



Institute
and Faculty
of Actuaries

Independent Examiner – Information for the person who made the allegation

February 2018

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The purpose of this note is to provide information for a person who made allegations against a Respondent Member. When an Adjudication Panel dismisses allegations, there is no right of appeal available for you under the Disciplinary and Capacity for Membership Schemes (the Scheme). In limited circumstances, where an Adjudication Panel dismisses the allegations you made against a Respondent, you may request that the Independent Examiner review the matter.

There are a number of notes like this available on our website, dealing with different stages of the Scheme. If you cannot find a note online that deals directly with your query, please contact us for assistance.

Who is the Independent Examiner?

The Independent Examiner is entirely independent of the Institute and Faculty of Actuaries (IFoA) and an experienced member of the legal profession (either a Solicitor, Advocate or Barrister, qualified in England and Wales, and/or Scotland). The Independent Examiner currently has the assistance of two deputies. If you are eligible to use this process, your application will be allocated to one of these three individuals for consideration.

How do I make a referral to the Independent Examiner?

A referral to the Independent Examiner must be made either in writing to the IFoA or by email to independentexaminers@actuaries.org.uk

There are three particular grounds on which a referral can be made and you must state on which ground(s) you are making the referral. The grounds are;

- that the determination of the Adjudication Panel was manifestly unreasonable or wrong in law; and/or
- that there was injustice because of a serious procedural irregularity in the proceedings before the Adjudication Panel; and/or
- that significant and relevant new evidence has come to light which was not previously available and could not reasonable have been made available during the investigation.

The Independent Examiner will consider your referral and whether it meets the grounds detailed above. If they are not satisfied that the grounds have been met they may not accept the referral and you will be notified of that. You will also be notified if the Independent Examiner does accept your referral.

Is there a deadline for referring matters to the Independent Examiner?

A referral to the Independent Examiner must be made within 28 days of receiving the Adjudication Panel's determination to dismiss a case. The Independent Examiner can accept a referral outside of this time in extenuating circumstances. When the Clerk to the Adjudication Panel sends you the determination they will tell you the deadline for submission of a request for a review by the Independent Examiner and provide guidance on whether your circumstances entitle you to an extension of time.

Will the Respondent Actuary know I have made a referral to the Independent Examiner?

Yes, they will be advised that a referral has been made.

How does the Independent Examiner carry out their review?

The Independent Examiner conducts their review by considering all of the paper material that was considered by the Adjudication Panel and by considering your request for a review. They may also consider the investigation procedures and the procedure followed by the Adjudication Panel in making their determination. They may also approach the Respondent, the Investigation Actuary, Case Manager or you for comment.

If the Independent Examiner requires independent actuarial advice on the contents of the Case Report they may engage an impartial actuary to provide support and advice on the technical content.

What can the Independent Examiner do?

The Independent Examiner may;

- affirm the decision of the Adjudication Panel; or
- remit the Case Report for reconsideration either by a new Adjudication Panel or by the same Adjudication Panel that previously considered the matter.

The Independent Examiner may make recommendations to the Disciplinary Board on the wider disciplinary process as a result of their findings during a review.

How long does the review take?

The Disciplinary Board guidance on the Independent Examiner process sets a guideline time for completion of three months. The secretary to the Adjudication Panel will notify you of progress regularly.

Will I be notified of the decision of the Independent Examiner?

Yes. You will receive a copy of the Independent Examiner's report.

Will the Respondent be notified of the decision of the Independent Examiner?

Yes. A copy of the same report that is sent to you will be sent to the Respondent.

Will the IFoA publish the decision of the Independent Examiner?

No. Decisions of the Independent Examiner are confidential and are never published.

Can I appeal the decision of the Independent Examiner?

No. Under the terms of the Scheme the decision of the Independent Examiner is final.

If the Independent Examiner refers the matters to an Adjudication Panel, can I make a referral on the decision of that Adjudication Panel?

No. Cases which have been remitted by the Independent Examiner to a new or reconvened Adjudication Panel cannot be subject to a further Independent Examiner referral.

If I do not agree the sanction the Adjudication Panel issued in a case where I made the complaint, can I appeal their decision?

No. The only situation in which you can refer a matter to the Independent Examiner is when the Adjudication Panel has dismissed the case.

Key relevant parts of the Scheme

Paragraphs 2.17 – 2.19 and section 7.

Where can I get advice or support?

You have the 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, you must respect the confidential nature of any ongoing, live case. 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 do not hesitate to contact the Case Manager assigned to your case, or the secretary to the Adjudication Panel, whose contact details are;

Secretary to the Adjudication 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

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.