



Institute  
and Faculty  
of Actuaries

# Case Report and Adjudication Panel Regulations

Disciplinary Committee

1 August 2023

# Case Report and Adjudication Panel Regulations

- A. These Regulations shall be read alongside:
  - (a) the Disciplinary Scheme of the IFoA; and
  - (b) any relevant guidance published by the Disciplinary Committee.
- B. Where there is any conflict or inconsistency between the Disciplinary Scheme and these Regulations, the Disciplinary Scheme shall prevail.
- C. Where there is any conflict or inconsistency between these Regulations and guidance, these Regulations shall prevail.
- D. The Rules contained in these Regulations are inserted for convenience of reference only. They shall not be considered a part of the Regulations.

## Case Reports

Rule 12.1 Where any investigation is completed under Rule 7 the Case Manager shall prepare a Case Report and serve it on the Respondent

1. A Case Report prepared under Rule 12.1 shall contain:
  - (a) the Allegation received for investigation under Rule 7; and
  - (b) a statement of all relevant facts that the Case Manager considers to be material in determining whether or not Misconduct has occurred.
2. The Case Report prepared by the Case Manager may also contain:
  - (a) matters outside the scope of the Allegation but which may amount to Misconduct, if the matters:
    - (i) have come to the attention of the Case Manager during the investigation; and
    - (ii) are not or have not been the subject of an Allegation being investigated separately and/or involve a separate Charge; and
  - (b) any other information or evidence relevant to the Allegation.
3. The Case Report shall be signed by the Case Manager and, where one has been appointed, the Investigation Actuary (or lead Investigation Actuary where there is more than one Investigation Actuary appointed).
4. The signed Case Report shall be served on the Respondent by the Case Manager as soon as is reasonable.

5. At the time of service, the Case Manager shall also:
  - (a) invite the Respondent to notify the Case Manager, within 14 days of the date the Case Report was served, whether they wish to proceed directly to a Disciplinary Tribunal Panel; and
  - (b) if the Respondent does not wish to proceed directly to a Disciplinary Tribunal Panel, invite them to send to the Secretary, within 14 days of the date of service of the Case Report, any written submissions on the Case Report. The written submissions should include any representations and/or relevant information that the Respondent wishes the Adjudication Panel to consider.

**Rule 12.2** After receiving the Case Report, the Respondent may notify the Case Manager that they wish to proceed directly to a Disciplinary Tribunal Panel hearing.

6. If the Respondent notifies the Case Manager that they wish to proceed directly to a Disciplinary Tribunal Panel, under Rule 12.2, the Allegation shall not be considered by an Adjudication Panel under Rule 13, but shall be considered by a Disciplinary Tribunal Panel under Rule 15.

**Rule 12.3** If a Respondent does not notify the Case Manager that they wish to proceed directly to a Disciplinary Tribunal Panel, the Case Manager shall submit the Case Report to an Adjudication Panel.

7. If the Respondent does not notify the Case Manager, under Rule 12.3, the Case Manager shall submit the Case Report to the Secretary as soon as is reasonable. The Secretary shall then continue in accordance with Rule 13.

## Adjudication Panels

### Service of the Case Report

**Rule 13.1** An Adjudication Panel shall consider a Case Report submitted in accordance with Rule 12.3.

8. Once the Case Report has been received by the Secretary under Rule 12.3, they shall arrange for an Adjudication Panel to consider the Case Report under Rule 13.1 as soon as is reasonable. The Adjudication Panel shall be appointed in accordance with the Appointments Regulations.
9. The Secretary shall serve notice of the date of the Adjudication Panel meeting on the Respondent and the Case Manager. Both parties shall be given a minimum of 28 days' notice of the Adjudication Panel meeting.
10. As detailed in Regulation 5(b), the Respondent may provide written submissions to the Secretary in advance of the Adjudication Panel meeting. The Secretary shall provide any written submissions provided by the Respondent to the Adjudication Panel to consider with the Case Report and copy to the Case Manager for information.

11. If the Case Manager or Respondent obtains additional relevant information after the notice of the date of the Adjudication Panel has been served but before the Adjudication Panel has made its determination, they may serve this additional information on the Adjudication Panel and the other party. The Adjudication Panel shall give a reasonable opportunity to the other party to comment on the additional information before a determination is made under Rule 13.3.

### Meeting of the Adjudication Panel

**Rule 13.2** The Adjudication Panel shall decide, by simple majority, whether a Prima Facie case of Misconduct is established.

12. In deciding whether a Prima Facie case of Misconduct is established under Rule 13.2, the Adjudication Panel shall consider:
  - (a) the Allegation;
  - (b) the Case Report;
  - (c) any written submissions provided to the Adjudication Panel by the Respondent under Regulation 5(b);
  - (d) any additional relevant information served by the IFoA or the Respondent under Regulation 11 with any comments from the other party; and
  - (e) any information from any other relevant source obtained under Regulation 14.
13. The meeting of the Adjudication Panel shall be held in private and without oral submissions.
14. The Adjudication Panel may suspend its consideration of the case and require further information be provided, via the Secretary, by:
  - (a) the Case Manager;
  - (b) the Investigation Actuary (if any);
  - (c) the Respondent;
  - (d) the Referrer; and/or
  - (e) any other relevant source.

### General procedure of Adjudication Panel

15. The Adjudication Panel may, at any stage, appoint an individual from the Pool of Legal Advisers assist it in matters of law or procedure. Once appointed, the Legal Adviser may give legal advice. Any advice given in private must be made available to the parties.
16. Under Rule 22.2, the Adjudication Panel has the power to determine its own conduct and procedure in holding meetings. The Adjudication Panel has the discretion to give any directions, change any time limits, suspend any meetings, and/or accept any written undertakings from the Respondent. The Adjudication Panel may depart from these Regulations in matters of procedure if it considers that there are good reasons to do so.

17. The Adjudication Panel shall consider all documents placed before it to be authentic unless the authenticity of a document is challenged by the Respondent or the Case Manager. If there is a challenge about whether a document is authentic, the Adjudication Panel may invite written representations from both parties. The Adjudication Panel may then give whatever weight it thinks appropriate to the contents of the document.

### Decision of the Adjudication Panel

**Rule 13.3** In determining whether a Prima Facie case of Misconduct is established under Rule 13.2, the Adjudication Panel can determine that:

- (a) a Prima Facie case of Misconduct is not established and dismiss the case; or
- (b) a Prima Facie case of Misconduct is established and invite the Respondent to resolve the case in accordance with Rule 13.4; or
- (c) a Prima Facie case of Misconduct is established and refer the Allegation to a Disciplinary Tribunal Panel under Rule 15.

18. The Adjudication Panel shall make a determination under Rule 13.3 by simple majority.

### No Prima Facie Case of Misconduct – Rule 13.3 (a)

19. If the Adjudication Panel determines that a Prima Facie case of Misconduct is not established, they shall dismiss the case under Rule 13.3 (a).
20. If the Adjudication Panel dismisses the case, their written determination shall provide their reasons for doing so.
21. The Adjudication Panel's determination shall be served, as soon as is reasonable, on:
- (a) the Respondent;
  - (b) the Case Manager; and
  - (c) the Referrer.
22. Where an Adjudication Panel dismisses a case under Rule 13.3 (a), the Respondent may apply to the Adjudication Panel for costs to be awarded against the IFoA.

### Acceptance of Findings and Proposed Sanction – Rule 13.3 (b)

**Rule 13.4** If the Adjudication Panel makes a determination under Rule 13.3 (b), the Adjudication Panel:

- (a) shall invite the Respondent to accept the Adjudication Panel's finding regarding Misconduct; and
- (b) may invite the Respondent to agree to the imposition of one or more sanctions:
  - (i) a reprimand; and/or
  - (ii) a fine, up to the maximum amount detailed in the Regulations; and/or
  - (iii) a compulsory period of education, retraining and/or supervised practice; and/or

- (iv) if the Respondent is no longer a Member at the time the Adjudication Panel makes its determination, exclusion from membership of the IFoA up to a maximum period of five years.

23. In deciding whether or not to issue an invitation to the Respondent under Rule 13.4, the Adjudication Panel shall consider the public interest. The Adjudication Panel should also consider:
- (a) the seriousness of the alleged Misconduct;
  - (b) whether the sanctions available to the Adjudication Panel are sufficient to reflect the seriousness of the alleged Misconduct taking into account the sanctions guidance issued by the Disciplinary Committee;
  - (c) the Respondent's insight into their conduct, and the level of engagement with the disciplinary process; and/or
  - (d) any other relevant information.
24. If the Adjudication Panel considers that an invitation should be issued to the Respondent, the Adjudication Panel shall prepare an invitation in writing.
25. The invitation shall include:
- (a) the reasons why the Adjudication Panel considers that a finding of Prima Facie Misconduct is established and why it considers it appropriate to issue an invitation;
  - (b) a summary of the factual background to the case;
  - (c) an invitation for the Respondent to accept that there has been Misconduct;
  - (d) the specific sanction(s) to be imposed on the Respondent;
  - (e) the amount of costs to be paid by the Respondent (if any); and
  - (f) any other relevant matters.
26. Under Rule 13.4(b) (ii), the maximum fine to be imposed is £10,000.

**Rule 13.5** Where the Adjudication Panel makes an invitation under Rule 13.4, the Respondent may either:

- (a) accept the invitation; or
- (b) reject the invitation.

27. The Respondent's acceptance or rejection of the invitation under Rule 13.5 shall be in writing. It must be served on the Adjudication Panel via the Secretary, within 28 days of service of the invitation.
28. The Secretary may extend the 28 day deadline where it is in the interests of justice to do so. Any extension shall be approved by the Head of Legal Services.

## Acceptance of Adjudication Panel's invitation

29. If the Respondent accepts the Adjudication Panel's written invitation, the Adjudication Panel shall serve the written determination, as soon as is reasonable, on:
- (a) the Respondent;
  - (b) the Case Manager; and
  - (c) the Referrer.
30. In accepting a written invitation under Rule 13.5, the Respondent shall be taken to have agreed:
- (a) that they committed Misconduct as found by the Adjudication Panel in their determination; and
  - (b) that they are to be bound by any sanction and costs award specified in their determination.
31. Where a written invitation has been accepted, the Adjudication Panel's determination shall become final. The IFoA shall publicise the details of the Adjudication Panel's final determination as soon as is reasonable, subject to any conditions on publication imposed by the Adjudication Panel in its determination. This shall be in accordance with any relevant guidance issued by the Disciplinary Committee.

**Rule 13.6** Where the Respondent rejects or does not respond to an invitation under Rule 13.4, the Allegation shall be referred to a Disciplinary Tribunal Panel.

32. Under Rule 13.6, if the Respondent is served a written invitation under Rule 13.4 but fails to accept it in writing:
- (a) within 28 days of service; or
  - (b) within any time period agreed under Regulation 28,
- the case shall be referred to a Disciplinary Tribunal Panel.
33. Where a referral to a Disciplinary Tribunal Panel is made under Rule 13.6, the Notice of the Disciplinary Tribunal Panel hearing shall be published as soon as is reasonable.

## Referral to Disciplinary Tribunal – Rule 13.3(c)

34. In deciding whether an Allegation should be referred to a Disciplinary Tribunal Panel under Rule 13.3 (c), the Adjudication Panel must consider the public interest. The Adjudication Panel should also consider the following:
- (a) the seriousness of the alleged Misconduct; and
  - (b) whether the sanctions available to the Adjudication Panel are sufficient to reflect the seriousness of the alleged Misconduct. and

- (c) the Respondent's insight into their conduct, and the level of engagement with the disciplinary process; and/or
  - (d) any other relevant information.
35. In their written determination, the Adjudication Panel shall provide reasons for their determination to refer the Allegation to a Disciplinary Tribunal Panel.
36. The Adjudication Panel shall serve its written determination as soon as is reasonable, on:
- (a) the Respondent; and
  - (b) the Case Manager.
37. The Secretary shall inform the Referrer of the Adjudication Panel's determination. The Referrer shall not be provided with a copy of the Adjudication Panel's written determination.

### **Costs**

**Rule 13.7** The Adjudication Panel may make an order for costs against the IFoA or the Respondent.

38. Any order for costs made by the Adjudication Panel under Rule 13.7 shall take account of any guidance issued by the Disciplinary Committee.

### **Failure to Comply with the Adjudication Panel's Accepted Invitation**

39. Any failure or partial failure by the Respondent to comply with a sanction accepted under Rule 13.5 or an order for costs under Rule 13.7 shall be referred to the IFoA to consider whether a Complaint should be brought under Rule 5.

### **No Appeal against Adjudication Panel determination**

**Rule 13.8** Neither the Respondent nor the IFoA may appeal the determination of an Adjudication Panel.

### **Independent Review of an Adjudication Panel's determination**

**Rule 13.9** The Referrer may apply to the Independent Reviewer for a review of the Adjudication Panel's determination to dismiss a case under Rule 14.

**Rule 13.10** The IFoA may apply to the Independent Reviewer for a review of any Adjudication Panel determination under Rule 14.



### **Transfer by Adjudication Panel to Capacity for Membership Panel**

40. Under Rule 9 the Adjudication Panel may transfer a case to a Capacity for Membership Panel:
  - (a) following an application under Rule 9.1; or
  - (b) on its own motion under Rule 9.6.
41. The transfer of a case by the Adjudication Panel to a Capacity for Membership Panel shall be in accordance with Rule 9 and the Regulations.

## Definitions

Term	Meaning
Adjudication Panel	A panel referred to in Rule 13 of this Scheme.
Allegation	A Complaint that has been accepted for investigation under this Scheme under Rule 3, or which has been raised, under Rule 5.7, following a Respondent's failure to comply with their duties under Rule 5.
Appointments Regulations	Regulations issued by the Disciplinary Committee setting out the process for making appointments under this Scheme.
Capacity for Membership Panel	A panel referred to in Rule 16 of this Scheme.
Case Manager	The person assigned to the management and investigation of an Allegation, all proceedings related to the Allegation or an application for readmission. Another Case Manager can act in place of the assigned Case Manager if they are not available.
Case Report	A report referred to in Rule 12 of this Scheme which sets out the Allegation made against the Respondent and contains the relevant facts and information obtained during the investigation.
Complaint	A complaint by any person, body or company, or by an Executive Officer, alleging that a named Member or former Member has committed Misconduct.
Charge	A formal document prepared for a Disciplinary Tribunal Panel under Rule 15.2 of this Scheme stating the particulars of the Misconduct allegedly committed by the Member or former Member.
Disciplinary Committee	The Disciplinary Committee of the IFoA or its successor.
Disciplinary Tribunal Panel	A panel referred to in Rule 15 of this Scheme.
IFoA	The Institute and Faculty of Actuaries.
Independent Reviewer	The person referred to in Rule 14 of this Scheme.
Investigation Actuary	An actuary who may be assigned to a case from the Pool of Investigation Actuaries under Rule 7 of this Scheme.
Member	A member of the IFoA of any class other than an Honorary Fellow or an Affiliate.
Misconduct	The meaning under Rule 2 of this Scheme.
Pool of Legal Advisers	A pool of Legal Advisers appointed by the Regulatory Appointments Committee to provide independent legal advisory support to panels.

Term	Meaning
Prima Facie	Upon initial examination there appears to be sufficient evidence.
Referrer	A person, body or company making a Complaint alleging that a Member or former Member has committed Misconduct.
Regulations	Any regulations issued by the Disciplinary Committee.
Regulatory Appointments Committee	The Regulatory Appointments Committee of the IFoA or any successor body.
Respondent	A Member or former Member whose conduct is the subject of an Allegation or investigation by the IFoA under this Scheme and/or the Conduct Committee under the FRC Scheme.
Rule	A rule of this Scheme.
Rules of the IFoA	The rules of the IFoA from time to time.
Scheme	The Disciplinary Scheme made under Bye-law 59 and forming part of the Rules of the IFoA.
Secretary	The Judicial Committees Secretary of the IFoA.



# Institute and Faculty of Actuaries

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## Beijing

Room 512, 5/F Block A Landgentbldg Center · No 20 East Middle 3<sup>rd</sup> 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

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

## Oxford

Belsyre Court · 1<sup>st</sup> 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](http://www.actuaries.org.uk)

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