

Division:	Office of the CEO	Ref. No.	REL_PCS_028
Department:	President and Council Support		
Title:	Suspension and Removal of Office Holders, Committee Members and College Representatives		

1. PURPOSE AND SCOPE

The purpose of the College is to determine and maintain professional standards for the practice of surgery in Australia and New Zealand (s1.1.2 of the Constitution).

To effect this purpose, the College will promote high standards of practice, ethics and professional integrity in relation to training, specialist education, assessment, scientific research and surgical practice to improve the health of the community (s1.2.1 of the Constitution).

Section 6.2.2(g) of the Constitution gives Council the power to make, amend and repeal Regulations for the discipline of, and sanctions applicable to, Fellows, Trainees and others, including suspension, counselling, reprimand, termination or expulsion.

This Regulation governs the suspension and removal of office holders, committee members and College representatives.

These Regulations come into operation on the date they are approved and adopted by the Council.

2. KEYWORDS

Professional standards, ethics, integrity, offence, conduct, Constitution, suspension, termination, removal, office, position, representative, warning, reinstatement, appeal, regulatory body.

3. BODY OF POLICY

3.1 Background

Pursuant to the Constitution the Council has the power to make Regulations for:

- the creation, appointment, direction and dissolution of committees.
- the discipline, suspension and expulsion of fellows (including imposing any penalty or fine) as is necessary to uphold the Constitution and the ethics, dignity, good reputation, standards and purposes of the college.
- generally for the good governance and management of the college.

3.2 Guidelines For The Suspension/Termination Of Any Officer/Position

The Council may, in its discretion, terminate, suspend or remove any officer, committee member or College representative if:

1. the Person has failed to comply with the Constitution and any Regulations of the College, or failed to support the objects of the College;
2. the Person has failed to perform the duties of the office or position of the Person (whether evidenced by failure to attend meetings for a substantial period or otherwise);
3. any rights, privileges or obligations conferred upon the Person have been abused;
4. the Person has been charged and/or is convicted of any serious offence;

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5. the Council believes that a complaint or charge of a serious nature is made or issued by or before any medical board, medical tribunal, registration authority or similar body against the person;
6. the Person has engaged in, or been a party to:
 - I. unprofessional or unbecoming conduct;
 - II. conduct which is inconsistent with a Person's fellowship or the office or position held;
 - III. conduct which is prejudicial, adverse or damaging to the interests of the College; or
 - IV. conduct which conflicts with the interests, objects or affairs of the College;
7. the Council reasonably believes that the Person poses a threat or risk to the community;
8. any materials or evidence upon which any decision to appoint the Person to the office or position are considered to be false or misleading;
9. the Person becomes bankrupt;
10. the Person becomes prohibited from being a director of a company by reason of any order made under a law of a state, territory or the Commonwealth of Australia or New Zealand;
11. the Person is found to be guilty of an offence under, or in breach of, any code, regulation or enactment which applies to the Person as a practising surgeon or medical practitioner; or
12. the Person, not being an Honorary Member, is required to be registered and ceases to be entered on any register of Medical Practitioners by a Medical Registration Authority recognised by the Council for that purpose, of a state or territory of Australia or New Zealand or has conditions imposed on such registration, other than in circumstances of voluntary cessation of registration upon retirement from the practice in medicine or with the prior approval of the Council;
13. The Person has had their Fellowship removed under s3.2.1 of the Constitution.

3.3 Period of Suspension

If the Council decides to suspend the membership of a Person, the period of suspension may be indefinite or may be for a period the Council deems fit or appropriate having regard to the circumstances.

3.4 Application For Reinstatement Of Office Or Position

Any Person whose office or position is suspended or has been removed, may apply to have such suspension lifted or to be reappointed.

- 3.4.1 The applicant must at the time of making an application provide the Council with a written statement that:
 - a. includes a detailed account of the relevant conduct and practice of the applicant since the time of suspension or removal;
 - b. specifies any mitigating circumstances;
 - c. if relevant, specify any punishment imposed by any Court or other regulatory body, together with its secondary effects, in connection with the offence, event or matter to which the suspension related;
 - d. if relevant, is supported by evidence of remorse, contrition and acceptance of responsibility for the offence, event or matter to which the suspension related; and

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- e. states why, in the applicant's opinion, the suspension should be lifted or the applicant should be reappointed; and
- f. such other information as the Council may require.

3.4.2 The Council may:

- a. convene, or seek to convene, a meeting with any applicant. Any such meeting shall be held and conducted on such terms and conditions as the Council determines from time to time; and/or
- b. notify an applicant of the grounds upon which their application has been rejected or accepted.

3.4.3 If the Council convenes a meeting pursuant to 3.4.2.a, the Council must:

- a. give the applicant an opportunity to be heard; and
- b. give due consideration to any written statement submitted by the applicant.

The decision of the Council in connection with an application will be final, conclusive and binding.

3.5 Warning Letter

Without being obliged to do so, the Council may issue a warning letter to a Person, containing such terms as the Council determines from time to time.

Without limitation, a warning letter may identify concerns the Council has about a Person's conduct, or events or circumstances that have come to the attention of the Council which may give rise to a Person's office or position being suspended in accordance with the Constitution or these Regulations.

The issuing of a letter by the Council will not:

- a. require the Council to take any further action or do anything; or
- b. prejudice the rights of the Council or the College in respect of any action, step, claim or demand made in connection with the termination or suspension of the membership, employment or office or the position of a Person.

3.6 Appeal

Any decision of the council under these Regulations may be subject to appeal under the College's appeal Regulations.

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3.7 Not Apply To Members Of Council Or Employment

The powers of the council under these rules and regulations do not apply to:

- a. the position of a Person as a member of the Council of the College (refer to ss7.3 and 7.4 of the Constitution); or
- b. the employment of a Person by the College;

but nothing in these Regulations affect or shall prejudice any other powers or functions of the College in relation to such matters.

3.8 Powers Under Constitution

These Regulations do not limit, vary or revoke any power or authority conferred on the Council, or any committee or branch of the Council, under the Constitution or at law.

3.9 Amendments To These Regulations

These Regulations may be added to, amended and repealed in accordance with the Constitution.

4 Definitions And Interpretation

In these Regulations:

“*Constitution*” means the Constitution of the Royal Australasian College of Surgeons.

“*Person*” includes:

- i. a Fellow;
- ii. an Honorary Fellow;
- iii. a member of any Committee or Sub-Committee of the College or of the Council;
- iv. the holder of any position or Officer of the College including supervisors, assessors and examiners;
- v. any person otherwise engaged by or for the College, of any Council, Committee, Division, Section or Grouping of or within the College or appointed to represent the College.

“*Office*” and “*Position*” include any office or position with any Committee, Division, Section or Grouping of or within the College;

“*Regulations*” means these Regulations, as may be in force for the time being;

Unless the contrary intention appears in these Regulations:

- i. where a word or phrase is defined in the Constitution the word or phrase has the same meaning throughout these Regulations;
- ii. words importing the singular include the plural, and words importing the plural include the singular; and

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- iii. words used to denote persons generally or importing a natural person include any company, corporation, body corporate or other body (whether or not the body is incorporated).

In these Regulations, headings and boldings are for convenience only and do not affect its interpretation.

In the event of an inconsistency between these Regulations and the Constitution, the Constitution will prevail to the extent of the inconsistency.

4. ASSOCIATED DOCUMENTS

RACS Constitution.

Approver Director
Authoriser Council