

THE ACTUARIAL PROFESSION

Guidelines on referral for Disciplinary Investigation by an Honorary Secretary

Introduction

The Disciplinary Schemes of both the Institute and the Faculty are designed to respond to complaints. However, there is also a process which allows the Profession to initiate an investigation pro-actively.

Rule 10.1

Where, having regard to the interests of the public and the Profession, an Honorary Secretary of the (Institute/Faculty) considers it appropriate that a matter relating to the conduct of a Member should be investigated, such matter may be referred to an Investigating Actuary even though no complaint may have been received; thereafter the matter shall proceed for the purposes of this Scheme as if a Complaint had been made to the (Institute/Faculty) save that the provisions of Part 5 (*dealing with the right of complainant to go to independent examiner*) of this Scheme shall not apply.

This note explains how the process works.

Principles

The key principles underpinning this process are as follows:

- It is in the public interest that a matter is investigated.
- It is a matter that might affect public confidence in the profession.
- It is necessary that there be a process for a thorough investigation of any professional conduct issue to be undertaken within the disciplinary scheme, where all parties have responsibilities and protections

Disciplinary Investigation

If there is to be a formal disciplinary investigation it will be done confidentially, by trained staff under the guidance of an Investigating Actuary, in full knowledge of the respondent Member and be covered by the rules of the relevant scheme. In particular:

- the Investigating Actuary has the power to interview the member to require sight of documents and any information relevant to the investigation;
- on completion of the investigation a case report will be prepared containing a statement of the relevant facts and which report will be submitted to a separate Adjudication Panel;
- the Adjudication Panel shall determine whether no disciplinary action shall be taken or where the case report discloses a prima facie case, shall invite the member to accept that there has been misconduct or to refer to a Disciplinary Tribunal Panel;
- where no disciplinary action is taken there will be no adverse record against the member.

Preliminary enquires needed before Honorary Secretary referral

Preliminary confidential enquiries will be made by the Chief Executive (or whoever has been authorised to act as deputy) to establish whether or not:

- there is a named Member involved;
- that person is, or has been, a Member of the Faculty or Institute;
- the alleged conduct if proven could be considered as misconduct

At this stage the Member will not be made aware of the enquiries.

Complaint

If the profession receives a formal statement in writing containing allegations to the effect that a named member has or may have been guilty of misconduct, this falls within the definition of a complaint under the Disciplinary Schemes and will be treated as such, even if it does not contain the word "complaint". In such circumstances the Honorary Secretary route will not be used.

Action by the staff of the Profession

If any member of staff is made aware of anything that might be considered as raising a question of misconduct they should refer it to the Chief Executive who will undertake the preliminary enquiries detailed above and then pass the matter to an Honorary Secretary.

Media scrutiny

The Profession's Communications staff will alert the Chief Executive if there is any adverse comment in the media about a Member or a matter where a Member may be involved. The Chief Executive may then contact the Senior Actuary/Head of Compliance in the firm/organisation concerned, if any, and establish if the matter reported relates to a specific Member, reminding them of their obligations under rule 1.11 of the disciplinary scheme and obtaining such details as are necessary to complete the preliminary enquiries.

Actuaries working Abroad

If the matter relates to an actuary who is working abroad but is one of our members then the Chief Executive will liaise first with the local Actuarial association to establish if there is dual membership and what action, if any, that body is taking.

Honorary Secretary's role

First the Honorary Secretary has to ensure that they do not have a conflict of interest in relation to the Member or the organisations involved that would preclude them from considering the matter. The test is "would a fair minded and informed observer conclude that there was a real possibility of bias".

The Honorary Secretary will consider the information received from the Chief Executive and will determine whether an investigation should be conducted in terms of the provisions of Rule 10.1. In that event the Honorary Secretary will complete, sign and return the attached form to the Chief Executive who would then refer the matter to the Disciplinary Investigation Team. The Member will be advised by a Case Officer that an investigation has commenced under rule 10.1, and who has been appointed as Investigating Actuary.

The Honorary Secretary has no further involvement in the process.

In determining the appropriateness of a referral under Rule 10,1 the Honorary Secretary will have in mind that any matter which is made as a complaint, however minor, would be investigated, always mindful of the rights of the member to be treated fairly.

Indicative examples of circumstances where the Honorary Secretary route to investigation may be used (although long this is *not* an exhaustive list)

- Individual is convicted of an indictable offence. (rule 1.7)
- A finding in any civil proceedings that the individual has acted fraudulently or dishonestly. (rule 1.7)
- Failure by the Member to attend on a professionalism course (Faculty rule 2.E, Institute bye-law 55).
- A Member fails to pay a fine or an award of costs (rule 1.10 (c))
- If during an investigation a Member hinders or frustrates an Investigating Actuary or fails to provide documents, information or answer questions. (rules 1.10 (a) and 3.11 of the disciplinary schemes)
- Contributed to conduct by another amounting to misconduct, or failing to whistle blow when knowing about such conduct (rule 1.11)
- Another body raises concerns about the conduct of a Member as a result of their own investigations into other matters.
- The Profession becomes aware of civil proceedings where a Member's conduct is being questioned.
- If a case officer is given information about other alleged misconduct after the case has reached the determination stage.
- If during the course of an investigation another Member is implicated in misconduct

Process in absence of Honorary Secretary

In the event of an Honorary Secretary being unable to consider the matter as a result of conflict or absence, the Chief Executive (or an authorised deputy) will pass the form to a Vice President who will proceed in the form and manner set out as if acting as the Honorary Secretary.

October 2004

22.10.2004

The Actuarial Profession

FORM FOR HONORARY SECRETARY REFERRAL UNDER RULE 10.1

(see guidelines note about process)

* means delete as appropriate	✓	Details or comments
Name of Actuary or Actuaries		
Employer		
Client		
Other relevant associated organisations		
Current Member of Faculty/Institute*		ARN number: Membership status:
Practising Certificate		
Past Member of Faculty/Institute* but Member at time of conduct alleged		ARN number: Membership status:
Reason for referral		
Those matters which are prima facie evidence of misconduct		
Convicted of indictable offence in UK or elsewhere		
Guilty of fraud/dishonesty in civil courts		
Failed to comply with undertaking to do professionalism course		
Failed to pay within agreed period fine or costs imposed under the scheme		
Contributed to conduct by another amounting to misconduct, or failing to whistle blow when knowing about such conduct		
Hindered an investigation by an Investigating Actuary		
Matter related to conduct (falling below expected standards of behaviour, integrity, competence or professional judgment) (details)		

Matter relating to alleged breach of Bye-laws, Rules/Regulations (details)
Other information
Reason for referral: having regard to interests of public and the profession

Honorary Secretary to initial the second column to indicate agreement and sign and date below

Matter for decision	Initials
I confirm that to the best of my knowledge that I do not have any conflicts of interest in relation to this case.	
Having regard to the interests of the public and the Profession I authorise referral of the matters covered by this memorandum to an Investigating Actuary, even though no complaint has been received:	

Signed: Honorary Secretary

Dated: