



## ASSIGNED RISKS POOL PANEL

### Terms of Reference, Panel Roles & Responsibilities and Panel Meeting Format With Effect from 1 April 2021 ~~of 1 April 2020~~

All definitions shall be as per the latest Rules of Admission and Membership of the Assigned Risks Pool (ARP), unless the context otherwise requires.

#### 1. Composition and Appointment

- 1.1. The constitution and membership of the Assigned Risk Pool Panel (the 'Panel') shall be approved by the Standards and Regulation Board.
- 1.2. RICS Members of the Panel shall be appointed in accordance with the Global Appointments Model (the 'GAM'), as approved by Governing Council from time to time.
- 1.3. RICS Members of the Panel may serve for an initial three year term, and will be eligible for re-appointment for a second three year term. A person may not serve for longer than six continuously on the ARP Panel.

#### 1.4. ~~1.4.~~ The Panel shall comprise:

- (a) A Chair who will be a Chartered Surveyor; and
- (b) ~~one~~ ~~two~~ Panel Members who ~~are~~ ~~will be a~~ RICS members; and  
~~(be) up to 3~~ three Panel members who are Listed Insurers ('Insurer Members') ~~or the~~  
ARP Manager as their representative.

~~A representative from the ARP Manager and from RICS Regulation will attend, but will not be a members of the Panel.~~

- 1.5. Insurer Members may delegate authority to the ARP Manager to represent them at Panel.

- 1.6. ~~A representative from the ARP Manager and RICS Regulation will attend, but will not be members of the Panel.~~

#### 2. Functions of the Panel

- 2.1. In summary the functions of the Panel will be:

- (a) to advise Insurers on the Panel about the nature of the Firms admitted to the ARP;

**Commented [HG1]:** Ask question on panel membership in consultation?

Should this continue to consist of RICS members?

**Commented [TT2R1]:** I think we should retain one RICS member who should be the Chair; I think the other members should be the three Listed insurers (who can then delegate to the ARP Manager) and one staff member (ARP Case Manager maybe?)

**Commented [HG3R1]:** Agreed

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**Commented [HG4]:** Include question in consultation on composition

**Commented [TT5R4]:** Agreed.

**Commented [JG6R4]:** This isn't reflected in the consultation. The consultation says there will be three insurers, this says upto, and the ARP managers a rep. We need to reflect the right wording in each document, as there is a difference.

**Commented [HG7R4]:** Done

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- (b) to sanction or ratify admissions to the ARP;
- (c) to monitor Firms' progress within the ARP;
- (d) to provide input into the business review and investigative process and advise Insurers on the Panel accordingly;
- (e) to advise the applicant Firm on the terms within the ARP and interpret the Rules of Admission;
- (f) to determine premiums, return premiums and other insurance terms and conditions.

- 2.2. The Panel may delegate to the ARP Manager or to its nominated sub-contractor such of its functions as it considers appropriate.
- 2.3. If the Panel is unable to reach agreement on the premium and/or other insurance terms, it shall adjourn until a future date which shall be at least 5 working days after the adjourned date.

**3. Meetings, Quorum and Voting Rights of the Panel**

- 3.1. The Panel shall meet ~~as and when required.~~ when:
  - (a) a Business Review is required under Rule 39 of the RICS Assigned Risk Pool Rules for Admission; or
  - (b) when RICS, the ARP Manager or Listed Insurer feels it appropriate to do so.

~~which varies~~  
~~The Panel will not be required to meet when a Firm has been offered ARP terms by the Listed Insurers without the need for dispensation.~~
- 3.2. The Panel shall appoint a Vice Chair ~~who is an RICS Member~~ to preside when the Chair is not present.
- 3.3. The Panel may invite any person whom it believes is able to contribute to its decisions to attend a meeting to deal with any particular case. Any person so invited will have no right to vote at meetings of the Panel.
- 3.4. The quorum of the Panel will be three persons and must include the Chair ~~(-or Vice Chair);~~ one Panel member who is an RICS member and one Insurer Member.
- ~~3.5. Decisions of the Panel will be by a majority vote.~~
- 3.56. The Panel may adjourn at any time to enable it to obtain further information and may re-convene provided that at least 5 working days has elapsed.
- 3.67. The Panel shall keep minutes of its deliberations and decisions but the circulation

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**Commented [JG8]:** Double check rule since amendments were made

**Commented [HG9R8]:** Correct reference

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**Commented [JG10]:** The last point isn't in the conduct, and they're "ands" rather than "ors" in the condoc

**Commented [HG11R10]:** done

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**Commented [TC12]:** Is this correct? A dispensation from the RICS MPW is currently decided by HOR or a manager within Registration & Compliance. A panel is not currently required in this area.

**Commented [TT13R12]:** I think we could remove this line. I think as long as we say that the Panel will meet when RICS, the ARP Manager or Listed Insurer requires it, we can leave out when the Panel won't meet.

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**Commented [TT14]:** I think this will need to be amended depending on the outcome of the consultation re composition.

**Commented [TT15]:** As above; will need amending depending on the outcome of the consultation.

**Commented [TT16]:** I don't think we should include anything on voting. Decisions should be reflected as decisions of the Panel. I think we should simply delete this line.

**Commented [TC17R16]:** Agreed

of those Minutes shall be confined to members of the Panel, the ARP Manager, RICS Regulation and RICS' Head of Regulatory Governance and Tribunals.

3.8. The Panel will be supported by RICS staff.

#### 4. Powers of the Panel

4.1. The powers of the Panel will be as delegated to it by RICS' Standards and Regulation Board, and may be amended from time to time.

4.2. The powers of the Panel shall include the following:

(a) to decide matters relating to Firms admitted to the ARP;

(b) to monitor Firms' during their period within the ARP;

(c) to require the Firm to answer such questions in addition to matters covered in the Proposal Form as the Panel considers appropriate and to invite the Firm and/or its insurance or legal advisers to make such written representations as they may wish to the Panel;

(d) to consider the compliance checklist prepared by the RICS in respect of the Firm's compliance with RICS Rules;

(e) to cause to be commissioned an investigative report and business review of the firm requesting admission. In the event of such a report having to be commissioned as a matter of urgency the authority of the Chair or Vice

~~Chair and two two other members of the Panel, at least one of whom must be a Chartered Surveyor will suffice;~~

(f) to decide the final premium to be paid by the Firm admitted to the ARP and other terms and conditions;

(g) to decide the appropriate level of cover and excess for the Firm whilst in the ARP;

(h) to consider the recommendation of the Investigative Report. Where necessary it will make directions to the Firm of those actions the Firm should take to become an acceptable risk to the insurance market once more;

(i) to agree the period that a Firm shall be in the ARP and any extensions to that period.

(j) to have reported to them all significant claims of interest that arise during the period within the ARP;

(k) to review the limit of indemnity of the Firm should the aggregate limit be eroded or extinguished by paid or outstanding claims whilst the risk is still in the ARP;

**Commented [TT18]:** Likely to require amendment post consultation – composition of the Panel.

(l) to monitor and approve any other matters as appropriate in relation to a Firm's admission and stay in the ARP.

## 5. ARP Manager

5.1. The ARP Manager will be appointed by RICS, inter alia, to advise on insurance matters, ~~to manage the ARP and~~ to implement decisions made by the Panel. The ~~ARP~~ ARP Manager will, unless ~~the~~ otherwise determined by the Panel, be entitled to attend ~~and~~ and speak at all meetings of ~~the~~ the Panel.

5.2. The ARP Manager will not be entitled to vote unless Insurer Members delegate authority to attend Panel meetings on their behalf.

## 6. Panel Meetings - Roles and Responsibilities

6.1. The role and responsibilities of the ~~Panel~~ Chair are as follows:

- (a) To lead and control the Panel meeting or any discussions necessarily held between Panel members outside of the Panel meeting forum;
- (b) To ensure any Panel meeting is run in a timely manner;
- (c) To arbitrate on any points of disagreement.

6.2. The roles and responsibilities of the RICS ~~Members~~ on the Panel ~~are~~ are as follows:

- (a) To provide background information and knowledge to Insurers on questions of surveying practice;
- (b) To assist the Panel on setting of membership restrictions;
- (c) To vote, as necessary, on points of contention.

6.3. The roles and responsibilities of the Insurer Members on the Panel are as follows:

- (a) To set terms for insurance;
- (b) To provide background information and knowledge to the Panel on questions of insurance practice;
- (c) To vote as necessary of points of contention.

6.4. The roles and responsibilities of the Business Reviewers are as follows:

- (a) To provide factual written reports to the Panel prior to the meeting;
- (b) To provide verbal additional information and opinion to the Panel, as necessary;

Commented [TT19]: This is still correct.

Commented [HG20]: Does this need amending?

Commented [TT21R20]: Amended slightly. I don't think it is correct to say that the Insurer Manager 'manages the ARP'. I think there are aspects which the ARP Manager manages, but not in totality.

Commented [TT22]: Likely to need amending post consultation – links to composition point.

(c) To answer questions from the Panel arising out of reports;

(d) To provide background information and knowledge to Insurer Members on questions of Surveying practice and/or Accounting practice, as applicable.

6.5. The roles and responsibilities of the ARP Manager is as follows:

(a) To provide underwriting information to the Panel;

(b) To answer questions from insurers arising out of the underwriting information;

(c) To provide background information and knowledge to the Panel on questions of insurance practice;

(d) To record the terms for insurance within the ARP agreed by the Panel and pass these on to the Firm's broker.

(e) To represent and vote on behalf of Insurer Members if Insurer Members delegate such authority to the ARP Manager.

6.6. The roles and responsibilities of representatives of RICS Regulation are as follows:

(a) To record points of clarification arising out of information provided;

(b) To record the decision of Panel relating to membership restrictions and insurance terms;

(c) To report membership/regulatory breaches to relevant departments within the RICS;

(d) To provide background information and knowledge to Insurers on questions of regulation.

## 7. Panel Meeting format

7.1. Panel meetings should all follow the same order as follows:

(a) Conflict of interest declaration;

(b) Underwriting information/verbal report, supplied by ARP Manager;

(c) Consideration of compliance checklist supplied by RICS;

(d) Business Review (if relevant) – verbal report supplied by Reviewer;

(d) Financial review (if relevant) – verbal report supplied by Reviewer;

(e) Business review (if relevant) – verbal report supplied by Reviewer;

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**Commented [PW23]:** Could we change terminology? The 'business review' refers to a combination of the 'operational review' (i.e. a review of a firm's surveying practices, including Red Book adherence) and a 'financial review' (i.e. review of the firm's financial performance and position).

**Commented [TT24R23]:** The definition of Business Review has been amended in the Rules for Admission to include a finance review if required, and the definitions which apply to these ToR are as per the Rules for Admission. I have amended slightly here to reflect this change. Thanks Pete.

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~~(f)~~(e) Questions from insurers arising from verbal and written reports, taken in order of size (of participation);

(g) Questions from members arising from verbal and written reports only for clarification and to assist with setting membership restrictions;

~~(g)~~(f) Setting of insurance terms, premium and instructions to ARP Manager;

~~(h)~~(g) Setting of membership restrictions;

~~(i)~~(h) ARP Manager and RICS Regulation confirmation of cover and terms;

~~(j)~~(i) Matters arising from current membership of the ARP;

~~(k)~~(j) Any other points arising.

7.2. The discussion should be limited to business practices and implications this has on the insurance cover, not regulatory issues. Regulatory breaches should be noted and reported to RICS Regulation.