



Institute
and Faculty
of Actuaries

Advisory Report -

Withdrawal of an allegation

February 2018

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This note is intended to provide helpful information for Respondents when the person who made the allegation has withdrawn the allegation they made. There are a number of notes like this available 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.

What happens if the person who made the allegation decides to withdraw it?

If the person who made the allegation withdraws it before the investigation by the Institute and Faculty of Actuaries (IFoA) is complete, the Case Manager and Investigation Actuary will consider whether the investigation should continue at the instigation of the IFoA or whether it should be discontinued. If the person who made the allegation withdraws their allegation, it does **not** automatically cause an investigation to be discontinued.

In deciding whether the investigation should continue or not the Case Manager and Investigation Actuary will consider whether the allegations, if proved, could amount to Misconduct under the Scheme and if it is in the public interest and/or the interest of the IFoA for the investigation to continue.

If the Case Manager and Investigation Actuary think that the investigation *should be discontinued* following the withdrawal of an allegation, they will prepare an Advisory Report for consideration by an Adjudication Panel. The Advisory Report will briefly set out the allegations, the background and their recommendations and reasons why they think the investigation should be discontinued.

If the Investigation Actuary and Case Manager think that the investigation *should* continue, the investigation will proceed as normal, and the Case Report will explain that the person who made the allegation withdrew the allegation, and why the Case Manager and Investigation Actuary thought the investigation should continue. The Case Report will be considered by an Adjudication Panel and further information about that process can be found in our note about Adjudication Panels and Case Reports which can be found on our website.

What is the Adjudication Panel that will consider the Advisory Report?

The Adjudication Panel, which meets in private, is comprised of at least three people and at least one will be a lay person. MemberThe Adjudication Panel will make a decision as to whether or not they agree with the recommendation of the Case Manager and Investigation Actuary to discontinue the investigation.

The Adjudication Panel are advised by an independent Legal Adviser. The secretary to the Adjudication Panel who (a member of the IFoA staff) also attends the hearing to advise on procedural matters. The Panel members will consider the Advisory Report and supporting papers and will use those papers to determine whether the investigation should be discontinued and the allegations dismissed or whether the investigation should continue.

When is the Adjudication Panel?

You will be notified of the date of the Adjudication Panel by the secretary to the Adjudication Panel. We aim to hold Adjudication Panels as soon as practicable after the Panel has been selected and a time slot identified. This normally means that the Adjudication Panels take place within six weeks of the secretary receiving the Advisory Report.

Can I see the Advisory Report?

The Scheme rules do not allow anyone other than the Adjudication Panel to have sight of or a copy of the Advisory Report. If you wish to submit any comments on the matter, for direct consideration by the Adjudication Panel, please submit them to the secretary to the Adjudication Panel in advance of the Panel date.

Can I attend the Adjudication Panel?

No, the only people who attend the Adjudication Panel are the Panel members, the Legal Adviser and the secretary to the Adjudication Panel. Adjudication Panels are called “private hearings” for this reason.

What can the Adjudication Panel do when considering the Advisory Report?

When considering the Advisory Report recommending that the investigation against you be discontinued the Adjudication Panel can either;

- decide that no disciplinary action is appropriate and dismiss the allegations; or
- refer the matter back to the Case Manager and Investigation Actuary for them to carry out further investigation if required, before preparing a Case Report for consideration by an Adjudication Panel.

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

The decision of the Adjudication Panel will be communicated to you, by the Secretary to the Adjudication Panel, 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. This document is called a determination and will usually be provided to you within two weeks of the Panel meeting.

Can I appeal against the decision of the Adjudication Panel on the Advisory Report?

No, the decision of the Adjudication Panel to refer the matter back to the Investigation Actuary and Case Manager cannot be appealed.

What happens if the Adjudication Panel refers the matter back to the Case Manager and Investigation Actuary? The Case Manager and Investigation Actuary will carry out any further investigations required and then prepare a Case Report for consideration by an Adjudication Panel. You can read more about that process in the relevant information note which can be found on our website.

Is the determination of the Adjudication Panel on the Advisory Report published?

No. The decision on the Advisory Report will not be published.

Which rules of the Scheme are relevant?

Rules 5.20 to 5.22, 5.24, 5.25 and 6.3.

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 that 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 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 of the Scheme.