



Institute
and Faculty
of Actuaries

Adjudication Panels – Information for the person who made the allegation

February 2018

About Adjudication Panels – information for the person who made the allegation

The purpose of this note is to provide information regarding the Adjudication Panel process for people who have made an allegation about 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 online 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 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 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 the Respondent, as a party to the process, and to the secretary to the Adjudication Panel. It is not sent to anyone else at this stage. The secretary to the Adjudication Panel will, upon receipt of the Case Report, appoint an Adjudication Panel to consider the Case Report and determine the next step in the disciplinary process.

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 the respondent has significant and ongoing health issues. Please see the information note that helps explain this separate process.

What is the Adjudication Panel?

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. It is the Adjudication Panel who will make an initial decision on the allegations against the Respondent.

The Adjudication Panel are 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 consideration of the facts. The Panel members will consider the Case Report and supporting papers, and will use those papers to determine whether or not the Respondent may have committed Misconduct, and if so, what action should be taken.

Can I see the Case Report?

No, you are not provided with a copy of the Case Report. 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.

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 has been identified. This normally means that Adjudication Panels take place within six weeks of the secretary receiving 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 as soon as possible thereafter.

Everything you submit in support of your allegation will be provided to the Adjudication Panel with 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 is relevant if the Respondent has significant and ongoing ill health. An application to have a matter transferred to the Capacity for Membership Panel 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 decides that the Case Report does not disclose a *prima facie* case of Misconduct, they will dismiss the case.

If the Adjudication Panel does think the Case Report discloses a *prima facie* case of Misconduct they may invite the Respondent 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.

It is up to the Respondent whether they wish to accept a finding of Misconduct by the Adjudication Panel. If they accept a finding of Misconduct and any associated sanction the determination will be published on the IFoA’s website.

If the Respondent does not accept a finding of Misconduct and/or any associated sanction, then the matter will be referred to a Disciplinary Tribunal Panel for consideration. If that is the case, you will be provided with further information when the secretary writes to you with a copy of the determination.

The Adjudication Panel may decide to refer the matters in the Case Report directly to a Disciplinary Tribunal Panel, for a full public hearing of a charge of Misconduct against the Respondent. Again, if the Adjudication Panel does this, you will be provided with further information 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 by the secretary to the Adjudication Panel as soon as possible. If the allegations are dismissed by the Adjudication Panel you are provided with the determination on the understanding that you respect the confidential nature of the document, and acknowledge that it is not a public document.

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

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

Can I appeal against the decision of the Adjudication Panel?

No. There is no right of appeal available for you under the Scheme.

Independent Examiner

If you are dissatisfied with the decision of the Adjudication Panel to dismiss a case, you can request a review by the Independent Examiner on one or more of the three limited grounds. The Independent Examiner is completely 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 secretary to the Adjudication Panel. Full details of the process are available on our website.

Can the Respondent appeal against the decision of the Adjudication Panel?

No. If the Respondent does not agree with a decision of the Adjudication Panel in finding Misconduct, they do not need to accept the determination and the matters will be considered before a full hearing of a Disciplinary Tribunal Panel.

Does the case have to go an Adjudication Panel?

No, if the Respondent would rather that the case was considered by 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 Respondent wishes to proceed directly to a Disciplinary Tribunal Panel, they should advise the Case Manager within 14 days of receiving the Case Report.

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. The Adjudication Panel would make this decision.

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 Convener 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.

Key relevant parts of the Scheme

5.22- 5.25, 5.14 – 5.19, 6.4 – 6.15, section 7 and section 9.

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.