



Institute
and Faculty
of Actuaries

Readmission to Membership

Information for the applicant

by the Disciplinary Board
of the Institute and Faculty of Actuaries

May 2019

Readmission to membership following disciplinary expulsion or exclusion - information for the applicant

The purpose of this note is to provide helpful information for applicants applying for readmission to membership of the Institute and Faculty of Actuaries (IFoA) following disciplinary expulsion or exclusion. There are a number of notes like this available on our website, dealing with different stages of our Disciplinary and Capacity for Membership Schemes (the Scheme). If you cannot find a note that deals directly with your query, please contact us for assistance.

Who does this information note apply to?

This information note is applicable to members who have been expelled or excluded from membership in accordance with the Scheme, or the Financial Reporting Council's (FRC's) Actuarial Scheme, and who wish to apply for readmission.

This note does not apply to members who have resigned or whose membership has lapsed.

When can I apply for readmission to membership?

You may submit an application for readmission no earlier than three months before the expiry of the specified period of expulsion or exclusion. The period of expulsion or exclusion will be detailed in the determination issued to you by the appropriate Disciplinary Panel. If your application for readmission is unsuccessful, you are normally unable to submit a further application for readmission until one year after the determination of your first application.

How do I apply for readmission to membership?

The IFoA has published a form which you should use to complete your application.

You should provide as much information as possible in support of your application to assist the panel with their consideration of your application. This should include the reason for your expulsion/exclusion, what you have been doing since the conduct which resulted in your expulsion/exclusion, your current employment status, any steps taken to keep up to date with professional standards and practice and the nature of any professional opportunities open to you.

You should also provide a reflective statement. This may include your reflections on the conduct which led to your expulsion/exclusion, any steps you have taken to address this conduct, how you will ensure that something similar will not happen again and your reasons for requesting readmission.

You should include supporting documents, where appropriate, in order to verify the information provided in your application. Where appropriate, you should also provide character references and your recent employment appraisal. If character references are submitted, any individuals providing a reference should confirm that they are aware of your expulsion/exclusion and the reasons for this.

You must also provide details of any circumstances which may make you unsuitable for membership of the IFoA. For example:

- being subject to any criminal convictions, adverse findings, judgements, determinations or disqualification orders;
- being made insolvent or entered into a similar process;
- being censored, disciplined or publicly criticised by any professional body, other than the IFoA, you belong or belonged to;
- being dismissed from any office or employment;
- being excluded from a university course for misconduct;
- being refused entry to any profession, association or occupation.

Your application and supporting documents should be submitted to the IFoA at the following address:

Disciplinary Investigation Team
Institute and Faculty of Actuaries
Level 2 Exchange Crescent
7 Conference Square
Edinburgh,
EH3 8RA

Disciplinary.Enquiries@actuaries.org.uk

What will happen once my application has been submitted?

An IFoA Case Manager will be assigned to your application. They may carry out further investigations. For example, they may ask you or other individuals to provide further information or documents. All members have a duty to cooperate with any investigation under the Scheme, therefore you are required to comply with any requests for information or evidence.

The Case Manager may collate the information and documentation obtained in a report. You will be provided with a copy of the report and any supporting documentation.

If you were excluded or expelled in accordance with the FRC's Actuarial Scheme, the FRC's Conduct Committee will be notified of your application.

How will my application be determined?

A panel will consider your application for readmission at a public hearing.

You will be given at least 28 days' notice of the hearing date. You will be provided with a copy of any report and supporting documentation prepared by the Case Manager.

If you would like the panel to consider any additional documentation in advance of the hearing, you should provide this to the secretary to the panel at least 14 days before the hearing date to ensure there is sufficient time for the panel to review this in advance of the hearing.

Each panel consists of three or more people. This includes at least one Fellow of IFoA and at least one Lay person who is not a Member of the IFoA.

The panel is assisted by a Legal Adviser who is an experienced Solicitor, Barrister or Advocate who advises the panel on points of law and procedure. Any advice the Legal Adviser gives to the panel will usually be given in public. However the Legal Adviser will accompany the panel when it is deliberating in private (but has no role in the decision making process). Where the panel receives any legal advice during such deliberations, that advice will be repeated both to the IFoA and you when the panel is back in public session. The IFoA, you and/or your representatives can then make submissions with regard to this advice.

Do I have to attend the hearing?

No, but it is usually in your best interests to do so. The panel may have questions about your application that only you can answer. If you are unable to attend the hearing in person, arrangements may be made to allow you to attend by videolink.

The hearing may take place even if you do not attend, as long as the IFoA can show that you were given reasonable notice of the hearing.

If you are not able to attend the hearing or do not wish to attend, please notify the secretary to the panel as soon as possible, and at least 14 days before the hearing. If you are not attending the hearing but wish to submit written representations for the panel to consider, these should be received by the secretary to the panel at least 14 days before the hearing.

Representation

The IFoA is usually legally represented during a hearing. Occasionally one of the IFoA's employees will present the IFoA's case.

You may wish to instruct a legal representative to prepare or present your application. You can also be accompanied by a friend or colleague at the hearing. If you will be represented at the hearing, or will be accompanied by a friend or colleague, please advise the secretary to the panel accordingly.

Can I call witnesses?

Yes, you are entitled to call any witnesses you wish. If you are intending to call witnesses you should notify the secretary to the panel. If you do call witnesses, the IFoA has the right to cross examine them and the panel can ask them questions too.

Role of the IFoA

It is your responsibility to present all of the information and evidence in support of your application to the panel. It is the role of the IFoA to make the panel aware of any additional information relevant to its consideration of your application and to examine and cross examine witnesses as appropriate. Where appropriate, the IFoA may oppose your application and present evidence in support of this to the panel. Regardless of the IFoA's position, the panel will be responsible for determining whether to accept or refuse your application.

Who will be at the hearing?

The panel members and their Legal Adviser will attend the hearing, as will the secretary to the panel. The secretary is responsible for the administration of the hearing and may also advise the panel on procedural matters.

A Solicitor or Barrister will usually attend to represent the IFoA. The Case Manager will also usually be in attendance.

A stenographer will normally attend and will take a note of the hearing. A copy of the transcript will be made available and if you would like a copy you should contact the secretary to the panel to request this.

Hearings are usually held in public (other than in exceptional circumstances). This means that anybody who wishes to attend is entitled to sit in and observe the proceedings. Sometimes hearings, or part of hearings, are held in private due to the confidential nature of the matters involved. The IFoA, you or your representative can apply to the panel to hear all or part of a case in private. Further information about this can be found below.

Witnesses are people who can be called to give evidence either by the IFoA, or you, or your representative. Witnesses will be asked to remain outside of the panel hearing until they have completed giving their evidence. After that, the witness may sit in and observe the proceedings as with any member of the public.

How do I make an application to have part/all of the hearing in private?

You, your representative or the IFoA can, at any time, make an application to the panel, to hear part or all of the hearing in private. Even if no application is made, the panel may decide to hold part or all of the hearing in private if they think there is good reason for doing so. If you wish to make an application in advance of the hearing for all or part of it to be held in private, please advise the secretary to the panel.

What documentation will be provided to the panel in advance of the hearing?

In advance of the hearing, the panel will be provided with:

- the determination which imposed the exclusion or expulsion;
- if available the transcript of the proceedings in which the exclusion or expulsion was imposed;
- your application and any supporting papers you have submitted;
- any report or supporting papers submitted by the Case Manager.

The panel will have read this documentation in advance of the hearing and copies will be available at the hearing.

Where will the hearing be held?

Hearings are normally held in London or Edinburgh. They are not held at the IFoA offices, but at neutral premises. The secretary to the panel will send you a notice of the date, time and location of the hearing. If you are unable to attend the hearing in person, you should contact the secretary to the panel who may be able to arrange videolink facilities.

If you have a disability, communication difficulties or other additional needs, please advise the secretary before the hearing, so any reasonable adjustments can be made.

On the day of the hearing

The secretary to the panel will have notified you in advance of the start time of the hearing. If you would like to see the hearing room before the hearing starts, please advise the secretary who will show you the room and explain any procedural matters upon request. After you have arrived at the hearing venue, the secretary will take you to a private meeting room. The room will be available to you throughout the duration of the hearing. If the hearing is scheduled to last into the afternoon, lunch will be provided for you and your representative(s).

The start of the hearing

When the panel is ready to start, the secretary will direct you to the hearing room and advise you where to sit. All parties remain seated throughout the proceedings. The Chairman of the panel will introduce the panel members and briefly explain the process to be followed.

Order of the panel hearing

The hearing will normally follow the order of events set out below:

- The IFoA's representative will set out the background of the case and the circumstances in which you were expelled or excluded. They will also highlight any evidence relevant to the panel's consideration of your application.
- The IFoA's representative may call witnesses to give evidence. If witnesses are called, the IFoA will first ask them questions, then you or your representative can ask questions (this is called cross-examination), then the IFoA has an opportunity to ask any further questions they may have. The panel members then have the chance to ask any questions they may have of the witness.
- Once the IFoA has finished presenting its case, it is your chance to present your case and call witnesses, if you wish. If you do call any witnesses the IFoA has the right to cross-examine them and, following this, you will have an opportunity to ask any further questions you may have. The panel members can also ask questions of any witnesses you call.
- The panel may question the applicant and the IFoA's representative.

- The IFoA will normally summarise its case and then you will normally have an opportunity to summarise your case.
- The panel will then retire to determine the case. They will sit in private and determine, by simple majority, whether to accept or refuse your application. In reaching its determination, the panel will consider all the relevant factors, including the following:
 - your circumstances;
 - your behaviour since you were expelled or excluded;
 - the steps you have taken to keep up to date with professional standards and practice;
 - the nature of any professional opportunities open to you;
 - whether, if readmitted, you could be expected to uphold the standards expected of a member.

Burden of proof

If there are facts in dispute, the IFoA will bear the burden of proving those facts. The standard of proof to be applied by the panel is the civil standard of proof (ie on the balance of probabilities) as applied by the Courts of England and Wales. This means that there must be evidence that it is “more likely than not” that the IFoA’s assertion is correct.

When will the panel make a decision?

The time taken to make a decision will vary from case to case, but the panel usually make their decision on the day of the hearing and announce it orally. If you are not present at the hearing the secretary will contact you shortly after the hearing to notify you of the outcome.

The panel’s detailed reasons for the decision will follow when the precise wording has been agreed. The written decision of the panel is called a “determination” and this will typically be provided to you within 2-3 weeks of the panel meeting.

Can the panel make a costs award?

No, the Panel cannot make a costs award.

Is the determination of the panel made public?

The determination will usually be published in full on the IFoA’s website and a summary is usually published in *The Actuary* magazine. Further information about publication is available on the IFoA’s website.

Can I appeal the determination of the panel?

You do have a right of appeal if the panel refuses your application and more information is given below.

Can the IFoA appeal the determination of the panel?

No, they have no right of appeal.

How do I appeal the determination of the panel?

If your application is refused and you wish to appeal, you must serve a written notice of appeal within 28 days of the panel’s written determination being sent to you. This must be sent to the Chair of the appeal panel at clerk@actuaries.org.uk

There is no specified form for the notice of appeal, however you must state the grounds upon which you are appealing and explain why you are relying on those grounds. The grounds must be one or more of the following:

- the determination was manifestly unreasonable, and/or inconsistent with the evidence and/or wrong in law;
- there was injustice because of serious procedural or other irregularity in the proceedings before the panel;
- significant and relevant new evidence has come to light which was not previously available to you and could not reasonably have been made available to the panel.

The grounds for appeal cannot be amended at a later date without the leave of the appeal panel or its Chair, therefore you should ensure that your notice of appeal is correct before submitting this.

You should also submit any supporting documentation with your notice of appeal.

The panel's determination will remain in effect while your appeal is being considered, therefore you will continue to be excluded/expelled during this period.

The Chair will consider the notice of appeal. If the Chair considers that there is an arguable basis for the appeal, leave to appeal shall be granted. If leave to appeal is not granted, the decision of the panel will stand and you will receive written reasons for the Chair's decision.

How will the appeal panel determine my appeal?

If leave to appeal is granted, you will be notified of the Chair's decision.

The appeal will then be considered in private by an appeal panel. Neither you nor the IFoA's representative will be entitled to attend the appeal panel.

Each appeal panel consists of either three or five people. The Chair of the appeal panel will be a senior lawyer who is a Queen's Counsel. There will also be at least one Fellow of the IFoA, and at least one Lay Member who is not a member of the IFoA.

The appeal panel will be provided with the following documents:

- the panel determination in which your readmission was refused;
- the transcript of the above panel proceedings;
- the evidence considered by the above panel;
- your notice of appeal and any supporting papers.

The IFoA may submit written submissions for the appeal panel's consideration.

Can my appeal be considered at an oral hearing?

In some circumstances, the Chair may permit an oral hearing to take place. In these circumstances, you and the Case Manager may make oral representations and call witnesses. Any oral hearing will normally be held in public.

What are the possible outcomes of an appeal panel?

The appeal panel may:

- affirm the refusal of the application and may also direct that a further application should not be considered for a specific period of time; or
- allow the appeal;
- if it is in the interests of justice, and in the light of new evidence, remit the application to a panel for a rehearing, specifying whether it should be reheard by the same panel or a newly constituted panel.

You will be advised of the appeal panel's decision in writing shortly after they make their decision.

Can the appeal panel make a costs award?

The appeal panel cannot award against you, or award costs to you and against the IFoA.

Is the determination of the appeal panel made public?

The determination will usually be published in full on the IFoA website and a summary is usually published in *The Actuary* magazine. Further information about publication is available on the IFoA's website.

Key relevant parts of the Scheme

Sections 10 and 11.

Where can I get advice or support?

You are entitled to obtain the support or advice of colleagues in the workplace or profession at any time. You also have a general right to obtain independent legal advice about your rights in relation to any case brought under the Scheme. The Case Manager and secretary to the panel are happy to provide factual information about the readmission process, but cannot advise you in relation to your legal rights or position.

Further information

If you have any further questions, please contact the secretary to the panel, whose contact details are:

Secretary to the Disciplinary Tribunal Panel
Institute and Faculty of Actuaries
Level 2 Exchange Crescent
7 Conference Square
Edinburgh, EH3 8RA
Telephone: +44(0)131 255 0285
Email: clerk@actuaries.org.uk

For general enquiries please email disciplinary.enquiries@actuaries.org.uk or call +44 (0)131 240 1326.

Please note that this document is not legal advice. It is not intended to be a substitute for the Scheme.