



Institute
and Faculty
of Actuaries

Information for Members facing an allegation

under the Institute and Faculty of Actuaries
Disciplinary and Capacity for Membership Schemes

February 2018

Introduction

The purpose of this note is to explain to Members of the Institute and Faculty of Actuaries (IFoA) how we deal with an allegation which suggests professional Misconduct under our Disciplinary and Capacity for Membership Schemes (the Scheme). There are a number of notes like this on our website, dealing with different stages of the Scheme. If you cannot find a note that deals directly with your query, please contact us for assistance.

Regulation

In regulating our Members, the IFoA maintains and protects the standards, professionalism, reputation and the public perception of Members. Discipline is an essential part of this. Allegations of professional Misconduct are dealt with under the Scheme. The Scheme provides a critical safety net for both members of the general public and Members of the IFoA. The Scheme allows the IFoA to investigate allegations of Misconduct and to deal appropriately with established individual Member failures. The Scheme also feeds back into our wider regulatory function to allow us to identify trends exposed by the Scheme and thereafter initiate appropriate preventative measures such as guidance and training for our Membership.

The public – clients, users, employers and all those who finances are affected by actuarial decisions – must be confident that the Member they employ, or whom they trust with their finances, will observe standards of practice and conduct which justify that trust.

What is an allegation?

Allegations against Members come from a variety of sources including the public, other actuaries and other regulatory bodies. The IFoA will consider allegations made in writing to us to the effect that an individual Member (or former Member) has been guilty of professional Misconduct. Misconduct is defined at rule 4.2 of the Scheme and includes any conduct, whether committed in the UK or elsewhere, in the course of carrying out professional duties or otherwise constituting failure by that Member to comply with the standards of behaviour, integrity, competence or professional judgement which other Members or the public might reasonably expect of a Member having regard to the Rules and Bye-laws and/or relevant standards or guidance.

If an allegation is made against you, we will write to you, providing a copy of the allegation and advising of the next steps in the process. In this letter we will ask you to advise the IFoA if issues of health may have been a factor at the time of the alleged Misconduct and, if this is ongoing, the capacity for Membership provisions of the Scheme (capacity process) may apply. It is open to the Case Manager, Investigation Actuary and/or you to apply for the matter to be considered under the capacity process at any stage prior to a determination being issued. Please see the information note that helps explain this separate process.

When an allegation is received relating to you, we first consider whether the issue amounts to a matter that should be referred to the Financial Reporting Council (FRC) as a ‘public interest’ case under their Disciplinary Scheme. The FRC is the UK’s independent regulator responsible for promoting high quality corporate governance and reporting. The FRC has the responsibility for dealing with allegations concerning matters which appear to raise important issues affecting the public interest in the United Kingdom and there are reasonable grounds to suspect that there may have been Misconduct. If so, the IFoA are unable to take the matter any further under the Scheme. We will notify you if the FRC choose to handle the allegation.

All other allegations against Members of the IFoA will be dealt with under the Scheme. However, if during the investigation any information is found that brings the case under the FRC's remit, we will refer the matter at that time.

If an allegation is received about you, in terms of the Scheme, you are referred to as "the Respondent."

How will the allegation be investigated?

You may find it helpful to refer to the flowchart on page 8 of this guide which sets out a summary of the disciplinary process.

The IFoA allocate a Case Manager to investigate each allegation. Case Managers are members of our staff. During the investigation stage they are neutral and impartial. Their role is to manage the investigation and to gather relevant information for consideration and evaluation before an Adjudication Panel and/or Disciplinary Panel hearing. Once they are appointed you will be given their name and contact details. They will be your main contact throughout the investigation.

The Case Manager will be assisted by an Investigation Actuary. They are Fellows of the IFoA whose role is to support the Case Manager in conducting the investigation and provide technical input where required. Although the Case Manager is your point of contact at this stage, you will be given the name of the Investigation Actuary. The Case Manager and Investigation Actuary are sometimes supported by an external lawyer. We may, on occasion, appoint an expert to assist in areas of technical complexity and if we do, we shall advise you of their name. At all stages of the process careful checks are made to avoid any conflicts of interest or biases.

The Case Manager will gather information relevant to the allegations. This is done via a variety of methods, including requesting copies of documentation from relevant parties, considering relevant professional guidance and perhaps obtaining witness statements. It is the Case Manager and Investigation Actuary who decide the best way to investigate the allegation and what relevant information they need to gather.

The Case Manager may ask you for information. You have a duty under the Scheme to co-operate. If you do not co-operate with the Case Manager and the Investigation Actuary a separate new allegation of Misconduct may be brought against you.

The Case Manager and Investigation Actuary may want to meet you to discuss the matter and obtain a witness statement, which is a written record of the evidence of a witness. We will advise you if this is the case. Further information about that process can be found on our website and will be provided to you at the time.

All correspondence from you to the Case Manager will routinely be acknowledged, so that you know that it has been received and is being considered. You can expect to receive an update on the progress of the case every four weeks.

The allegation made will form the basis of the investigation, but the Case Manager and Investigation Actuary can take into account any additional conduct that comes to their attention during the investigation. If this occurs, you will be advised and given an opportunity to respond to the additional allegations.

The Case Manager cannot give you advice on how you should respond to the allegations or how you should represent yourself through the process.

Interim orders

The IFoA has a duty to protect the public. An Interim Order is an order which imposes certain restrictions on a Respondent pending the outcome of the disciplinary proceeding and is a facility which the IFoA will use in compliance with its duty to protect the public where the facts and circumstances merit. In some cases, the Case Manager and Investigation Actuary may decide to apply for an Interim Order for the imposition of a period of supervised practice, suspension of any Practising Certificate held by the member concerned, or suspension of that member's membership of the IFoA, while the investigating team carries out its investigation. Whether to apply for an Interim Order is a decision for the Case Manager and Investigation Actuary, but the decision to impose such an order will be made by a Panel. Details of any Interim Order made will be published on our website. An information note "Interim Orders" can be found on our website at <https://www.actuaries.org.uk/documents/interim-orders>.

What happens after the investigation stage?

There are separate information notes available on the IFoA's website about the Adjudication panel stage, Disciplinary Tribunal Panel stage and other aspects of the disciplinary process. If you are unable to find the relevant information note please contact the Disciplinary Investigation Team.

Adjudication Panels

Usually, after an investigation into the allegation of Misconduct is complete, the Case Manager and Investigation Actuary will prepare a Case Report. A Case Report sets out the allegations made against you and all the relevant facts and information obtained during the investigation. All of the material obtained during the investigation will be appended to the Case Report. It is intended to be a statement of all the information obtained by the Case Manager, from all perspectives, as a result of the investigation. The Case Report does not set out any recommendations.

The Case Report will be sent to you and you are given the chance to submit any final comments you have on the Case Report, after it is issued, but before the Adjudication Panel meet. Your comments will be considered by the Adjudication Panel, provided that they are submitted in writing and in advance of the Panel meeting. At the time you are given the Case Report you will be sent further information about the Adjudication Panel process.

An Adjudication Panel will be appointed to consider the Case Report and determine the next step in the disciplinary process. The Adjudication Panel, which meets in private, is comprised of at least three people. A minimum of one member is always a "lay member" which means that they are not a member of the IFoA. The remaining Panel members will be members of the IFoA. It is the Adjudication Panel who will make an initial decision on the allegations against the Respondent. An information note "About Adjudication Panels" can be found on our website at:

<https://www.actuaries.org.uk/documents/about-adjudication-panels>.

Expedited Procedures

(a) Direct Referral to a Disciplinary Tribunal Panel

If you would prefer that the case was considered by Disciplinary Tribunal Panel, for a full public hearing of a charge of Misconduct, rather than the Adjudication Panel, then you can elect to do so, when you are sent a copy of the Case Report for comment. At that time you will be advised how to refer the matter directly to a Disciplinary Tribunal Panel, if that is what you wish to do.

If the Case Manager and Investigation Actuary consider that it is in the interests of the public and or the actuarial profession to refer the allegations directly to a Disciplinary Tribunal Panel, rather than an Adjudication Panel, they can make such a referral at any stage in the investigation process, prior to the Case Report being prepared. You would be asked to agree to such a referral. If you do not agree then the Case Manager and Investigation Actuary may make an application to the Convenor of the Adjudication Panel who will decide whether or not the matter shall be referred directly to a Disciplinary Tribunal Panel. You would be provided with more details about this process at the relevant time.

(b) Advisory Reports

If during the course of the investigation the Case Manager and Investigation Actuary think that the allegation, even if found proven, would not disclose a *prima facie* case of Misconduct, they may submit an Advisory Report to an Adjudication Panel setting out a recommendation that the investigation be discontinued. The Adjudication Panel can either accept the recommendation contained within the Advisory Report or dismiss the allegation at that stage, or if they do not accept the recommendation within the Advisory Report, they will refer the allegation back to the Case Manager and Investigation Actuary for further investigation and/or the submission of a Case Report.

Independent Examiner

If the person who made the allegation is dissatisfied with the outcome of the Adjudication Panel, they can request a review by the Independent Examiner on limited grounds if the case has been dismissed. The Independent Examiner is completely independent of the IFoA. If a case is referred to the Independent Examiner you will be notified and provided with further information about the process. An information note “Independent Examiner – Information for the Respondent” can be found on our website at <https://www.actuaries.org.uk/documents/independent-examiner-information-respondent>.

Disciplinary Tribunal Panels

If allegations are referred to a Disciplinary Tribunal Panel, the Case Manager and Investigation Actuary will prepare a Charge setting out the alleged Misconduct. The role of the Case Manager changes from being neutral to being prosecutorial – they will bring the charges against you.

It is the Disciplinary Tribunal Panel who will make a decision as to whether the allegations against you amount to Misconduct. The Disciplinary Tribunal Panel is comprised of at least three people. At least one member is always a “lay member” which means that they are not a member of the IFoA. Disciplinary Tribunal Panels are usually held in public, but some or all of it can be held in private upon the request of either the IFoA or you. The person who made the allegation may attend the hearing to see the public proceedings, but they have no right to participate, except, and to the extent that, they are called by either the IFoA or you to give evidence. An information note “Disciplinary Tribunal Panel - Information for the Respondent” can be found on our website at:

<https://www.actuaries.org.uk/documents/disciplinary-tribunal-panel-information-respondent>

Undertakings

The Case Manager and Investigation Actuary can accept written undertakings from you as they deem appropriate or necessary. A failure by you to comply with any undertaking shall amount to *prima facie* evidence of Misconduct.

What is the role in the disciplinary process of the person who made the allegation?

Under the Scheme persons making an allegation do not have a formal role and are not a party to the process. They are not entitled to see the Case Report.

What happens if the person who made the allegation withdraws the allegation?

If an allegation is withdrawn before the investigation by IFoA is complete, the Case Manager and Investigation Actuary will consider whether the investigation should continue or whether it should be discontinued. Withdrawing an allegation does not automatically cause an investigation to be discontinued. An information note “Advisory Report – Withdrawal of an allegation” can be found on our website at <https://www.actuaries.org.uk/documents/advisory-report-withdrawal-allegation>.

How long will the process take?

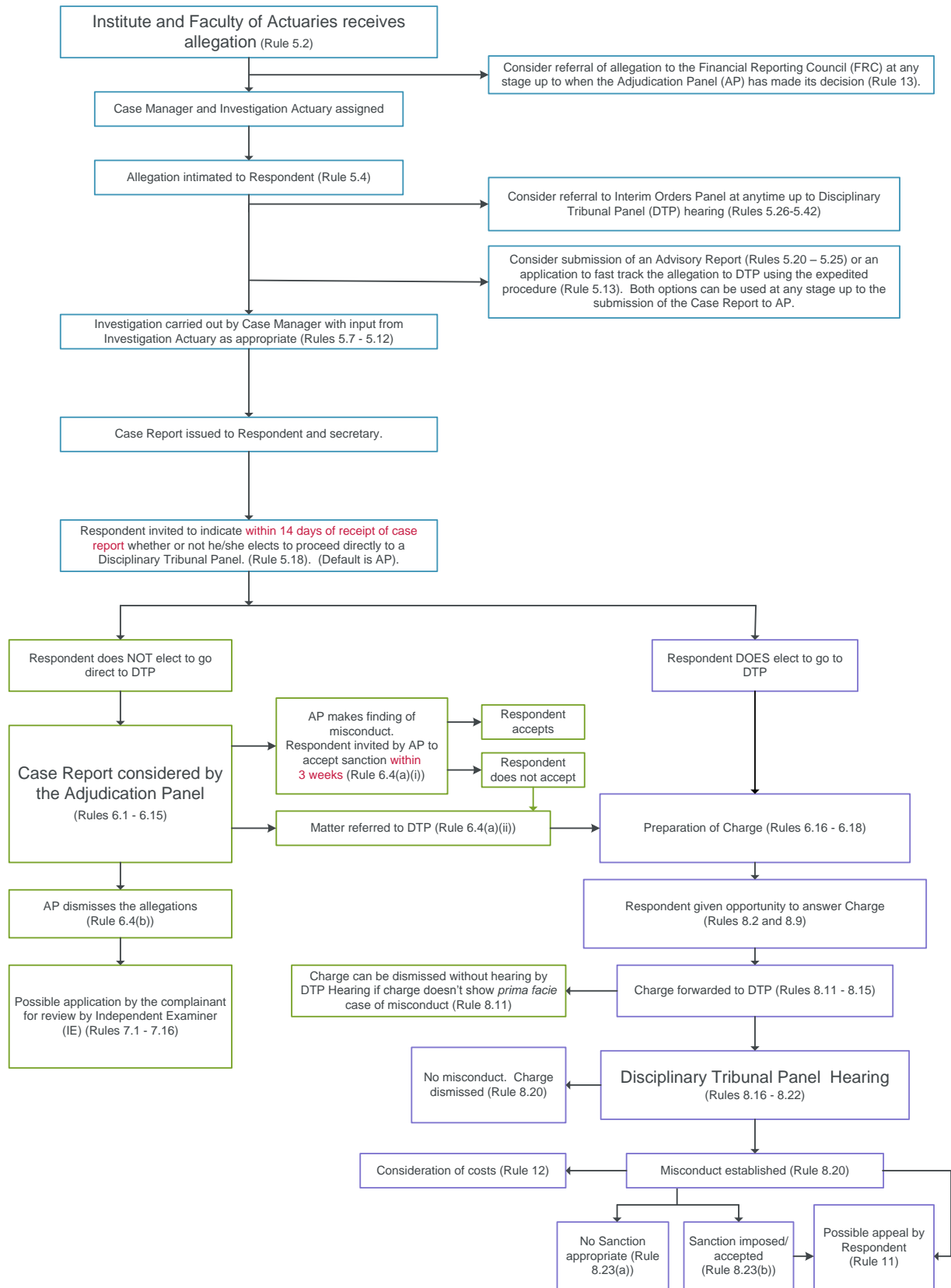
It takes time for allegations to be investigated and considered under the Scheme. We do try and deal with allegations as quickly and efficiently as possible, whilst being fair to both you and the person who made the allegation. We understand that can be a stressful experience. Factors that affect the timescales include;

- The complexity of the allegation.
- The availability of those who may need to be interviewed.
- Waiting for people to respond to requests for information. We do send ‘chaser letters’ when necessary.

The Disciplinary Board, who oversee the disciplinary process, have set timescales for the resolution of allegations. They expect that Case Reports will normally be prepared normally six months from receipt of the allegation; up to 18 months in larger or difficult cases. If matters are referred to a Disciplinary Tribunal Panel, they should normally within six months of referral to the Tribunal, up to a maximum of eight months for more complex cases.

You are welcome to contact the Case Manager to inquire about progress.

Disciplinary Scheme: Investigation and Procedural Framework



Putting things right

If you are unhappy with the way we have dealt with you please tell us. Concerns will always be treated seriously. Procedures for handling feedback (including complaints) about the investigation process, adjudication and tribunal procedures under the Scheme are set out in the note 'Putting things right' on the IFoA's website.

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, as well as having a general right to obtain independent legal advice about your rights in relation to any case that you have brought to the attention of the IFoA. In speaking with people other than the IFoA or your legal advisor, please remember that the investigation is not in the public domain. The IFoA are happy to provide factual information about each stage of the disciplinary process, but cannot advise you in relation to your legal rights or position.

Further information

If you have any questions then you can contact either the secretary at the IFoA or the Disciplinary Investigation Team, whose contact details are:

Judicial Committees Secretary
Institute and Faculty of Actuaries
Level 2, Exchange Crescent
7 Conference Square
Edinburgh
EH3 8RA

Telephone: +44 (0)20 7632 2189
Email: clerk@actuaries.org.uk

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

Telephone: +44 (0)131 240 1326
Email: disciplinary.enquiries@actuaries.org.uk

We have a range of notes covering aspects of our disciplinary process. These will be provided to you at the relevant points during the disciplinary process, but are all available on our website.

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