



Institute
and Faculty
of Actuaries

Guidelines -

**For all disciplinary hearing events held
under the Disciplinary and Capacity for
Membership Schemes during the
COVID-19 situation**

by the Disciplinary Committee
of the Institute and Faculty of Actuaries (IFoA)

22 December 2021

GUIDELINES FOR ALL DISCIPLINARY HEARING EVENTS HELD UNDER THE IFoA DISCIPLINARY AND CAPACITY FOR MEMBERSHIP SCHEMES (“the Scheme”) DURING THE COVID-19 SITUATION

This guideline is issued by the IFoA Disciplinary Committee to provide support and guidance to Panels, members of the public and those involved directly in IFoA disciplinary hearings during the COVID-19 situation. This is designed to support a proportionate regulatory response to the global pandemic event in light of local government advice around the world. The Disciplinary Committee has paid particular regard to the principles of better regulation, such as proportionality; fairness; consistency; transparency of process and principles of natural justice.

This guideline is effective as at the date of publication and will be applied to all live cases falling within the disciplinary hearing system during this period of time. It will remain in force, until 28 February 2022, at which time it will be reviewed, revised, extended or withdrawn as appropriate by the Disciplinary Committee. It should be read in conjunction with the Scheme Rules and other guidance on the IFoA website.

The published [Guidance on Time Frames for Investigations and Proceedings under the Disciplinary and Capacity for Membership Schemes](#) sets guidelines for timescales. The Committee’s objective in offering the guidelines is to seek to achieve consistency and fairness in the operation of the IFoA Disciplinary Scheme (“the Scheme”). While the Committee will continue to monitor adherence to these timescales, it will do so more flexibly recognising the difficulties and pressures on all parties as a result of the COVID-19 situation.

1. Investigations

- 1.1 Due to the ongoing COVID-19 situation, the IFoA is currently managing its resources carefully and will therefore be giving priority to complaints where it is in the public interest that we do so. This means there may be delays in the progression of other complaints during this time.

2. Hearings: General

- 2.1. The public interest, well-being and safety of everyone involved in the disciplinary process, including Respondents; IFoA employees; Panel members and any witnesses shall be expressly considered in all decisions made relating to the management of any disciplinary case during the COVID-19 situation.
- 2.2. In line with other judicial and professional regulatory regimes around the world, the IFoA has moved all of its hearing functions online, where possible and in the interests of justice to do so, during the COVID-19 situation.

3. Hearings: procedural adjustments to rules of service

- 3.1 In order to ensure the Scheme can operate effectively, the Rules relating to service of documents (including service of a charge, case reports and correspondence) shall be interpreted to treat service by electronic means alone as effective service in all cases. Service will be by email to the address communicated by members to the IFoA and recorded by the IFoA in each member’s personal details provided by them to the IFoA.

4. Adjudication Panels

- 4.1. All Adjudication Panels will continue to be held in private, using online conferencing facilities as usual.

5. Hearings: decisions on case progression of public hearings

- 5.1. The public interest in holding a Disciplinary Tribunal or Appeal Tribunal in public shall remain a principle of the disciplinary process consistent with the Respondent's European Convention of Human Rights Article 6 rights (right to a fair trial). If the Convener or Chair of the IFoA Disciplinary Panel¹ decides that a public hearing of a case will take place online, consistent with guideline 2.2 above, that fact will be set out on the IFoA website with details of the way in which members of the public may join the online hearing.
- 5.2. Appointed Panels are asked to consider in each case what other additional steps are appropriate to allow the progress of each case using online technology in the circumstances.
- 5.3. A procedural hearing may be arranged to allow the Lay Convener, or the person appointed as Chair of the Disciplinary Panel to hear the case, to give procedural directions, including the decision as to whether to hold a Disciplinary Panel Hearing online, and if so what practical arrangements are required. The views of the Respondent and the IFoA shall be sought in advance of the procedural hearing with reasonable opportunity given to respond. The Chair shall consider representations and/or objections from the Respondent, the IFoA, and any other information that it considers relevant, in coming to a decision. Written directions shall be issued by the Chair on behalf of the Panel to the Respondent and IFoA recording that decision. A Legal Adviser may, if required by the Lay Convener or the Chair of the Panel, be present.
- 5.4. The Lay Convener or the Chair of the Panel shall consider and provide written directions on the most appropriate arrangements for managing disciplinary cases during the COVID-19 situation. Directions may include details on the following areas:
- 5.4.1. future online case procedural hearings on discrete aspects of the case;
 - 5.4.2. the safety and well-being of everyone involved in the process;
 - 5.4.3. whether timeframe deadlines should be reviewed;
 - 5.4.4. whether any of the Panel, the Legal Adviser, any witness, or any party or representative should participate virtually in a hearing that is otherwise held in person
 - 5.4.5. written submissions and determinations;
 - 5.4.6. telephone or video conference substantive hearings with the Respondent and the IFoA;
 - 5.4.7. specific arrangements to manage access by members of the public; the media; the Financial Reporting Council; the Disciplinary Committee. Where attendance by members of the public is not considered to be possible, the Lay Convener or the Chair shall consider whether any alternative mechanism is appropriate to safeguard the public nature of proceedings;
 - 5.4.8. any other directions appropriate in the circumstances.

¹ A matter will be referred to the decision maker as appropriate with reference to the Scheme Rules applicable to the current stage of process.

- 5.5 The Lay Convener or the Chair shall review the directions periodically and consider on an ongoing basis what, if any, additional directions are appropriate in the circumstances.
- 5.6 Where the Lay Convener or Chair considers that it is in the public interest to do so, he/she shall have the power to suspend, stay or freeze a case for a specified period of time during the COVID-19 situation. All obligations on parties arising under the Scheme shall be paused in this circumstance. This decision shall be subject to review within a reasonable time frame, set out by the Panel.
- 5.7 All Capacity for Membership hearings under the Scheme shall continue to be held in private and will be held online, as appropriate.
- 5.8 Nothing in this guidance note shall be read as inconsistent with the general principle that the Panel shall have discretion over procedural matters, consistent with the Scheme.

Further information

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

Judicial Committees Secretary

Email: clerk@actuaries.org.uk