



Institute
and Faculty
of Actuaries

Disciplinary Tribunal Panel - Information for person making an allegation

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The purpose of this note is to provide information regarding the Disciplinary Tribunal Panel (DTP) process for anyone who has made an allegation about a Member of the Institute and Faculty of Actuaries (IFoA). There are a number of notes like this on our website, dealing with different stages of our Disciplinary and Capacity for Membership Scheme (the Scheme). If you cannot find a note that deals directly with your query, please contact us for assistance.

Please note that when you make an allegation of Misconduct about a Member of the IFoA, the IFoA take it forward on your behalf. It is the Case Manager and Investigation Actuary who are responsible for investigating the matter and preparing the Charge.

It open to the Case Manager, Investigation Actuary and/or the Respondent to apply for the matter to be considered under the capacity for membership provisions of the Scheme (capacity process) at any stage prior to a determination being issued. This may be relevant where the Respondent has significant and ongoing issues of health. Please see the information note “The Capacity for Membership Process” that helps explain this separate process. This can be found on our website at:

<https://www.actuaries.org.uk/documents/capacity-for-membership-process>

What is the DTP?

A DTP hearing broadly follows the procedures adopted in UK civil courts with each party (the IFoA and the Respondent) introducing their case, calling witnesses who may be cross-examined by the other party, and then having the chance to make a closing submission. Please note once a case is referred to a DTP the role of the Case Manager and Investigation Actuary changes from being neutral to being prosecutorial – they will bring the Charge against the Respondent.

The standard of proof to be applied by the DTP, under the Scheme, is the civil standard (i.e. on the balance of probabilities) as applied by the Courts of England and Wales in relation to disciplinary proceedings. This means that there must be evidence that it is “more likely than not” that the conduct took place as alleged.

Each DTP consists of three or more people, at least one of whom shall be a Fellow of IFoA and at least one shall be a Lay person who is not a Member of the IFoA. It is the DTP who will decide whether the allegations against the Respondent amount to Misconduct. If they do amount to Misconduct, the DTP will decide what the appropriate sanction (if any) would be.

The DTP are advised by an independent Legal Adviser. The secretary to the DTP also attends the hearing to advise on procedural matters but does not participate in the consideration of the facts.

The Legal Adviser

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

Before the hearing

The Case Manager and Investigation Actuary will prepare a Charge which will set out the allegations against the Respondent. The Charge will be supported by evidence in support of the allegations.

The Case Manager and Investigation Actuary aim to serve the Charge on the Respondent within 12 weeks from the date upon which the matter was referred to a DTP. In more complex cases it may take up to 16 weeks to prepare and serve the Charge.

The secretary to the DTP will then make arrangements for the DTP hearing. The secretary will publish, on the IFoA website, the date, time and place of the DTP, as well as the Respondent's name and an indication of the nature of the Charge.

The IFoA aim to hold DTP hearings within six months of referral, or up to eight months in more complex cases.

Can I attend the DTP hearing?

DTP hearings are usually held in public and this means that anybody who wishes to attend can, including you. Some DTP hearings, or part of hearings, are held in private due to the confidential nature of the matters involved. The IFoA or the Respondent can apply to hear all or part of a hearing in private and the DTP can, acting of their own motion, hold part or all of the hearing in private if they think there is good reason for doing so.

If you would like to attend a public hearing, you are free to do so, but you will only be able to observe and have no formal role in the proceedings.

Do I have to appear as a witness and give evidence?

The Case Manager/Investigation Actuary may ask you to appear as witness for the prosecution in the proceedings. The Case Manager will contact you directly if so. For further information please see the note about appearing as a witness at a DTP.

Where will the hearing be held?

DTP hearings are normally held at an external location in London or Edinburgh. They are not held at the IFoA offices, but at neutral premises. The secretary to the DTP will place a notice of the date, time and location of the hearing on the IFoA website under the section entitled "Forthcoming Hearings".

Role of the IFoA

The IFoA will present the case against the Respondent. The case is normally presented on behalf of the IFoA by a Solicitor or Barrister/Advocate (although it may be presented by a suitably qualified member of the IFoA staff from time to time). Their role is to present the case to the DTP, examine and cross examine witnesses as appropriate and show the DTP how the case against the Respondent can be proved.

Who will be at the hearing?

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

The Case Manager will attend, and usually the Investigation Actuary attends. The IFoA is normally represented by a legal representative who will be in attendance and will present the case against the Respondent.

A stenographer will attend and they take a note of the hearing.

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

The room will be laid out in an arrangement similar to that shown at the back of this document.

Order of the DTP hearing

Once the Chair has completed the introductions, the IFoA will open the case against the Respondent. They will set out what the allegations are and take the DTP through the evidence which supports the allegations. The IFoA may call witnesses, and if they are called the IFoA will first ask questions, then the Respondent or their representative can ask questions (this is called cross examination), and the IFoA then has an opportunity to ask any further questions they may have arisen from cross examination. The DTP members then have the chance to ask any questions of the witness.

Once the IFoA has presented its case, it is the Respondent's chance to present their case and call witnesses, if they wish. If they do call witnesses the IFoA have the right to cross examine them. The DTP members can also ask questions of any witnesses called by the Respondent.

Thereafter the IFoA will make its closing submissions, which are a summing up of the IFoA's case. Then the Respondent or their representative can make their closing submissions. The DTP will then retire to determine the case.

What can the DTP do?

It is open to the DTP to transfer the matter for consideration by a Capacity for Membership Panel under the capacity process if the DTP consider this is appropriate. This may be relevant if the Respondent has significant and ongoing issues of ill health. Please see the information note that helps explain this separate process

If the separate capacity process does not apply, the DTP will look at all the evidence and determine, by simple majority, whether the Charge of Misconduct has been established. The DTP will consider the following:

- Did the Respondent behave in the way alleged in the Charge? In other words, have the facts alleged been proved?
- If so, did that behaviour amount to Misconduct?

The DTP will retire and make a decision, in private, on the above matters. Once the DTP has made a decision on the above two points they will advise of the decision as to whether the allegations have been proved and whether individually or collectively, they amount to Misconduct, before providing brief reasons for that decision.

The DTP may find the allegations in the Charge proven, but may not think that they amount to Misconduct, in which case there will be no finding of Misconduct. Or the DTP may not find the allegations proven, in which case they will be dismissed and there will be no finding of Misconduct.

If the DTP find the Charge of Misconduct is established, a decision will then be made on sanction. The DTP will ask both the IFoA and the Respondent whether there is anything they wish to say about sanction which they would wish the DTP to consider.

The DTP will then retire again to make a decision on sanction. The Disciplinary Board have published [Sanctions Guidance](#); this can be found on the IFoA website. If the DTP decide a sanction is appropriate they can impose one or more of the sanctions detailed below. Alternatively, the DTP may decide that no sanction is appropriate. Once a decision has been made it will be announced in open session, along with brief reasons. The sanctions available to the DTP are:

- A Reprimand.
- Payment of a fine.
- Suspend any Certificate of the Respondent.
- Withdraw any Certificate of the Respondent.
- Exclusion from holding a Practising Certificate for a maximum of five years.
- Suspension from Membership of the IFoA for up to two years.
- Expulsion from Membership of the IFoA for up to five years.
- Exclusion from readmission to Membership of the IFoA (if their Membership has lapsed for any reason) for up to five years.
- A period of education, retraining and/or supervised practice.

Costs

The DTP may also award costs against the Respondent, or award costs to the Respondent and against the IFoA. It does not automatically follow that the Respondent will be entitled to recover costs if their defence of the Charge is successful or that they will be required to pay the costs of the IFoA if they are found guilty of Misconduct. The person who made the initial allegation has no right to receive any costs or compensation in connection with the finding by the DTP.

When will the DTP make their decision?

The time taken to make a decision will vary from case to case, but the DTP usually make their decision on the last day of the hearing and announce their decision orally. The DTP's detailed reasons for their decision will follow when the precise wording has been agreed. The written decision of the DTP is called a "determination" and will typically be published within 2-3 weeks of the DTP meeting.

Is the determination of the DTP made public?

Where the DTP makes a finding in relation to Misconduct the determination will usually be published on the IFoA website and in The Actuary magazine. Further information about publication is available on the IFoA's website.

If the DTP determines that the matter should be referred to a Capacity for Membership Panel, this determination will not be made public.

Can I appeal the determination of the DTP?

No. There is no right of appeal available for you under the Scheme.

Can the IFoA appeal the determination of the DTP?

No. There is no right of appeal available to the IFoA under the Scheme.

Can the Respondent appeal the determination of the DTP?

Yes, if the DTP make a finding of Misconduct. A separate note is available for Respondents about the Appeals process.

Key relevant parts of the Scheme

Section 8 and section 9.

Where can I get advice or support?

The Case Manager or the secretary to the DTP are happy to provide factual information about each stage of the disciplinary case, but cannot provide any advice about your own position.

Further information

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

Secretary to the Disciplinary Tribunal Panel
Institute and Faculty of Actuaries
Level 2, Exchange Crescent
7 Conference Square
Edinburgh
EH3 8RA

Email: clerk@actuaries.org.uk

Telephone: +44 (0)20 7632 2189

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.

Disciplinary Tribunal – Sample Room Layout

