



Institute  
and Faculty  
of Actuaries

# Appeal against determination of the Disciplinary Tribunal Panel-

For Respondents

February 2018

## **Appeal against determination of the Disciplinary Tribunal Panel**

This note is intended to provide helpful information for Respondents when there has been a finding of Misconduct at a Disciplinary Tribunal Panel. 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 online that deals directly with your query, please contact us for assistance.

### **On what grounds can I appeal the decision of the Disciplinary Tribunal Panel?**

When there has been a finding of Misconduct, you can appeal the determination of the Panel on one or more of the following grounds;

- that the determination was manifestly unreasonable, inconsistent with the evidence or wrong in law; and/or
- that there was injustice because of a serious procedural or other irregularity in the proceedings before the Disciplinary Tribunal Panel; and/or
- that significant and relevant new evidence has come to light which was not previously available to you and could not have become available to you on the making of reasonable enquiry; and/or
- that the sanction imposed was manifestly unreasonable.

### **How long do I have to submit my appeal?**

You can submit an appeal against the determination of the Disciplinary Tribunal Panel no later than 28 days after you receive the written determination of the Panel. The secretary to the Disciplinary Tribunal Panel will advise you of the date by which you should submit any note of appeal.

The Chairman of the Disciplinary Tribunal Panel may, on cause shown, allow you a longer timeframe in which to submit your appeal, but you must apply via the secretary to the Disciplinary Tribunal if you want the timeframe extended.

### **How do I submit my appeal?**

You should submit your notice of appeal, in writing, to the Chairman of the Appeal Tribunal Panel, via the secretary to the Disciplinary Tribunal Panel. It must state the grounds that you are basing your appeal on.

### **What happens after I submit my appeal?**

Once you have submitted your appeal the Chairman of the Appeal Tribunal Panel will consider whether it meets the grounds of appeal detailed within the Scheme. If it does, the Chairman will appoint an Appeal Tribunal Panel to hear the appeal.

The secretary to the Appeals Tribunal Panel, who is a member of the staff at the IFoA, will provide the Chairman with a copy of the determination of the Disciplinary Tribunal Panel, a copy of the transcript of the Disciplinary Tribunal Panel and a copy of all the papers which the Disciplinary Tribunal Panel had when considering the allegations. That will include the charge and all supporting documentation submitted by the Institute and Faculty of Actuaries (IFoA) and you. The Panel will also have a copy of your notice of appeal.

The secretary to the Appeal Tribunal Panel will arrange the hearing. You will be notified of the date. Appeal Tribunal Panels normally sit in private, which means neither the Case Manager, Investigation Actuary or you can attend.

The Chairman of the Panel does have the discretion to permit an oral hearing, which can be attended by all parties. It is open to the Case Manager or you to make an application for an oral hearing, or the Chairman may determine from the papers that an oral hearing is necessary, without any application having been made. Even if an application is made for an oral hearing, it is not automatic that the application will be granted. Should you think that an oral hearing is necessary you should make this known via the secretary to the Appeal Tribunal Panel, as soon as possible.

If the Chairman does decide that an oral hearing will take place, such a hearing will be in public. You, or the Case Manager can apply for part or all of the oral hearing to be in private. The Panel will only allow for some or all of the hearing to be held in private if there is good reason to do so. The Panel may, acting of their own motion, hold part or all of the hearing in private if they think there is good reason for doing so.

### **What can the Appeal Tribunal Panel do?**

The Panel will, by simple majority, make a decision. The decision of the Appeal Tribunal Panel is final. The Panel can do one or more of the following;

- affirm, vary or cancel the determination of the Disciplinary Tribunal Panel;
- replace the determination of the Disciplinary Tribunal Panel with another determination, which may include a more severe sanction;
- make an award of costs against the you or the IFoA as it considers appropriate.

### **Will the determination of the Appeal Tribunal Panel be published?**

Yes it will. It will be placed on the website and published in The Actuary magazine. A copy of the determination will also be provided to the person who made the allegation against you.

### **Does the finding of Misconduct still stand whilst the case is under appeal?**

Yes it does.

### **Will the determination of the Disciplinary Tribunal Panel be published on the website pending my appeal?**

Yes. When a determination is published on the website it will state that the Respondent has until (date) to submit an appeal. If no appeal is submitted by that date the determination will be amended to state that the Respondent did not appeal it. If an appeal is submitted then the determination will be amended to say that it is under appeal.

### **Suspension or withdrawal of Practising Certificate**

If your Practising Certificate was suspended or withdrawn as part of the Disciplinary Tribunal Panel's determination, it shall remain suspended or withdrawn pending the outcome of the appeal.

### **Expulsion, exclusion or suspension of Membership of the IFoA**

If you were expelled, excluded or suspended from Membership of the IFoA as part of the Disciplinary Tribunal Panel's determination, that shall remain in effect pending the outcome of the appeal.

### **What happens if I want to withdraw my appeal?**

You can withdraw your appeal at any point before the Appeal Tribunal Panel make their determination. If you wish to withdraw your appeal please notify the secretary to the Appeal Tribunal Panel in writing. Your appeal shall then be dismissed.

Even if the appeal has been withdrawn, the Appeal Tribunal Panel can, if requested by either the Case Manager, or you, consider making an award of costs against either you or the IFoA, as appropriate. You will be notified if the Case Manager makes an application for costs. If you wish to make an application for costs, please do so via the secretary to the Appeal Tribunal Panel.

### **Can the Case Manager and/or the person who made the allegation appeal the determination of the Disciplinary Tribunal Panel?**

No. The only person who can appeal the determination of the Disciplinary Tribunal Panel is you, the Respondent.

### **Key relevant parts of the Scheme**

Paragraphs 2.32 – 2.35 and 11.1 – 11.20.

### **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 brought under the Scheme. The IFoA is 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 further questions, please contact the secretary to the Appeal Tribunal Panel whose contact details are;

Secretary to the Appeal Tribunal Panel  
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](mailto:clerk@actuaries.org.uk)

For general enquiries please email [disciplinary.enquiries@actuaries.org.uk](mailto: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.