



Institute
and Faculty
of Actuaries

Appointment of Panel Members, Independent Reviewers and Appeals Assessors

Guidance

by the Disciplinary Committee of
the Institute and Faculty of Actuaries

Appointment of Panel Members, Independent Reviewers and Appeals Assessors

Introduction

- 1.1 This Guidance has been issued by the Disciplinary Committee of the IFoA.
- 1.2 It is for use by:
 - (a) Panels, to provide further detail on their powers and procedures to be followed;
 - (b) any other party, so they are aware of the powers of the Panel and procedures to be followed; and
 - (c) IFoA staff.
- 1.3 This Guidance aims to promote transparency and consistency in the approach of Panels and the IFoA staff.
- 1.4 This Guidance applies to all Complaints and applications being considered under the Disciplinary Scheme of the IFoA (effective 1 August 2023) (the Scheme). For Complaints that are being considered under a former version of the IFoA's Disciplinary Scheme, the version of the Guidance applicable to the former version of the Disciplinary Scheme should be applied to the extent that it is possible to do so, otherwise this Guidance will apply.
- 1.5 This Guidance should be read alongside:
 - (a) the Scheme; and
 - (b) any Regulations issued by the Disciplinary Committee; and
 - (c) any other relevant Guidance published by the Disciplinary Committee.
- 1.6 Where there is any conflict or inconsistency between the Scheme and this Guidance, the Scheme shall be followed. Where there is any conflict or inconsistency between Regulations and this Guidance, the Regulations shall be followed.
- 1.7 Definitions of defined terms used in this Guidance are set out in the Scheme and Regulations.
- 1.8 This Guidance should not be treated as legal advice. When appropriate, the Legal Adviser will advise the Panel on questions of law and/or procedure, which may include advice on the use of this Guidance.
- 1.9 The Disciplinary Committee will review this Guidance every three years or earlier if needed.

2. Aim

2.1 This Guidance:

- (a) outlines the considerations to be applied when appointing independent decision making Panels, Independent Reviewers and Appeals Assessors.

3. Principles for appointment of Panel members, Independent Reviewers and Appeals Assessors

3.1 Panels, Independent Reviewers and Appeals Assessors are administratively appointed by the Judicial Committees Secretary in accordance with Rule 20 of the Scheme, the Appointments Regulations, this Guidance and the Diversity, Equity and Inclusion Guidance.

3.2 Where possible appointments are made on a rotational basis, subject to paragraph 3.3 below.

3.3 The Judicial Committees Secretary will select individuals based on the following objective criteria:

- (a) their ability to carry out the role;
- (b) their availability;
- (c) conflict checks.

4. Ability to carry out the role

4.1 The Panel composition for each type of hearing is set out in the Scheme and the Appointments Regulations. Lay Persons in the Disciplinary Pool can only fulfil Lay Person roles on Panels. IFoA Members in the Disciplinary Pool can only fulfil Member roles on Panels.

4.2 For cases involving an alleged breach of technical standards, where possible, a Panel should normally include an IFoA Member with experience of the branch of practice relevant to the case. The Deputy Convener (who is a Member of the IFoA) will identify the member(s) of the Disciplinary Pool who have the relevant experience. In certain technical cases it may be helpful for more than one IFoA Member to be appointed to a Panel, subject to the requirements for Panel composition as set out in the Scheme.

4.3 Where possible, Panels should include a range of experience of considering disciplinary matters.

4.4 Where a Chair needs to be appointed to a Panel, they will be selected from the Chairing Pool, which comprises members of the Disciplinary Panel Pool identified as having an appropriate level of skill and experience to chair panels. Members of the Chairing Pool can also be appointed to non-chairing roles on a Panel.

4.5 Where case management or preliminary issues need to be decided before a Panel has been appointed, the Convener or Deputy Convener of the appropriate Panel should normally be appointed as the Chair to decide that particular matter. The Chair appointed to decide a case management or preliminary issue does not necessarily need to be appointed to the Panel that will determine the Allegation or Charge.

- 4.6 Where an Independent Reviewer or Appeals Assessor needs to be appointed, they will be selected from the Pool of Independent Reviewers and Appeals Assessors. This Pool comprises legally qualified individuals identified as having an appropriate level of skill and experience to carry out these roles.
- 4.7 When appointing an employee of the IFoA to a Readmission Panel the appointee's level of experience in the admission to membership process should be taken into account.

5. Availability

- 5.1 For Assessment Panel, Disciplinary Order Panel and Adjudication Panel hearings, the number of days required for the hearing will be decided by the Judicial Committees Secretary based on the nature, length and complexity of the Case Report and/or supporting documentation. The Adjudication Panel Convener may provide input if requested by the Judicial Committees Secretary.
- 5.2 For all other hearings, Respondents and Applicants will normally be asked to complete a Case Management Form before a hearing is scheduled. The Judicial Committees Secretary will confirm the length of the hearing based on the information provided in this form and with the agreement of the IFoA and the Respondent/Applicant. If Parties do not agree on the length of the hearing, or any other case management matter, the Convener (or their nominated Deputy) or the Chair (if appointed) will be asked to decide and issue directions.
- 5.3 The Timeframes Guidance sets out the normal timescales (the "hearing window") for hearings to be held after a Case Report is served or a Case Management Form is returned. In some circumstances, for example where procedural or preliminary issues need to be addressed before a substantive hearing can be set, the Convener (or their nominated Deputy) or the Chair (if appointed) may direct what the hearing window should be, or the Parties may agree to a different hearing window than that provided for in the Timeframes Guidance. Where the IFoA and the Respondent/ Applicant have a right to attend a hearing, they will have an opportunity to provide their availability for the hearing window.
- 5.4 The Judicial Committees Secretary will identify potential hearing dates based on the hearing window, the anticipated length of the hearing and the availability of the IFoA and the Respondent/ Applicant (and any witnesses they intend to call) if they have a right to attend the hearing.
- 5.5 The Judicial Committees Secretary will then obtain the availability of Disciplinary Pool members for the potential dates that have been identified.
- 5.6 The Judicial Committees Secretary will select Panel members (the "provisional Panel members") for each of the roles on the Panel based on the availability of the individuals with the appropriate experience for each role.
- 5.7 Independent Reviewers and Appeals Assessors will be selected on a rotational basis, subject to their availability.

6. Conflict checks

- 6.1 Once selected, each provisional Panel member, Reviewer or Assessor (provisional appointee) will be asked if they are aware of any actual or perceived conflicts of interest which would preclude them from determining the matter.

- 6.2 The Judicial Committees Secretary will provide key information, including the names of any persons, companies, firms, trustees or pension schemes involved in the matter, in order to allow conflict checks to be carried out.
- 6.3 Each provisional appointee is responsible for carrying out their own conflict checks. This may include carrying out a conflict search within their employer's records.
- 6.4 Each provisional appointee must confirm to the Judicial Committees Secretary in writing that there are no actual or perceived conflicts of interest that would preclude them from sitting on the Panel. If there are any issues which may prevent the individual from acting, they must advise the Judicial Committees Secretary as soon as possible.
- 6.5 Where appropriate, the Convener (or their nominated Deputy) or another member of the Pool of Independent Reviewers and Appeals Assessors (as appropriate) may be asked to advise on the possibility of a conflict.
- 6.6 The test for bias is set out in the case of *Porter v Magill [2002] 1 All ER 465*:
- "The question is whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the Tribunal was biased."*
- 6.7 In a small profession the question may arise whether personal knowledge of the Respondent or Applicant would disqualify a Panel member from adjudicating on a case. The test to be applied is whether it would be possible to proceed fairly and justly having regard to the Panel member's background knowledge. (*R v Frankland Prison Board of Visitors ex parte Lewis [1986] 1 All ER 272, 277*). In each individual case it must be decided whether the familiarity in question is of such a nature and degree as to indicate a lack of impartiality.
- 6.8 Where the Convener (or their nominated Deputy) or another member of the Pool of Independent Reviewers and Appeals Assessors (as appropriate) has advised that the test for bias is not met, the IFoA and the Respondent/ Applicant may be given an opportunity to make representations about whether there is a possibility of conflict that would prevent the provisional appointee from acting.
- 6.9 Where the Convener (or their nominated Deputy) or another member of the Pool of Independent Reviewers and Appeals Assessors (as appropriate) has advised that the test for bias is met, the Judicial Committees Secretary will select an alternative based on availability and ability to carry out the role. That individual will be required to carry out the conflict checks set out above.

7. General

- 7.1 When appointing independent decision making Panels, the Secretary may consult with the Convener (or their nominated Deputy) on any matter relevant to appointment. For example, the Convener (or their nominated Deputy) may be asked to consider reasonable representations from a Respondent/ Applicant, on possible conflict of interests, or on any other matter that could weaken the quality or the credibility of the Panel's determination of the matter.
- 7.2 Any function which may be undertaken by the Convener may be undertaken by any Deputy Convener or, in the absence of a Deputy Convener, by such other member of the Disciplinary Panel Pool as the Convener shall designate for that purpose, in the event that the Convener or Deputy Convener shall be unavailable to fulfil that function.

7.3 Where a Panel requires the appointment of an independent Legal Adviser, paragraph 3.3 will apply. Where possible appointments from the Legal Adviser Pool are made on a rotational basis, subject to their availability.

Document control

Version	Date of publication	Overview
1.0	1 August 2023	Guidance for Disciplinary Scheme effective 1 August 2023



Institute and Faculty of Actuaries

Disclaimer: This document has been prepared by and/or on behalf of the Disciplinary Committee of the Institute and Faculty of Actuaries (**IFoA**). The IFoA is the owner/ licensee of any and all intellectual property rights, including copyright in this document and its content is protected by copyright.

You are permitted to view and use this document provided that (i) you do not modify the content in any way; (ii) you do not use this document or any part(s) of it in a misleading context; and (iii) your use of the material is for your own personal information/use and for a non-commercial purpose. Every effort has been made to ensure the accuracy of the information contained in this document but it may be subject to change at the discretion of the IFoA.

Beijing

Room 512, 5/F Block A Landgentbldg Center · No 20 East Middle 3rd Ring Road · Chaoyang District · Beijing100022
Tel: +86 10 5878 3008

Edinburgh

Level 2 · Exchange Crescent · 7 Conference Square · Edinburgh · EH3 8RA
Tel: +44 (0)20 7632 2100

London (registered office)

1-3 Staple Inn Hall · High Holborn · London · WC1V 7QJ
Tel: +44 (0)20 7632 2100

Malaysia

Arcc Spaces · Level 30, Vancouver Suite · The Gardens North Tower · Lingkaran Syed Putra · 59200 Kuala Lumpur
Tel: +60 12 591 3032

Oxford

Belsyre Court · 1st Floor · 57 Woodstock Road · Oxford · OX2 6HJ
Tel: +44 (0)20 7632 2100

Singapore

5 Shenton Way · UIC Building · #10-01 · Singapore 068808
Tel: +65 8778 1784

www.actuaries.org.uk

© 2021 Institute and Faculty of Actuaries