

### Early Account Scheme

- 9A. The Council may, in appropriate cases, permit a person that might otherwise be subject to an Inquiry under Part D above to itself conduct an investigation into the facts and matters that might otherwise be subject to an Inquiry by the Council (the "Early Account Scheme").
- 9B. The terms of any investigation carried out under the Early Account Scheme will be decided on a case-by-case basis by the Council.
- 9C. The Council shall take a person's compliance with the Early Account Scheme into account in deciding any settlement terms that it might offer to the person in any subsequent enforcement proceedings.

## Part E - Enforcement Committees

### Enforcement Committees as Disciplinary Committees

10. The *Enforcement Committees* means the *Enforcement Board* and the *Enforcement Tribunals* provided for by this Byelaw and the requirements made under this Byelaw.
11. The *Enforcement Committees* are *Disciplinary Committees* of the *Society* and they shall exercise all disciplinary powers and functions conferred on the *Council* by the Lloyd's Acts 1871 to 1982 and any byelaw made thereunder except –
  - (a) the power of the *Council* to confirm, modify or grant dispensation in respect of any *sanction* imposed by an *Enforcement Committee* or the *Appeal Tribunal*;
  - (b) those powers and functions which are expressed by Lloyd's Acts 1871 to 1982 and any of the *requirements of the Council* to be exercisable by the *Appeal Tribunal*; and
  - (c) the power of the *Council* to impose *administrative fines* pursuant to Part IA.

### Enforcement Board

12. The *Council* shall appoint the members of the *Enforcement Board* and may from time to time prescribe requirements to govern –
  - (a) the procedure for the revocation, suspension or replacement of members of the *Enforcement Board*; and
  - (b) the commencement and conduct of *enforcement proceedings* before the *Enforcement Board*.

### Functions and powers of the Enforcement Board

13. The *Enforcement Board* –
  - (a) shall have jurisdiction over *enforcement proceedings* (save the power to impose *administrative fines*) instituted by the *Council* unless and until the

*enforcement proceedings* are referred by the *Enforcement Board* to an *Enforcement Tribunal*;

- (b) may approve, reject or suggest modifications to the settlement of any *enforcement proceedings*;
- (c) where and to the extent that it approves any settlement, shall issue a decision as to *misconduct, sanctions* and costs;
- (d) where and to the extent that enforcement proceedings are not so resolved, shall appoint an *Enforcement Tribunal* to hear and determine such *enforcement proceedings* (and shall appoint and, if necessary, revoke the appointment of the members of that *Enforcement Tribunal*) and shall refer the *enforcement proceedings* (or such part as remains unresolved) to that *Enforcement Tribunal* for determination, from which time the *Enforcement Tribunal* shall be seised of the *enforcement proceedings* in place of the *Enforcement Board*.

#### Enforcement Tribunals

- 14. The *Council* may from time to time prescribe requirements to govern the –
  - (a) the membership of an *Enforcement Tribunal*; and
  - (b) the commencement and conduct of *enforcement proceedings* before an *Enforcement Tribunal*.

#### Powers of Enforcement Tribunals

- 15. An *Enforcement Tribunal* –
  - (a) shall hear and determine the *enforcement proceedings* before it in accordance with this Byelaw and any requirements that govern the commencement and conduct of *enforcement proceedings*; and
  - (b) may issue a decision as to *misconduct, sanctions* and costs.

## Part F - Enforcement Proceedings

Power to bring enforcement proceedings

16. The *Council* may institute *enforcement proceedings* against any *person* subject to the *enforcement jurisdiction* that it considers has committed or intended to commit *misconduct* (“*the defendant*”) and may prescribe requirements –
  - (a) to govern the commencement, procedure and conduct of *enforcement proceedings*; and
  - (b) relating to the burden and standard of proof and to the admissibility of evidence in *enforcement proceedings*.
17. *Enforcement proceedings* shall constitute disciplinary proceedings for the purposes of Lloyd’s Acts 1871 to 1982.



## Part G – Sanctions

### Sanctions

18. The *sanctions* that that may be imposed by an *Enforcement Committee* on a *defendant* against whom a finding of *misconduct* is made in *enforcement proceedings* are –
- (a) the exclusion or suspension from membership of the *Society*, or a requirement that a *member* cease underwriting at Lloyd's, permanently or temporarily, and either totally or in part;
  - (b) the revocation or suspension of a *person's* permission, consent, registration or right to act as an *underwriting agent*, an *approved run-off company* or a *Lloyd's broker*;
  - (c) the revocation or suspension of a *person's* permission, consent, registration or right to transact, or be concerned or interested in the transaction of, insurance business at Lloyd's or any class or classes of such business, either totally or in part;
  - (d) the revocation or suspension of an individual's permission to enter the Room and any other specified parts of the premises of the *Society*;
  - (e) a fine;
  - (f) a notice of censure;
  - (g) a declaration of an individual's unfitness or unsuitability to act as a director, partner or compliance officer of a *member* of the *Society*, an *underwriting agent* or an *approved run-off company*, or as a member of a *member* of the *Society* which is a *limited liability partnership*, or to perform a specific function within or for such a firm;
  - (h) an *order of restitution* where a profit has accrued to the *defendant* or a *person* has suffered loss or otherwise been adversely affected.

### Restitution

19. An *order of restitution* means an order for the payment of money by the *defendant* to another *person*, and the order shall specify –
- (a) the amount of the payment as appears to be just having regard to the profit that has accrued to the *defendant* or having regard to the loss suffered by, or adverse effect on, any *person*; and
  - (b) to which *person*, whether the *Council* or any other *person*, the *defendant* shall make payment.

Terms and conditions in respect of sanctions

20. Where any *sanction* is imposed, then subject to paragraph 21, an *Enforcement Committee* may impose any terms or conditions in connection with the implementation of, or for the operation of, that *sanction* that it considers necessary or appropriate which (without limiting the powers exercisable under this paragraph) may include a term or condition that the *defendant* –
- (a) cease underwriting, either totally or in part, in all or any *syndicates*;
  - (b) cease to be eligible to serve the *Society* in any or any specified capacity;
  - (c) shall not acquire any legal or beneficial interest in any shares or stock of a *corporate member* or an *underwriting agent* or exercise directly or indirectly any voting rights in respect of any shares or stock of a *corporate member* or an *underwriting agent*, or otherwise control or seek to control directly or indirectly a *corporate member* or an *underwriting agent*;
  - (d) shall not become a director of a *corporate member* or a director of or a partner in an *underwriting agent*;
  - (e) shall not work for a *corporate member* or an *underwriting agent* as a manager.
21. The *Enforcement Board* may only impose a *sanction*, or any terms and conditions in respect of that *sanction*, where they have been agreed by the *Council* and the *defendant*.
22. If it considers appropriate an *Enforcement Tribunal* may decide not to impose a *sanction* on a *defendant* against whom it has made a finding of *misconduct*. Such decision shall not prevent the *Enforcement Tribunal* making any order as to costs.

## Part H - Appeal Tribunal

### Appeal Tribunal

23. There shall be an *Appeal Tribunal* to determine appeals relating to –
- (a) *enforcement proceedings*;
  - (b) *intervention orders*;
  - (ba) *administrative fines*; and
  - (c) decisions of the *Council* as set out in schedule 1.
24. The *Council* shall appoint the members of the *Appeal Tribunal* and may from time to time prescribe requirements –
- (a) to govern the membership of the *Appeal Tribunal*;
  - (b) to govern the commencement, procedure and conduct of proceedings before the *Appeal Tribunal*; and
  - (c) relating to the admissibility of evidence in proceedings before the *Appeal Tribunal*.

### Rights of appeal relating to enforcement proceedings

25. Subject to paragraphs 27 and 28, a *defendant* shall have a right of appeal from a decision of an *Enforcement Tribunal* made against it as to any –
- (a) finding of *misconduct*;
  - (b) *sanction* imposed;
  - (c) order as to costs.
26. The *Council* shall have a right of appeal from a decision of the *Enforcement Tribunal* as to any –
- (a) finding of *misconduct* or finding that there was no *misconduct*;
  - (~~a~~b) *sanction* imposed;
  - (~~b~~c) order as to costs.
27. A *defendant* or the *Council* shall have no right of appeal from a decision of an *Enforcement Committee* approving terms of settlement agreed to by the *defendant* and the *Council*.

28. An appeal from a decision as to *misconduct, sanction* or costs made in default of service of a defence or where the *defendant* did not attend an oral hearing shall only be made with the permission of the *Appeal Tribunal*.

Rights of appeal relating to intervention orders

29. Any *person* against whom an *intervention order* has been made shall have a right of appeal against the order or any of the terms of the order.

Right of appeal relating to administrative fines

- 29A. Any *person* upon whom an *administrative fine* is imposed shall have a right of appeal against the *administrative fine* or the amount or any term of the *administrative fine*.

Rights of appeal relating to decisions of the Council

30. The persons referred to in paragraph 2 of schedule 1 to this Byelaw shall have a right of appeal in respect of the decisions of the *Council* as set in paragraph 1 of schedule 1.

Powers of the Appeal Tribunal

31. The grounds on which the *Appeal Tribunal* may allow an appeal (save in respect of the right to appeal a decision of the *Administrative Sanctions Panel*) are where it is satisfied that the body being appealed against –
- (a) made an error of law;
  - (b) took into account irrelevant matters or failed to take into account relevant matters or otherwise reached a decision so unreasonable that no reasonable body could have so decided;
  - (c) failed to adopt a fair procedure in reaching its decision;

provided that the *Appeal Tribunal* shall not allow an appeal unless it is of the opinion that substantial injustice has occurred.

- 31A. The grounds on which the *Appeal Tribunal* may allow an appeal against a decision of the *Administrative Sanctions Panel* are where it is satisfied that the *Administrative Sanctions Panel*:
- (a) made an error of law; and/or
  - (b) took into account irrelevant matters or failed to take into account relevant matters or otherwise reached a decision so unreasonable that no reasonable body could have so decided.
32. Where the *Appeal Tribunal* allows an appeal on one or more of the grounds set out in paragraph 31 or paragraph 31A of this Byelaw, then unless it exercises its power under paragraph 33 or paragraph 33A of this Byelaw, it shall order that the matter be re-determined by the body appealed from (and may order, if appropriate, that it shall be determined by a differently constituted body) and it may –
- (a) order that the original decision be stayed;
  - (b) give such directions for the re-determination of the matter as it thinks fit.
33. Where the *Appeal Tribunal* allows an appeal in *enforcement proceedings* on one or more of the grounds set out in paragraph 31 of this Byelaw, it may, if it considers appropriate and just in all the circumstances, substitute its own decision for that of the *Enforcement Tribunal* and shall, issue its own decision as to *misconduct, sanction* or costs.
- 33A. Where the *Appeal Tribunal* allows an appeal against an *administrative fine* on one or more of the grounds set out in paragraph 31A of this Byelaw, it may, if it considers it appropriate and just in all the circumstances, substitute its own decision for that of the *Administrative Sanctions Panel* and shall issue its own decision as to the *administrative fine* to be imposed.

## Part I - Council Stage

Right to request the Council to consider sanction

34. A *defendant* may request that the *Council* consider any *sanction* imposed on it by an *Enforcement Tribunal* or the *Appeal Tribunal* other than where a sanction has been imposed following a settlement of the *enforcement proceedings* or where the *enforcement proceedings*, in the opinion of the *Council*, related to *misconduct* of an administrative nature.

Power to confirm, modify or grant dispensation of sanction

35. Where a *defendant* makes a request under paragraph 34 of this Byelaw, then, subject to that paragraph, the *Council* may confirm, modify or grant dispensation in respect of any *sanction* imposed on a *defendant* by an *Enforcement Tribunal* or the *Appeal Tribunal*, and the *Council* may give any necessary directions or orders for the enforcement of any *sanction*.
36. The *Council* may from time to time prescribe requirements governing the commencement and conduct of proceedings before the *Council* under this part of this Byelaw.

## Part IA – Administrative Fines

### The Administrative Sanctions Panel

- 36A. The *Administrative Sanctions Panel* is the *Disciplinary Committee* of the *Society* with the power to impose *administrative fines* on *persons* subject to the *enforcement jurisdiction* of the *Society* pursuant to paragraph 36B and the *Council* shall appoint the members of the *Administrative Sanction Panel* and may from time to time prescribe requirements to govern the procedure for the revocation, suspension or replacement of members of the *Administrative Sanctions Panel*.

### Power to impose administrative fines

- 36B. The *Council* may from time to time make requirements for imposing *administrative fines* on *persons* subject to the *enforcement jurisdiction* of the *Society*, which shall prescribe –
- (a) the acts or omissions resulting in a contravention or failure to observe any provisions of the Lloyd's Acts 1871-1982 or any *requirements of the Council*, in respect of which the *Council* may impose *administrative fines*;
  - (b) the way in which *administrative fines* shall be calculated and any interest thereon; and
  - (c) the procedure for imposing *administrative fines*.
- 36C. The procedure adopted by the *Council* for imposing *administrative fines* shall be a simplified procedure and constitute disciplinary proceedings for the purposes of the Lloyd's Acts 1871-1982.
- 36D. The *Council* shall consult with interested parties prior to making any requirements pursuant to paragraph 36B including with any *persons* who would be subject to those requirements (but any failure to consult shall not invalidate any requirements made).

## Part J - Intervention orders

Power to make an intervention order

37. The *Council* may on such terms and conditions as it thinks fit make an *intervention order* restricting or suspending the permission, consent, registration or right of any *person* subject to the *enforcement jurisdiction* of the *Society* to transact, or be concerned or interested in the transaction of, insurance business at Lloyd's. The *intervention order* may be for a period not exceeding 6 months, provided that the *Council* may make one or more further *intervention orders* to commence on the date of expiry of any previous *intervention order*.
38. The *Council* shall only make an *intervention order* where it considers that the making of such an order is required in order to prevent or reduce the risk of serious harm being caused to the interests of the *Society, members, underwriting agents* or Lloyd's policyholders.
39. The *Council* may from time to time prescribe requirements to govern the commencement, procedure and conduct of *intervention order* proceedings.



## Part K - Costs

### Inquiries

40. Where the *Council* has ordered an *inquiry* in accordance with part D of this Byelaw it may, if it considers appropriate, order any *person* who is or was the subject of the *inquiry* to pay or contribute to the reasonable costs of the *inquiry*. Where the *Council* makes such an order it shall determine the amount of those costs.

### Enforcement proceedings

41. An *Enforcement Committee* may order any *person* who is a party to proceedings before it to pay or contribute to the costs incurred by the *Enforcement Committee* or by any other party to the proceedings. Where the *Enforcement Committee* makes such an order it shall determine the amount of those costs which may include –
- (a) remuneration and expenses of members of the *Enforcement Tribunal*;
  - (b) administration costs, legal costs and other costs incurred in connection with the *enforcement proceedings*;
  - (c) the *Council's* costs incurred in the investigation, preparation and presentation of the case; and
  - (d) the *defendant's* costs in the preparation and defence of the case.

### Appeal proceedings

42. The *Appeal Tribunal* may order any *person* who is a party to proceedings before it to pay or contribute to the costs incurred by the *Appeal Tribunal* or by any other party to the proceedings. Where the *Appeal Tribunal* makes such an order it shall determine the amount of those costs which may include –
- (a) remuneration and expenses of members of the *Appeal Tribunal*;
  - (b) administration costs, legal costs and other costs incurred in connection with the appeal;
  - (c) the *Council's* costs incurred in the preparation and presentation of the appeal; and
  - (d) the *appellant's* costs in the preparation and presentation of the appeal.

## Part L – Publication

43. The *Council* may, where appropriate, publish any decision or order made under this Byelaw on such terms and in such form as it sees fit and may prescribe requirements relating to the publication of *intervention orders* and decisions or statements of reasons given by *Enforcement Committees*, the *Administrative Sanctions Panel* or the *Appeal Tribunal*.

## Part M – Lloyd's Brokers

### Inquiries

44. A *person* conducting an *inquiry* shall not require any *Lloyd's broker* or any partner, director, officer or employee of a *Lloyd's broker* to comply with any requirements made under part D of this Byelaw unless -
- (a) the *Lloyd's broker's* name was entered in the register of *Lloyd's brokers* prior to 3 July 2000; and
  - (b) the matter being inquired into occurred prior to 3 July 2000;

provided that nothing in this paragraph shall be construed as prohibiting a *person* or *persons* conducting an *inquiry* from requiring a *Lloyd's broker* or partner, director, officer or employee of a *Lloyd's broker* from complying with any requirements made under part D of this Byelaw in a capacity other than as a *Lloyd's broker*, or as a partner, director, officer or employee of a *Lloyd's broker*.

### Sanctions

45. Where a finding of *misconduct* is made against a *Lloyd's broker* in respect of an act or omission which took place on or after 3 July 2000 the only *sanction* that the *Enforcement Board* or an *Enforcement Tribunal* may impose on the *Lloyd's broker* concerned is the revocation of its registration as a *Lloyd's broker*.

### Administrative Fines

- 45A. The power of the *Council* to impose *administrative fines* in accordance with paragraph 36A-D shall not apply to *Lloyd's Brokers* or any *person* in respect of their actions or omissions when acting in their capacity as a partner, director, officer or employee of a *Lloyd's Broker*.

## Part N - Transitional and miscellaneous provisions

### Power to bring enforcement proceedings under revoked byelaws

46. The *Council* may commence *enforcement proceedings* under this Byelaw against any *person* who was subject to Lloyd's disciplinary jurisdiction prior to the revocation of the Misconduct and Penalties Byelaw (No. 30 of 1996) where it considers that *person* has committed misconduct within the meaning of any of the following byelaws –
- (a) the Misconduct Penalties and Sanctions Byelaw (No. 5 of 1983);
  - (b) the Misconduct Penalties and Sanctions Byelaw (No. 9 of 1993);
  - (c) the Misconduct and Sanctions Byelaw (No. 30 of 1996).
47. The *Council* may commence *enforcement proceedings* under this Byelaw against any *person* that was subject to Lloyd's disciplinary jurisdiction prior to the revocation of –
- (a) the Restitution Orders Byelaw (No. 24 of 2000) where it considers that *person* has contravened a Lloyd's Requirement within the meaning of that byelaw so as to make a profit for himself or so as to cause another person to suffer a loss or otherwise to be adversely affected by such contravention;
  - (b) the Fit and Proper Person Determination Byelaw (No. 23 of 2000).
48. Where the *Council* commences *enforcement proceedings* under paragraphs 46 and 47 of this Byelaw, an *Enforcement Committee* may impose any penalty or *sanction* or make any order that would have been available under the revoked byelaw.

### Revocations

49. The Inquiries and Investigations Byelaw (No. 3 of 1983) is revoked as from the date that this Byelaw comes into force. Every *inquiry* which at 9 January 2006 is being conducted pursuant to the terms of the Inquiries and Investigations Byelaw (No. 3 of 1983) shall from 10 January 2006 be deemed to be an *inquiry* conducted in accordance with paragraph 5 of this Byelaw.
50. The following Byelaws are revoked save in respect of their application to any proceedings commenced prior to the date that this Byelaw comes into force –

- (a) The Suspension: Supplementary and Consequential Matters Byelaw (No. 19 of 1983);
- (b) The Administrative Suspension Byelaw (No. 7 of 1987);
- (c) The Misconduct (Reporting) Byelaw (No. 11 of 1989);
- (d) The Misconduct and Penalties Byelaw (No. 30 of 1996);
- (e) The Disciplinary Committees Byelaw (No. 31 of 1996);
- (f) The Appeal Tribunal Byelaw (No. 32 of 1996);
- (g) The Council Stage of Disciplinary Proceedings Etc. Byelaw (No. 33 of 1996);
- (h) The Appeal Tribunal (Amendment) Byelaw (No. 22 of 2000);
- (i) The Fit and Proper Person Determination Byelaw (No. 23 of 2000); and
- (j) The Restitution Orders Byelaw (No. 24 of 2000).

#### Commencement

51. This Byelaw shall come into force on 10 January 2006.

### Schedule 1 – Rights of appeal from decisions of the Council

1. An appeal may be made in respect of any of the following decisions of the *Council* made under any of the following provisions of the following byelaws –

	<b>Byelaw</b>		<b>Decision of the Council</b>
(a)	Membership Byelaw (No. 5 of 2005) as to		
		(i)	the imposition of a condition or requirement or the giving of a direction other than a condition, requirement or direction which is applicable to all <i>members</i> (under paras. 10 or 40).
		(ii)	the cessation or revocation of membership of the <i>Society</i> (under para. 47).
		(iii)	the refusal of an application for any consent, or the grant of any consent subject to a condition or requirement (under paras. 12 and 27).
		(iv)	the grant of permission to any underwriting <i>member</i> to underwrite insurance business at Lloyd's subject to any condition, requirement or direction (under para. 21).
(b)	Underwriting Byelaw (No. 2 of 2003) as to		
		(i)	the withdrawal of an <i>underwriting agent</i> or <i>approved run-off company's</i> permission to act as such (under para. 66).
		(ii)	the withdrawal of a <i>managing agent's</i> permission to manage a <i>syndicate</i> (under para. 67).
		(iii)	The decision of the <i>Council</i> that a <i>person</i> is not fit and proper or otherwise suitable to act as a director of an <i>underwriting agent</i> , as a director or partner of an <i>approved run-</i>

	<b>Byelaw</b>		<b>Decision of the Council</b>
			<i>off company</i> , as an <i>active underwriter</i> or as a <i>run-off manager</i> (under paragraph 42A).
		(iv)	any other matter with the permission of the <i>Council</i> .
(c)	Intermediaries Byelaw (No. 3 of 2007) as to		
		(i)	the revocation of the approval of an <i>approved coverholder</i> or <i>approved delegated claims administrator</i> (under para 19).
		(ii)	the refusal to grant an application for entry in the register of Lloyd's brokers (under para 43 (a)).
		(iii)	the removal of the name of a <i>Lloyd's broker</i> from the register of Lloyd's brokers (under para 43 (d)).
(d)	Audit Arrangements Byelaw (No. 7 of 1998) as to		
		(i)	the refusal of an application by a <i>person</i> for the entry of his name in the list of recognised accountants (under para. 3).
		(ii)	the removal of a name of a recognised accountant from the list (under paras. 5(1)(a), (2) or (3)).
(e)	Agency Agreements Byelaw (No. 8 of 1988) as to		
		(i)	the decision to grant or refuse an application under paragraph 11A.
		(ii)	the decision to grant or refuse an application under paragraph 11B.
		(iii)	the decision to grant or refuse a direction under paragraph 15.
(f)	[Deleted]		

	<b>Byelaw</b>		<b>Decision of the Council</b>
(g)	Syndicate Pre-emption Byelaw (No. 19 of 1997) as to	(i)	the refusal to grant a permission or the revocation or suspension of such permission (under para. 4A).
(h)	[Deleted]		
(i)	Annual Subscribers Byelaw (No. 15 of 2000) as to		
		(i)	the refusal of an application for entry in the register of <i>annual subscribers</i> (under para. 3).
		(ii)	the removal of the name of an <i>annual subscriber</i> from the register of <i>annual subscribers</i> (under para. 8).
(j)	[Deleted]		
(k)	Major Syndicate Transactions Byelaw (No. 18 of 1997) as to		
		(i)	the grant of or refusal to grant consent to a <i>syndicate</i> merger.
		(ii)	the imposition on the <i>managing agent</i> of any condition or the requirement of any undertaking in relation to a syndicate merger.
		(iii)	the grant of or refusal to grant permission for a minority buy-out.
		(iv)	the imposition of any condition or the requirement of any undertaking in relation to a minority buy-out.
(l)	Central Accounting Byelaw (No. 20 of 1998) as to	(i)	the exclusion from participation in the Central Accounting System of a participant referred to in paragraph 2(4)(c) to (h) of that byelaw (under para. 19(1)(a), (c) or (e)).



	<b>Byelaw</b>		<b>Decision of the Council</b>
(m)	Assignment of Syndicate Participations (Second Nomination) Byelaw (No. 6 of 2000) as to		
		(i)	the decision to grant a waiver or make a variation under paragraph 3(3) of that byelaw, by either or both of the <i>members' agent</i> or <i>managing agent</i> affected by such waiver or variation.
		(ii)	the decision to refuse a direction under paragraph (4) of that byelaw, by the <i>managing agent</i> which has applied for the direction;
		(iii)	the decision to grant a direction under paragraph (4) of that byelaw, by either or both of the person who has made the second nomination to which the direction relates or the person in whose favour the second nomination has been made.

2. Appeals under Schedule 1 of the Enforcement Byelaw may be brought by a *person* who
- (a) in respect of an appeal under sub-paragraph 1(b)(iv) of Schedule 1, has obtained the permission of the *Council* to do so;
  - (b) has made an application which has been refused (refusals including for the purposes of this paragraph the refusal to grant a clearance notice or give or vary an agreement);
  - (c) has had any approval, consent or permission granted to him revoked, suspended or withdrawn;
  - (d) has had any condition, requirement or direction imposed upon or given to him;
  - (e) has been removed from a list or register;
  - (f) has had his removal from a list or register postponed or who has been made the subject of a direction in connection with such postponement;
  - (g) in the case of a grant of or refusal to grant permission for a minority buy-out by the *managing agent* who made the application or by any *member* of any relevant *syndicate*;

- (h) in the case of the Intermediaries Byelaw (No 3 of 2007) had its approval as an *approved coverholder* or *approved delegated claims administrator* revoked;
  - (i) in the case of paragraph 42A of the Underwriting Byelaw (No. 3 of 2003), is a *person* who the *Council* has decided may not act as a director of an *underwriting agent*, as a director or partner of an *approved run-off company*, as an *active underwriter* or as a *run-off manager* in accordance with paragraph 42A;
  - (j) in the case of the grant of or refusal to grant consent to effect a syndicate merger, is the managing agent who made the application or is a member of the ceasing syndicate or is a member of the successor syndicate.
3. Appeals under Membership Byelaw (No. 5 of 2005) or paragraph 42A of the Underwriting Byelaw (No. 3 of 2003) may also be brought by an individual where any of the decisions under those byelaws, have been based, in whole or in part, on an adverse conclusion as to the character of that individual.

#### Notes

These notes, the note setting out the purpose of this Byelaw and the part and paragraph headings are for guidance only and do not form part of the Byelaw.

Words and terms shown in italics have the meaning set out in the Definitions Byelaw.

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