



Institute
and Faculty
of Actuaries

Independent Examiner – Information for Respondent

February 2018

Independent Examiner – information for the Respondent

The purpose of this note is to provide information for Respondents when the person who made the allegation against them submits a request to the Independent Examiner, following an Adjudication Panel dismissing the allegations.

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.

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. A referral to the Independent Examiner will be allocated to one of these three individuals for consideration.

How does the person who made the allegation 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. There are three particular grounds on which a referral can be made and the person who made the allegation must state on which ground(s) they 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 reasonably have been made available during the investigation.

The Independent Examiner will consider the 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.

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

Yes, a referral to the Independent Examiner must be made within 28 days of receiving the Adjudication Panel's determination to dismiss the case. The Independent Examiner can accept a referral outside of this time in extenuating circumstances. When the secretary to the Adjudication Panel sends you the determination they will tell you the deadline for the submission of a request for a review by the Independent Examiner.

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 the person who made the allegation 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 person who made the allegation, 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 person who made the allegation 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 person who made the allegation.

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.

Key relevant parts of the Scheme

Paragraphs 2.17 – 2.19 and section 7.

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. 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 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

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.