



Institute
and Faculty
of Actuaries

About Adjudication Panels - For Respondents

February 2018

About Adjudication Panels

The purpose of this note is to provide Respondents with information about the Adjudication Panel process. 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 that deals directly with your query, please contact us for assistance.

What is a Case Report?

Usually, after an investigation into an allegation of Misconduct made against you 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 the material obtained during the investigation will be appended to the Case Report. It is intended to be a statement of all of 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.

This Case Report is simultaneously sent to you and to the secretary to the Adjudication Panels. It is not sent to anyone else at this stage. While you consider the Case Report, the secretary will, upon receipt, appoint an Adjudication Panel to consider the Case Report and determine the next step. 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 hearing.

Please note that it is 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 if you have significant and ongoing health issues. Please see the information note "The Capacity for Membership Process" that helps explain this separate process.

What is the Adjudication Panel?

The Adjudication Panel meets in private and is comprised of at least three people. One member is always a "lay member" which means that they are not a Member of the Institute and Faculty of Actuaries (IFoA). It is the Adjudication Panel who will make an initial decision about your case.

The Adjudication Panel is advised by an independent Legal Adviser. The secretary to the Adjudication Panel (a member of the IFoA staff) also attends the Panel to advise on procedural matters but does not participate in the consideration of the facts. The Panel members will consider the Case Report and any other supporting papers, and will use this documentation to determine whether or not you may have committed Misconduct, and if so, what action should be taken.

It is open to an Adjudication Panel, at any stage prior to a determination being issued, to consider an application by either the Case Manager, Investigation Actuary and/or Respondent for the matter to be transferred for consideration by a Capacity for Membership Panel under the Capacity process. Please see the separate information note which provides guidance on the Capacity process.

When is the Adjudication Panel?

If the date of the Adjudication Panel is known, it will be provided to you in the covering letter to the Case Report. If the date is not yet known the secretary to the Adjudication Panel will let you have the date as soon as possible. We aim to hold Adjudication Panels as soon as practicable after the Panel has been selected and a time slot has been identified. This normally means that Adjudication Panels take place within six weeks of receipt by you of the Case Report.

Can I attend the Adjudication Panel?

No. The only people who attend the Adjudication Panel are the Panel members, their Legal Adviser and the secretary to the Adjudication Panel. Adjudication Panels are called “private hearings” for this reason. You will be told the outcome of the Adjudication Panel meeting and you will be given full written reasons for the decision of the Adjudication Panel.

You have a final opportunity to submit any comments that you have on the Case Report directly to the secretary to the Adjudication Panel, who will ensure they are considered by the Panel on the day of the hearing, along with the Case Report. You should let the secretary have these comments, in writing, within 14 days of receipt of the Case Report.

What powers do the Adjudication Panel have?

The Adjudication Panel has the power to consider an application for the matter to be transferred to the Capacity for Membership Panel under the capacity process. This may be relevant if you have significant and ongoing issues of ill health. This application can be made by the Case Manager, Investigation Actuary or you. Even if there is no such application, the Adjudication Panel can exercise its own discretion that a matter should be transferred for consideration by a Capacity for Membership Panel. There is an information note which helps explain the capacity process.

If the capacity process does not apply, the Adjudication Panel will determine, by simple majority, whether any of the matters contained within the Case Report discloses a *prima facie* case of Misconduct. *Prima facie* broadly means that Adjudication Panels do not conduct a full hearing with witnesses, nor do they determine the facts beyond doubt. Instead, they consider whether, on the face of it, the allegations have been proven and whether, if a full Disciplinary Tribunal Panel hearing were to be arranged, it is more likely than not that Misconduct would be proven.

If the Adjudication Panel decide that the Case Report does not disclose a *prima facie* case of Misconduct, they will dismiss the case. You will be notified of this outcome, in writing, by the secretary to the Adjudication Panel.

If the Adjudication Panel does think it discloses a *prima facie* case of Misconduct they may invite you to accept that Misconduct occurred and to accept one or more of the following sanctions;

- a reprimand;
- a fine up to the maximum limit defined by the Disciplinary Board, which is currently £7,500;
- a period of education, retraining and/or supervised practice.

If the Panel invite you to accept that there has been Misconduct and a sanction, the secretary will notify you of the outcome on either the day of the hearing or the following day. A copy of the written determination of the Adjudication Panel, setting out their reasons will typically be provided to you within two weeks of the Panel meeting. It is entirely up to you as to whether you wish to accept the finding of the Adjudication Panel. The letter informing you of the outcome of the Adjudication Panel will provide clear details of the options open to you.

The Adjudication Panel may alternatively decline to make a determination and instead refer the matters in the Case Report to a Disciplinary Tribunal Panel, for a full public hearing of a charge of Misconduct against you. If the Adjudication Panel does this you will be provided with further details about the Tribunal process when you are provided with a copy of the Adjudication Panel's determination.

When will I be notified of the decision of the Adjudication Panel?

The decision of the Adjudication Panel will be communicated to you as soon as possible on either the day of the hearing or the following day. The Panel's detailed reasons for their decision will follow when the precise wording has been agreed. The decision of the Panel is called "a determination" and will typically be provided to you within two weeks of the Panel meeting.

Can I appeal against the decision of the Adjudication Panel?

No. The decision of the Adjudication Panel cannot be appealed. If you do not accept the Adjudication Panel's invitation to accept there has been Misconduct and/or the sanction, the matter will automatically be referred to a full hearing of the Disciplinary Tribunal Panel. A fuller note on the options open to you at this stage can be found on the IFoA website and will be sent to you, along with the determination, if they make a finding of Misconduct.

Will the person who made the allegation be notified of the decision of the Adjudication Panel?

Yes.

Can the person who made the allegation appeal against the decision of the Adjudication Panel?

No. There is no appeal mechanism within the Scheme for people who make an allegation of Misconduct to the IFoA against a Member, because they are not parties to the process.

If a person who made an allegation is dissatisfied with the decision of the Adjudication Panel to dismiss a case, they can request a review by the Independent Examiner on one or more of the three specific grounds which relate to the decision making process of the Panel. The Independent Examiner is independent and is an experienced member of the legal profession (either a Solicitor, Advocate or Barrister, qualified in England and Wales, and/or Scotland). Full details of the Independent Examiner process are available on our website.

If the allegations against you are dismissed and the person who made the allegation refers the matter to the Independent Examiner you will be notified of this and provided with further information about the process at that time.

Is the determination of the Adjudication Panel made public?

If the Adjudication Panel dismiss the allegations then there will be no publication of the determination. Investigations are private and confidential, and the fact that one has taken place is not published or made public by the IFoA when matters have been dismissed. All matters are treated with the utmost confidentiality.

If there is a finding of Misconduct, that is accepted by you, then the determination will usually be published on the IFoA website and published in The Actuary magazine. Further information about publication is available on the IFoA website

If the matter is referred to a Disciplinary Tribunal Panel, the date and location of the Tribunal Panel shall be published on the IFoA website.

If the Adjudication Panel determines that the matter should be referred to a Capacity for Membership Panel, this determination is not published.

Does the case have to go to an Adjudication Panel?

No. If you would rather that your case was considered by a Disciplinary Tribunal Panel, for a full public hearing, rather than the Adjudication Panel, then you can elect to do so. If you wish to proceed directly to a Disciplinary Tribunal Panel, you must notify the Case Manager within **14 days** of receiving the Case Report. Further information about Disciplinary Tribunal Panels is available on the website or can be requested from the Case Manager.

As referred to above, the Case Manager, Investigation Actuary and/or Respondent can apply for the matter to be transferred for consideration by a Capacity for Membership Panel under the capacity process and the Adjudication Panel can make a determination in relation to this.

Key relevant parts of the Scheme

Paragraphs 2.22- 2.25, 2.45, 5.14 – 5.19, 6.1, 6.2, 6.4 – 6.15, section 7 and section 9.

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 has been 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 you 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 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.