



Institute  
and Faculty  
of Actuaries

# How to complain about a Member

February 2018

The purpose of this note is to provide people with information about how to make an allegation against a Member of the Institute and Faculty of Actuaries (IFoA). 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 that deals directly with your query, please contact us for assistance.

## Regulation

In regulating our Members, the IFoA maintains and protects the standards, professionalism, reputation and the public perception of Members. Discipline is an essential part of this. Allegations of professional Misconduct are dealt with under the Scheme. The Scheme provides a critical safety net for both members of the general public and Members of the IFoA. The Scheme allows the IFoA to investigate allegations of Misconduct and to deal appropriately with established individual Member failures. The Scheme also feeds back into our wider regulatory function to allow us to identify trends exposed by the Scheme and thereafter initiate appropriate preventative measures such as guidance and training for our Membership.

The public – clients, users, employers and all those whose finances are affected by actuarial decisions – must be confident that the Member they employ, or whom they trust with their finances, will observe standards of practice and conduct which justify that trust.

## How do I make an allegation against a Member of the IFoA?

The IFoA will consider allegations that an individual Member (or former Member) has been guilty of professional Misconduct. Misconduct is defined at rule 1.6 of the Scheme and includes any conduct, whether committed in the UK or elsewhere, in the course of carrying out professional duties or otherwise constituting failure by that Member to comply with the standards of behaviour, integrity, competence or professional judgement which other Members or the public might reasonably expect of a Member having regard to the Rules and Bye-laws and/or relevant standards or guidance. There are FAQs available on our website which provide practical information about the meaning of Misconduct in the context of the Scheme.

You can discuss any potential allegation with the Disciplinary Investigation Team of the IFoA but the IFoA cannot give you advice on whether it is appropriate for you to refer an allegation.

If you decide to proceed with an allegation against a Member you should write to us giving as much of the following information as you can:

- The full name and address (if known) of the Member or Members concerned.
- Details of what, in your view, the Member has done wrong, and which you believe may constitute Misconduct in terms of our disciplinary scheme. Please set out the facts as clearly as you can, in a logical order, focussing on those facts which are relevant to the matter. You may wish to refer to relevant professional guidance:  
(<http://www.actuaries.org.uk/regulation/pages/professional-standards-directory>).
- What the impact of the alleged Misconduct has been.
- Dates when the events took place that you describe.
- Whether or not the Member may have been suffering from ill health at the time of the alleged Misconduct.
- Copies of any relevant documentation.

- Names and addresses of anyone who could support your allegation from their own personal knowledge.
- Whether you have raised this matter with the Member or with the Member's employer.
- Whether you have raised this matter with any other regulator (such as the Pensions Ombudsman, the Financial Services Ombudsman or the Financial Reporting Council) and if so, what was the outcome.
- What outcome are you looking for in making the allegation.

You can download and use the 'form for referral of allegation about Member(s)' from our website ([www.actuaries.org.uk](http://www.actuaries.org.uk)) to help you. However, you do not have to submit this form, we will accept your allegation as long as you make it in writing and you name a Member(s).

### **How do I know if someone is a Member of the IFoA?**

You can check whether someone is a Member by visiting our website or you can contact the Membership Team on 0131 240 1325.

Allegations can be made against Fellows, Certified Actuarial Analysts, Students (including Student Actuarial Analysts) and Associates.

### **Can I make an allegation against a former Member of the IFoA?**

Yes, if the allegation concerns conduct which took place whilst they were a Member of the IFoA.

### **How do you deal with an allegation?**

You may find it helpful to refer to the flowchart on page 8 of this guide which sets out a summary of the disciplinary process.

When an allegation is received, we first consider whether the issue amounts to a matter that should be referred to the Financial Reporting Council (FRC) as a 'public interest' case under the Scheme. The FRC is the UK's independent regulator responsible for promoting high quality corporate governance and reporting. The FRC has the responsibility for dealing with allegations concerning matters which appear to raise important issues affecting the public interest in the United Kingdom and there are reasonable grounds to suspect that there may have been Misconduct. If so, the IFoA are unable to take the matter any further under the Scheme. We will notify you if the FRC will take over the allegation.

All other allegations against Members of the IFoA will be dealt with under the Scheme. However, if during the investigation any information is found that brings the case with the FRC's remit, we can refer the matter at that time.

Once an allegation is received about a Member, they are referred to as "the Respondent" for the purposes of the Scheme

### **Who will investigate the allegation?**

The IFoA allocate a Case Manager to investigate each allegation. Case Managers are members of our staff. During the investigation stage they are neutral and impartial. Their role is to manage the investigation and to gather relevant information for consideration and evaluation before a Disciplinary Panel. Once they are appointed you will be given their name and contact details and they will be your main contact throughout the investigation. Please note that they cannot give you legal advice.

The Case Manager will be assisted by an Investigation Actuary. They are Fellows of the IFoA whose role is to support the Case Manager in conducting the investigation and provide technical input where required. The Case Manager and Investigation Actuary are sometimes supported by an external lawyer.

At all stages of the process careful checks are made to avoid any conflicts of interest or biases. The Case Manager will gather information relevant to the allegations which you made. This is done via a variety of methods, including requesting copies of documentation from relevant parties, considering relevant professional guidance and perhaps obtaining witness statements. It is the Case Manager and Investigation Actuary who decide the best way to investigate the allegation and what relevant information they need to gather.

The Case Manager and Investigation Actuary may want to meet with you to discuss the matter and obtain a witness statement, which is a written record of the evidence of a witness. We will advise you if we want to do this. Further information about that process can be found on our website and will be provided to you at the time.

All correspondence from you to the Case Manager will be routinely acknowledged, so that you know it has been received and is being considered. You can expect to receive an update on the progress of the case every four weeks.

When you make an allegation of Misconduct about a member of the IFoA, the IFoA takes it forward on your behalf. The Case Manager and Investigation Actuary appointed are responsible for investigating the matter and preparing a Case Report. Under the Scheme we are not able to provide you with a copy of the Case Report because you are not a direct party to the process, although we will keep you as fully informed about the matter as the Scheme permits.

### **What happens after the investigation stage?**

There are separate information notes available on the IFoA's website about the Adjudication panel stage, Disciplinary Tribunal Panel stage and other aspects of the disciplinary process. If you are unable to find the relevant information note please contact the Disciplinary Investigation Team.

### **Adjudication Panels**

Usually, after an investigation into an allegation of Misconduct made against the Respondent is complete, the Case Manager and Investigation Actuary will prepare a Case Report. A Case Report sets out the allegations made against the Respondent and of 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 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.

An Adjudication Panel will be appointed to consider the Case Report and determine the next step in the disciplinary process. The Adjudication Panel, which meets in private, is comprised of at least three people. A minimum of one member is always a "lay member" which means that they are not a member of the IFoA. The remaining Panel members will be members of the IFoA. It is the Adjudication Panel who will make an initial decision on the allegations against the Respondent. An information note "About Adjudication Panels – Information for the person who made the allegation" can be found on our website at <https://www.actuaries.org.uk/documents/about-adjudication-panels>.

## **Expedited Procedure**

If the Respondent would prefer that the case was considered by a Disciplinary Tribunal Panel, for a full public hearing of a charge of Misconduct, rather than the Adjudication Panel, then they can elect to do so.

If the Case Manager and Investigation Actuary consider that it is in the interests of the public and or the actuarial profession to refer the allegations directly to a Disciplinary Tribunal Panel, rather than an Adjudication Panel, they can make such a referral at any stage in the investigation process, prior to the Case Report being prepared. The Respondent will be asked to agree to such a referral. If the Respondent does not agree then the Case Manager and Investigation Actuary may make an application to the Convenor of the Adjudication Panel who will decide whether or not the matter shall be referred directly to a Disciplinary Tribunal Panel. Should the matter be referred directly to a Disciplinary Tribunal Panel, you will be notified of this and provided with further information about the Tribunal process.

## **Independent Examiner**

If you are dissatisfied with the outcome of the Adjudication Panel, you can request a review by the Independent Examiner on limited grounds if the case has been dismissed. The Independent Examiner is independent of the IFoA. If a case is dismissed by an Adjudication Panel, you will be provided with further information about the Independent Examiner process by the Clerk to the Adjudication Panel. An information note “Independent Examiner – Information for the person who made the allegation” can be found on our website at <https://www.actuaries.org.uk/documents/independent-examiner-information-person-who-made-allegation>.

## **Disciplinary Tribunal Panels**

If allegations are referred to a Disciplinary Tribunal Panel, the Case Manager and Investigation Actuary will prepare a Charge setting out the alleged Misconduct. If matters are referred to a Disciplinary Tribunal Panel the role of the Case Manager changes from being neutral to being prosecutorial – they will be bring the charges against you.

It is the Disciplinary Tribunal Panel who will make a decision as to whether the allegations against the Respondent amount to Misconduct. The Disciplinary Tribunal Panel is comprised of at least three people. At least one member is always a “lay member” which means that they are not a member of the IFoA.

Disciplinary Tribunal Panels are usually held in public, but some or all of it can be held in private upon the request of either the IFoA or the Respondent. You may attend the hearing to see the public proceedings, but you have no right to participate, except, and to the extent that, you are called by either the IFoA or the Respondent to give evidence. If you are called by the IFoA to give evidence, you will be provided with further details about that process. An information note “Disciplinary Tribunal Panel – Information for the person making an allegation” can be found on our website at <https://www.actuaries.org.uk/documents/disciplinary-tribunal-panel-information-person-making-allegation>.

## **Interim orders**

The IFoA has a duty to protect the public. An Interim Order is an order which imposes certain restrictions on a Respondent pending the outcome of the disciplinary proceeding and is a facility which the IFoA will use in compliance with its duty to protect the public, where the facts and circumstances merit. Details of any Interim Order made will be published on the IFoA website.

### **What is my role in the disciplinary process?**

In terms of the Scheme you do not have a formal role and are not a party to the process. When someone makes an allegation about a Member, we take over the allegation and investigate it. We may ask you to provide more details about the allegation and relevant documentation in order to assist our investigation. In some cases we may ask to meet with you to take a witness statement, which is a written record of the evidence of a witness. If the case is to be considered by a Disciplinary Tribunal Panel we may ask you to appear as a witness. The Case Manager will notify you if this is the case. A note is available on our website about witness statements and a copy will be provided to you should we want to take a statement from you.

### **How long will the process take?**

It takes time for allegations to be investigated and considered under the Scheme. We do try and deal with allegations as quickly and efficiently as possible, whilst being fair to both you and the person who the allegation is about. Factors that affect the timescales include;

- The complexity of the allegation.
- The availability of those who may need to be interviewed.
- Waiting for people to respond to requests for information. We do send 'chaser letters' when necessary.

The Disciplinary Board, who oversee the disciplinary process, have set timescales for the resolution of allegations. They expect that Case Reports will normally be prepared normally six months from receipt of the allegation; up to 18 months in larger or difficult cases. If matters are referred to a Disciplinary Tribunal Panel, they should normally within six months of referral to the Tribunal, up to a maximum of six months for more complex cases.

We will aim to update you of progress every four weeks. You are welcome to contact the Case Manager to inquire about progress.

### **What happens if I withdraw my allegation?**

If you withdraw an allegation before the investigation by IFoA is complete, the Case Manager and Investigation Actuary will consider whether the investigation should continue or whether it should be discontinued. Withdrawing an allegation does not automatically cause an investigation to be discontinued. An information note "How to withdraw an allegation" can be found on our website at <https://www.actuaries.org.uk/documents/how-withdraw-allegation>.

### **Can I get compensation?**

No, there is no power under the Scheme to award monetary compensation. The Scheme operates to serve the regulatory purpose of the protection of the public, as well as to uphold the confidence of the public in the actuarial profession, and in the IFoA as its regulator.

If you feel that you may have suffered loss or injury as a result of the actions of a Member, and wish to make a claim for financial compensation, then you may wish to take independent legal advice.

### **Mediation**

The IFoA does not offer mediation as part of its disciplinary processes, but you may wish to consider it. Some issues may arise because of a misunderstanding or a lack of communication and before making an allegation, you may want to consider whether the matter, or some elements of it, may be resolved through mediation. Mediation is a process whereby an experienced and neutral third party mediator assists parties in resolving disputes.

## Respecting privacy

The IFoA will need to handle some of your personal information, such as your name, address, and the nature of your allegation. We will send a copy of your allegation and any correspondence from you in relation to the investigation to the Member you name. We will respect your privacy during the investigation. However, hearings before a Disciplinary Tribunal Panel are normally in public and you may be identified at these hearings.

Investigations are not public and if the allegations against a Respondent are dismissed at Adjudication Panel stage, then no details will be made public. You will be provided with a copy of the determination on the understanding that you respect the confidential nature of the document, and acknowledge that it is not a public document.

## Can the IFoA investigate complaints against firms/organisations?

The IFoA primarily regulates individuals. However, there are a very small number of firms regulated by the IFoA in relation to certain types of investment business under the Financial Services and Markets Act 2000. For more details about this, please email: [dpb@actuaries.org.uk](mailto:dpb@actuaries.org.uk) or call 020 7632 1462.

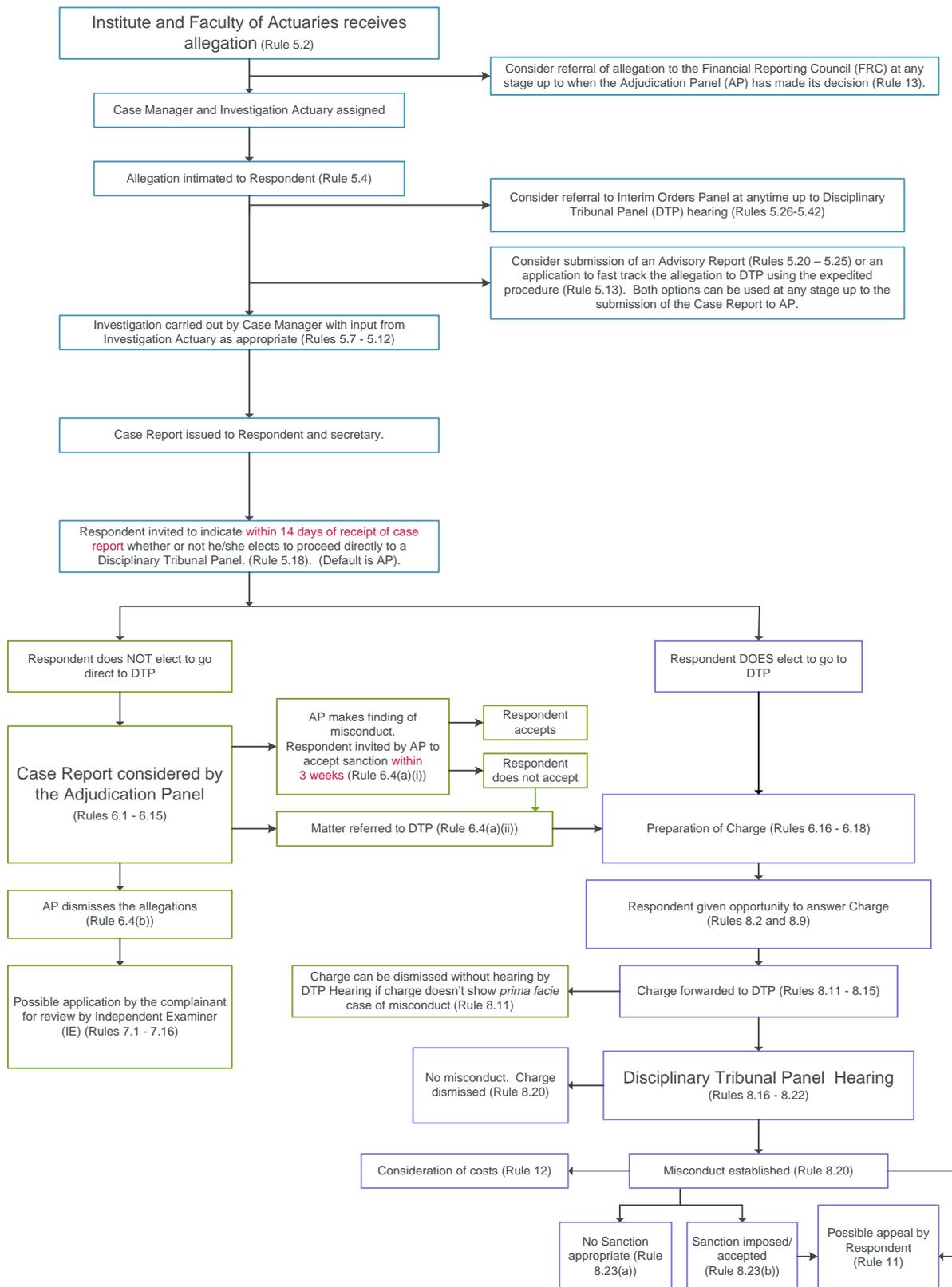
## Who else can help?

You may find the following organisations of use;

- Financial Ombudsman Service (<http://www.financial-ombudsman.org.uk/>) can help with complaints about most financial matters involving products and services provided in (or from) the UK. The areas they cover include banking, insurance, pensions, saving and investments, credit cards and store cards, loans and credit, hire purchasing, financial advice, stocks, shares, unit trusts and bonds.
- Financial Conduct Authority (<http://www.fca.org.uk/consumers>). Their role is to regulate financial services firms in the UK, including banks and building societies, mortgage and insurance brokers, and financial advisers. They do not investigate complaints about individuals, but the financial firms they regulate must have a procedure in place for resolving disputes with their customers and respond to you within set deadlines.
- Pensions Advisory Service (<http://www.pensionsadvisoryservice.org.uk/>) is an independent non-profit organisation that is grant-aided by the Department for Work and Pensions. The Pensions Advisory Service provides information, advice and guidance on the whole spectrum of pensions covering State, company, personal and stakeholder schemes. They also help any member of the public who has a problem, complaint or dispute with their occupational or private pension arrangement. In some cases they may correspond with a pension scheme on your behalf to help resolve matters. These could include discrepancies with benefit payments or disagreement with certain decisions made by the trustees. The Pensions Advisory Service can also provide advice on taking a complaint to the Pensions Ombudsman. The service provided by the Pensions Advisory Service is free and is provided by a nationwide network of volunteer advisers.
- The Pensions Ombudsman (<http://www.pensions-ombudsman.org.uk/>) investigates complaints about how pension schemes are run. Their service is free and open to people who have a complaint against those responsible for the running or administration of pension schemes.

- The Pensions Regulator (<http://www.thepensionsregulator.gov.uk/>) is the regulatory body for work-based pension schemes in the UK. The Pensions Regulator regulates the administration of pension schemes, but not the selling of pensions. If you believe that your scheme may not be complying with pensions legislation, you can report the scheme to the Pensions Regulator. The Pensions Regulator suggest that if you have a query or problem with your pension scheme, you should always begin by trying to sort it out with the scheme itself and you should contact the scheme trustees as they are responsible for running the scheme. If this does not resolve the problem, the pension scheme will have a dispute resolution service you can use. If you are not satisfied with the response, you can contact the Pensions Advisory Service.

## Disciplinary Scheme: Investigation and Procedural Framework



## Putting things right

If you are unhappy with the way we have dealt with you please tell us. Concerns will always be treated seriously. Procedures for handling feedback (including complaints) about the investigation process, adjudication and tribunal procedures under the disciplinary scheme are set out in the note 'Putting things right' on the IFoA website<sup>1</sup>.

## 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 case, but cannot advise you in relation to your legal rights or position.

The Disciplinary Investigation Team, who are responsible for the investigation of allegations, contact details are;

Disciplinary Investigation Team  
Institute and Faculty of Actuaries  
Level 2, Exchange Crescent  
7 Conference Square  
Edinburgh  
EH3 8RA

Email: [disciplinary.enquiries@actuaries.org.uk](mailto:disciplinary.enquiries@actuaries.org.uk)

Telephone: +44 (0)131 240 1326

We have a range of notes covering aspects of our disciplinary process. These will be provided to you at the relevant points during the disciplinary process, but are all available on our website.

Please note that this document is not legal advice. It is not intended to be a substitute for the Scheme.

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<sup>1</sup> <http://www.actuaries.org.uk/about-us/pages/about-us>