



Institute  
and Faculty  
of Actuaries

# Adverse Inferences

March 2021

This note is intended to provide helpful information for Members who have had an allegation of misconduct made against them and the matter is about to be considered by either an Adjudication Panel or a Disciplinary Tribunal Panel. This information note should be read alongside "[About Adjudication Panels](#)" and "[Disciplinary Tribunal Panel – Information for Respondents](#)".

There are a number of notes 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.

### **Do I have to provide comments on the Case Report?**

There is a requirement under the Scheme to cooperate with the investigation. Once an investigation is complete you will be provided with a copy of the Case Report. You are provided with 14 days in which to provide comments on the Case Report. There is no obligation for you to provide written submissions on the Case Report but it is usually in your best interests to do so. Any written submissions you do provide will be considered by the Adjudication Panel. If you decide not to provide written submissions it is open to the Adjudication Panel to make an adverse inference (please see further explanation below of this term).

### **What happens if I don't attend the Tribunal?**

Some matters are referred to the Disciplinary Tribunal Panel stage. You may also elect to go to the Tribunal stage directly. There is no requirement for you to attend a Tribunal but it is usually in your best interests to do so. It is open to the Tribunal to draw an adverse inference if you do not attend the Tribunal and/or submit grounds of defence.

### **What does "adverse inference" mean?**

This is a legal term. In practice this means that a Panel or Tribunal may draw a negative conclusion as a result of you choosing not to provide evidence, comment on the allegations against you or attend a Tribunal.

### **When will a Panel or Tribunal draw an adverse inference?**

This is a matter for the Panel or Tribunal taking into account the particular facts and circumstances of the case before them. A Legal Adviser will be present and may provide advice to the Panel or Tribunal on whether or not it is appropriate to draw an adverse inference.

As a starting point a Panel or Tribunal may only draw an adverse inference when:

- A *prima facie* case has been established.
- You have been given notice and warned that an adverse inference may be drawn.
- There is no reasonable explanation for you not giving evidence.
- There are no other circumstances in the particular case which would make it unfair to draw such an inference.

As referred to at the start of this section it is a matter for the Panel or Tribunal whether it considers that it is appropriate to draw an adverse inference on the fact of the particular case before it.

**Key relevant parts of the Scheme**

Paragraphs 4.15. 5.17-5.19, Section 6 (in particular 6.5) and all of Section 8 (in particular 8.9 and 8.10).

**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. The IFoA 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 Judicial Committees Secretary via [clerk@actuaries.org.uk](mailto:clerk@actuaries.org.uk).

For general enquiries please email [disciplinary.enquiries@actuaries.org.uk](mailto: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. It should also be read alongside other information notes.