



Institute
and Faculty
of Actuaries

Publication

Guidance policy

by Disciplinary Board

April 2018

GUIDANCE ON PUBLICATION

The Disciplinary Board oversees the operation and management of the Institute and Faculty's (IFoA) Disciplinary and Capacity for Membership Schemes ("the Scheme").

Rule 4.23 of the Scheme states that the Disciplinary Board shall prescribe such arrangements as it thinks fit for the manner in which certain decisions and determinations under the Scheme shall be published. These arrangements are set out below.

General Principles

The following general principles should be applied when a Panel considers publication of decisions and determinations: -

- (a) It is the role of the relevant Panel to consider and direct what form publication should take. If there is a departure from the usual approach set out in this guidance, clear reasons should be provided by the Panel.
- (b) When considering the form of publication the Panel should balance the desirability of keeping the public informed against the consequences for the affected member. The prevailing consideration for all publication directions must be the public interest.
- (c) All published determinations will bear a publication date and will usually remain on the IFoA's website for a period of five years from the date of publication.
- (d) If a member is excluded for a period of five years and either does not reapply for membership or such application for membership is refused, the determination will remain on the IFoA's website indefinitely.
- (e) Publication is not considered to be a sanction, for which separate guidance is provided and different considerations apply.

What Is Published

The IFoA usually publishes all final determinations of a Disciplinary Tribunal Panel, an Appeal Tribunal Panel and the making, rescission or variation of an interim order by an Interim Orders Panel.

The IFoA only publishes the determination of an Adjudication Panel where the Respondent has accepted the finding of the Panel that there is a *prima facie* case of Misconduct. If an Adjudication Panel determines there is no *prima facie* Misconduct, the Adjudication Panel Determination will not be published. If the Adjudication Panel makes a finding that the matter be referred to a Disciplinary Tribunal Panel or the Respondent does not accept the determination, choosing instead to have the evidence heard in full by a Disciplinary Tribunal Panel, the determination of the Adjudication Panel will not be published. The reason for this is to ensure fairness for all parties in the Disciplinary Tribunal Panel Hearing itself. Consequently, Disciplinary Tribunal Panels are not made aware, in advance of hearing a matter, of the procedural history of any matter.

In circumstances where an Adjudication Panel determination is not published, the Respondent and the person who raised an allegation of Misconduct is provided with a confidential copy of the determination and the reasoning of the Panel contained therein. This is done, in the public interest, to allow these affected individuals transparent and proportionate information about the outcome of that hearing. The providing of the determination to the Respondent and person raising the allegation does not amount to publication.

Publication of Notices

All notices relate to Panel hearings under the IFoA Disciplinary Scheme Rules and appear on the IFoA disciplinary website pages.¹

1. The following Notices will be published on the IFoA's website at least one week before the relevant hearing: -
 - (i) Notice of any public hearing of an Interim Orders Panel.²
 - (ii) Notice of any Disciplinary Tribunal Panel hearing.³
 - (iii) Notice of any Appeal Tribunal Panel hearing.⁴
2. The Notices will be published on the IFoA's website and will contain the following information: -
 - Name of the Respondent.
 - Category of Membership.
 - Date(s) of Membership.
 - Date, time and place of the relevant hearing and if it is going to be heard in public or private.
 - Indication of nature of the allegations or, in the case of an appeal, whether the appeal is against an Interim Order, a determination of a Disciplinary Tribunal Panel or appeal against refusal of admission to membership.

Publication of Determinations and Interim Orders

3. It is a matter for the relevant Panel to consider and direct the form of publication
4. Publication should occur as soon as reasonably practicable after the decision is made.
5. If, at any time before publishing a final determination, a Panel makes a pronouncement orally at a public hearing, the Panel will provide a brief summary of the position for immediate posting on the IFoA's website.
6. The following decisions and determinations are usually published in full on the IFoA's website (including a link to the determination in the "Find an Actuary" and Actuarial Directory search engine) and a summary is usually published in *The Actuary* magazine: -
 - All determinations of an Adjudication Panel where it has been found that there is a *prima facie* case of Misconduct and the Respondent has accepted the finding.
 - All Interim Orders made by the Interim Orders Panel and the rescission or variation of these orders.
 - All determinations of the Disciplinary Tribunal Panel.
 - All determinations of the Appeals Tribunal Panel.

¹ <https://www.actuaries.org.uk/upholding-standards/complaints-and-disciplinary-process/forthcoming-hearings>

² Interim Orders are usually dealt with on the papers unless the Respondent elects a public hearing

³ It is presumed that all Disciplinary Tribunal Panel Hearings are heard in public unless cause shown.

⁴ Appeal Tribunal Panel hearings are usually conducted in private unless an oral hearing is deemed appropriate.

7. Where it is considered appropriate, the relevant Panel may exercise its discretion to make such additional orders relating to publication which may include, but are not limited, to the following: -
 - Publication of the full determination in *The Actuary* magazine.
 - Publication in a local newspaper.
 - Publication in a trade magazine.

The Panel, when exercising its discretion to order additional publication, should specify why it considers that additional publication is appropriate.

8. When an Interim Order or determination of a Disciplinary Tribunal Panel or Appeals Tribunal Panel is published there should be a clear statement recording that the Respondent has the right to appeal. If an appeal is lodged, the IFoA's website should be updated to record this. If no appeal is lodged at the end of the appeal period or if the appeal is unsuccessful, the publication should be amended on the IFoA's website to record that it is the final decision.
9. In exceptional circumstances, where the consequences of publication on the Respondent or any identified individual outweigh the duty to keep the public informed, the Panel may direct that the determination be anonymised. The onus of proof in this situation will lie with the individual presenting an application to seek to persuade the Panel that a variance from the normal approach is warranted, in all of the circumstances, and that it is in the public interest to do so.
10. Published determinations will not usually name any third party, including the person making the allegation(s), the Investigation Actuary or any witnesses. If there is any information within the determination which may identify a third party or which should remain confidential, the Panel should consider whether or not it is appropriate for the determination to be redacted.
11. In exceptional circumstances, where the IFoA considers that the wider public should be informed about a case of particular public interest, General Counsel can direct that a press release be issued. The Panel may invite General Counsel to do so, if it considers this appropriate and in the public interest.

Publication in relation to the Capacity for Membership process

12. When an Adjudication Panel or Disciplinary Tribunal Panel is asked to consider an application for a transfer to the Capacity for Membership process, details of this application and the resulting decision will usually not be published.
13. Capacity for Membership Panels are held in private and details of the findings on the facts, outcomes or consent orders of the Capacity for Membership Panel will usually not be published. The Capacity for Membership Panel has a discretion to publish findings on the facts, outcomes or details of a consent order when it is in the public interest to do so but details of the Respondent's medical condition should be kept confidential.
14. If the outcome of the Capacity for Membership process is suspension of Membership or conditions being attached to the Respondent's Membership this will usually be recorded in the 'Find an Actuary' and Actuarial Directory search engine for the period of time the Member is suspended or conditions are attached to Membership.
15. Where the finding of a Capacity for Membership Panel is appealed, the appeal shall be held in private. The Appeal Panel has the discretion to direct whether or not publication should take place and in what form.