

# Disciplinary Scheme of the Institute and Faculty of Actuaries

## Regulations

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Institute  
and Faculty  
of Actuaries

# General Disciplinary Regulations

Disciplinary Committee

Version 1.2

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# General Disciplinary Regulations

- A. These Regulations shall be read alongside:
  - (a) the Disciplinary Scheme of the Institute and Faculty of Actuaries; 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. With regard to the applicability of these Regulations:
  - (a) Any Complaint or application for readmission to membership received by the IFoA shall be considered under the version of these Regulations in force at the time the Complaint or application for readmission to membership is received by the IFoA.
  - (b) In the event these Regulations are amended after a Complaint or application for readmission to membership has been received by the IFoA:
    - (i) the Respondent or Applicant may provide written consent to the IFoA for the Complaint/application for readmission to membership to be considered in accordance with the most recent version of these Regulations, otherwise
    - (ii) the version of the Regulations in force at the time the Complaint or application is received shall be applied to the extent that it is possible to do so, having regard to the need to ensure the fair and just determination of the case, otherwise the most recent version of the Regulations shall apply.
- E. These Regulations shall be interpreted and applied in accordance with the principles of natural justice, procedural fairness, and any applicable human rights law.
- F. The Rules contained in these Regulations are inserted for convenience of reference only. They shall not be considered a part of the Regulations.

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## Section A: Complaints and Allegations

### Making a Complaint

**Rule 3.1** Every Complaint received by the IFoA shall be referred to the Head of Disciplinary Investigations.

- A1. Any person, body or company may make a Complaint to the IFoA about the conduct of a named Member or former Member.
- A2. The IFoA shall acknowledge receipt of the Complaint and that it is being assessed for investigation under the Scheme.

**Rule 3.2** An Executive Officer of the IFoA may refer a Complaint to the Head of Disciplinary Investigations.

- A3. Before making a Complaint under Rule 3.2, the Executive Officer of the IFoA shall consider whether the Complaint should be referred to the Conduct Committee under Rule 4.2.

### Assessment of a Complaint by the Head of Disciplinary Investigations

- A4. The Head of Disciplinary Investigations shall notify the Member or former Member that the Complaint has been received and shall be assessed.

**Rule 3.3** The Head of Disciplinary Investigations shall assess every Complaint to determine whether it should be:

- (a) accepted as an Allegation for investigation under this Scheme; or
- (b) referred to an Assessment Panel with the recommendation that it is not accepted for investigation under this Scheme.

**Rule 3.4** The Head of Disciplinary Investigations shall assess the Complaint against the criteria in the Regulations.

- A5. Under Rule 3.4, the Head of the Disciplinary Investigations shall assess the Complaint against the following criteria:
  - (a) the Complaint could not amount to Misconduct even if the facts are proven; and/or
  - (b) there is no reasonable prospect of proving the matter giving rise to the Complaint; and/or
  - (c) the matter giving rise to the Complaint should be considered by another body and/or court before being reassessed under Rule 3.3.

## Outcome of Assessment by Head of Disciplinary Investigations

**Rule 3.5** If the Head of Disciplinary Investigations considers that the Complaint does not meet any of the criteria set out in the Regulations, the Complaint shall be accepted as an Allegation. The Allegation will then be dealt with under Rule 7 of this Scheme.

**Rule 3.6** If the Head of Disciplinary Investigations considers that one or more of the criteria are met, they shall refer the Complaint to an Assessment Panel with a recommendation that it is not accepted for investigation under this Scheme.

- A6.** When assessing the Complaint under Rules 3.5 and 3.6, the Head of Disciplinary Investigations shall record their assessment of the Complaint in writing. The assessment shall set out the reasons, with reference to the criteria, for either accepting the Complaint or referring it to an Assessment Panel.
- A7.** The Head of Disciplinary Investigations shall make a recommendation on the referral within seven days of the day it was referred, unless there is a good reason for delay. Good reasons for delay may include the need to obtain additional information under Regulation A8. If an assessment of the Complaint is not completed within seven days, the Head of Disciplinary Investigations shall provide reasons for the delay in their written assessment.
- A8.** As part of their assessment under Regulation A5, the Head of Disciplinary Investigations may, if considered necessary, carry out preliminary enquiries. As part of these preliminary enquiries, the Head of Disciplinary Investigations may:
- (a) request that the Referrer provide further information;
  - (b) request that the Member or former Member who is the subject of the Complaint provide further information;
  - (c) obtain advice regarding relevant legal or actuarial matters; and/or
  - (d) request relevant information from any other Member or individual.
- A9.** Where there is more than one Complaint against the same Member or former Member in respect of the same instance of alleged Misconduct, all the Complaints shall be considered together by the Head of Disciplinary Investigations.
- A10.** Where a Complaint contains separate instances of alleged Misconduct, the Head of Disciplinary Investigations shall assess the entire Complaint. The Head of Disciplinary Investigations shall decide to accept the entire Complaint for investigation under the Scheme or refer the entire Complaint to an Assessment Panel. The Head of Disciplinary Investigations may not accept some elements of a Complaint for investigation but refer others.

## Acceptance of the Complaint by the Head of the Disciplinary Investigations

- A11.** Once a Complaint has been accepted by the Head of Disciplinary Investigations for investigation under the Scheme under Rule 3.5, the Complaint shall be referred to as an Allegation and dealt with under Rule 7 of the Scheme. The Member or former Member (now the Respondent) and the Referrer shall be advised.

## Recommendation to the Assessment Panel by the Head of Disciplinary Investigations

- A12. If it is recommended that a Complaint is not accepted for investigation under the Scheme under Rule 3.6, the Head of Disciplinary Investigations shall send a copy of the Complaint, their written recommendation and any relevant material to an Assessment Panel, via the Secretary, for consideration.
- A13. Once the written recommendation has been received by the Secretary, they shall arrange for the appointment of an Assessment Panel in accordance with the Appointments Regulations.

**Rule 3.7** The Assessment Panel shall consider the referral in private and may either:

- (a) accept the Complaint as an Allegation to be dealt with under Rule 7 of this Scheme; or
- (b) confirm that the Complaint should not be accepted for investigation under the Scheme.

- A14. In considering the Complaint under Rule 3.7, and the recommendation of the Head of Disciplinary Investigations, the Assessment Panel shall apply the criteria in Regulation A5.
- A15. The Assessment Panel shall decide unanimously whether the Complaint should be accepted for investigation under the Scheme or not accepted. If the Assessment Panel is unable to reach a unanimous decision, the Complaint shall be accepted for investigation in accordance with Rule 7 and the Investigation section of these Regulations.
- A16. The Assessment Panel shall make a written record of their assessment. The written record shall set out the reasons for their decision, with reference to the criteria. The Assessment Panel shall provide their written decision to the Head of Disciplinary Investigations within seven days.
- A17. Where the Complaint contains separate instances of alleged Misconduct, the Assessment Panel shall assess the entire Complaint. The Assessment Panel shall decide to accept or not to accept the entire Complaint for investigation under the Scheme. The Assessment Panel may not accept some instances of alleged Misconduct for investigation but not accept others.
- A18. At any stage the Assessment Panel may appoint an individual from the Pool of Legal Advisers to assist it in any matters of law or procedure. Once appointed, the Legal Adviser may give legal advice to the Assessment Panel.

*Assessment Panel decision that Complaint should be investigated under the Scheme.*

- A19. If the Assessment Panel accepts the Complaint for investigation under the Scheme, it shall be referred to the Head of Disciplinary Investigations as an Allegation to be investigated in accordance with Rule 7. The Member or former Member (now the Respondent) and the Referrer shall be advised.

*Assessment Panel decision that Complaint should not be investigated under the Scheme.*

- A20. If the Assessment Panel confirms that the Complaint should not be investigated under the Scheme, the Head of Disciplinary Investigations shall, as soon as is reasonable:
- (a) advise the Referrer that the Complaint will not be investigated under the Scheme, and that there is a right to review (under Rule 3.8);
  - (b) advise the Member/former Member who is the subject of the Complaint that the Complaint against them will not be investigated under the Scheme, and that the Referrer has a right to review (under Rule 3.8); and
  - (c) provide the written decision of the Assessment Panel to:
    - (i) the Referrer; and
    - (ii) the Member/former Member who was the subject of the Complaint.

### **Review by new Assessment Panel**

*Referrer's notice requesting review of initial Assessment Panel determination*

**Rule 3.8** Where the Assessment Panel confirms the recommendation that the Complaint should not be investigated under this Scheme, the Referrer may give notice requesting a review of the Assessment Panel's determination by a new Assessment Panel.

**Rule 3.9** When giving notice to the IFoA under Rule 3.8, the Referrer shall specify one or more of the grounds for review as set out in the Regulations.

- A21. As well as setting out the relevant ground(s) for the review, the Referrer's notice under Rule 3.8 should include any supporting documentation. The notice shall be served on the Secretary and the IFoA within 28 days of the determination being served.
- A22. When giving notice to the Secretary and the IFoA, the Referrer shall specify one or more of the following grounds for the review:
- (a) that the initial Assessment Panel's determination was manifestly unreasonable or wrong in law; and/or
  - (b) that there was injustice because of a serious procedural error or other irregularity which may have affected the initial Assessment Panel's determination; and/or
  - (c) that there is significant and relevant new evidence that has come to light, which was not previously available and could not reasonably have been made available before the initial Assessment Panel's determination.
- A23. If notice is provided under Rule 3.8, the Secretary shall arrange for the appointment of a new Assessment Panel in accordance with the Appointments Regulations. No member of the new Assessment Panel shall have sat on the Assessment Panel which made the initial determination not to accept the Complaint for investigation under the Scheme.

*Determination of new Assessment Panel*

- A24. The new Assessment Panel shall first consider, in private, whether the ground(s) for the review have been established.



### Grounds for review not established

- A25. If the ground(s) are not established, the new Assessment Panel shall confirm the initial Assessment Panel's determination that the Complaint should not be accepted for investigation under the Scheme. No further review of that Complaint is permitted.
- A26. The Head of Disciplinary Investigations shall:
- (a) provide the Referrer with a copy of the new Assessment Panel's decision; and
  - (b) inform the Member/former Member that the ground(s) were not established and provide the Member/former Member with a copy of the new Assessment Panel's decision.

### Grounds for review established

**Rule 3.10** If the new Assessment Panel considers that the ground(s) for review have been established it shall consider the review in accordance with the Regulations.

- A27. Under Rule 3.10, if the ground(s) for review have been established, the new Assessment Panel shall then review the initial Assessment Panel's determination in private. The new Assessment Panel may:
- (a) confirm the initial Assessment Panel's decision not to accept the Complaint for investigation under the Scheme; or
  - (b) decide that the Complaint should be accepted for investigation under the Scheme.
- A28. The new Assessment Panel shall make its decision with reference to the criteria in Regulation A5.
- A29. The new Assessment Panel shall make a written record of their assessment.

### *Outcome of Assessment Panel determination*

- A30. If the new Assessment Panel confirms the initial Assessment Panel's decision that the Complaint should not be accepted for investigation under the Scheme, the Head of Disciplinary Investigations shall:
- (a) provide the Referrer with a copy of the new Assessment Panel's decision; and
  - (b) inform the Member/former Member that the Complaint made against them was again not accepted for investigation under the Scheme and provide the Member/former Member with a copy of the new Assessment Panel's decision.
- A31. If the new Assessment Panel decides that the Complaint should be accepted for investigation under the Scheme, it shall be referred to the Head of Disciplinary Investigations, as an Allegation to be investigated in accordance with Rule 7. The Member or former Member (now the Respondent) and the Referrer shall be advised.

### **No Further Application for Review Available**

**Rule 3.11** The new Assessment Panel's decision is final. A further application for review by the Referrer will not be accepted.

## Section B: Duty to co-operate

### Co-operation with the consideration of a Complaint

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|----------|--|
| Rule 5.1 | Every Member or former Member who is subject to a Complaint under Rule 3.1 or 3.2 has a duty to co-operate fully and promptly with the consideration of the Complaint. |
| Rule 5.2 | Failure or partial failure of a Member or former Member to comply with the duties under Rule 5.1 may be brought as a Complaint against them.                           |

- B1. Under Rule 5.1 all Members or former Members shall co-operate fully and promptly in relation to any Complaint about any conduct that occurred while they were a Member, while the Head of Disciplinary Investigations considers, under Rule 3.3, whether the Complaint should be accepted as an Allegation for investigation under the Scheme.
- B2. The requirements of Rule 5.1 also apply to conduct occurring before they became a Member if it was not disclosed in writing to the IFoA before admission.
- B3. All former Members shall co-operate fully and promptly regardless of their membership status at the time the Complaint was referred to the IFoA.
- B4. If a Member or former Member fails or partially fails to comply with Rule 5.1 the IFoA will consider whether a Complaint should be brought about their non-compliance. This will be carried out by an Executive Officer in accordance with Rule 3.2.

### Respondent's Duties

|                 |   |
|-----------------|---|
| <b>Rule 5.3</b> | Every Respondent has a duty to co-operate fully and promptly with the consideration of any Allegation, any investigation and/or any proceedings under this Scheme and/or the FRC Scheme.  |
| <b>Rule 5.4</b> | Every Respondent has a duty to comply with any undertaking, determination, outcome, order, sanction and/or costs order imposed under this Scheme.   |
| <b>Rule 5.5</b> | Every Respondent has a duty to comply with any undertaking, determination, outcome, order, sanction and/or costs order imposed under the FRC Scheme.  |
| <b>Rule 5.6</b> | Every Respondent shall treat as confidential all information that is not in the public domain and which is provided in the course of any preliminary inquiry, investigation, or proceeding by: <ul style="list-style-type: none"><li>(a) the IFoA under this Scheme; or</li><li>(b) the FRC under the FRC Scheme.</li></ul> |
| <b>Rule 5.7</b> | Failure or partial failure of a Respondent to comply with the duties in this section may be brought as a Complaint or an Allegation of Misconduct against the Respondent.   |

- B5. Once a Complaint has been accepted for investigation, it is known as an Allegation. From then on the Member or former Member subject to the Allegation is known as a Respondent.
- B6. All Respondents shall co-operate fully and promptly regardless of their membership status when they become subject to an Allegation.

- B7. Under Rule 5.3 a Respondent shall co-operate fully and promptly in the consideration of any Allegation, any investigation and/or proceedings under the Scheme or the FRC Scheme.
- B8. Under Rules 5.4 and 5.5 a Respondent shall comply with any undertaking, determination, outcome, order, sanction and/or costs imposed under this Scheme of the FRC Scheme.
- B9. If a Respondent fails or partially fails to comply with Rules 5.3, 5.4, 5.5 and 5.6 the IFoA/Case Manager will consider whether a Complaint/Allegation should be brought about their non-compliance. Further detail about failure or partial failure to comply is at Regulations B14 - B23.

### Duties of Members who are not a Respondent

|                  |  |
|------------------|--|
| <b>Rule 5.8</b>  | Every Member (who is not the Respondent) has a duty to co-operate fully and promptly in respect of the consideration of any Complaint, any Allegation, any investigation and/or any proceedings under this Scheme.   |
| <b>Rule 5.9</b>  | Every Member (who is not the Respondent) has a duty to co-operate fully and promptly with the Conduct Committee in respect of the consideration of any complaint, any investigation and/or any proceedings under the FRC Scheme.   |
| <b>Rule 5.10</b> | A Member (who is not the Respondent) shall treat as confidential all information that is not in the public domain and which is provided in the course of any preliminary inquiry, investigation, or proceeding by: <ul style="list-style-type: none"> <li>(a) the IFoA under this Scheme; or</li> <li>(b) the FRC under the FRC Scheme.</li> </ul> |
| <b>Rule 5.11</b> | Failure or partial failure of any Member or former Member (who is not the Respondent) to comply with the duties in this section may be referred as a Complaint against the Member or former Member.  |

### Co-operation with the IFoA

- B10. The duty of co-operation under Rules 5.1, 5.3 and 5.8 includes (but is not limited to) a duty to co-operate fully and promptly with any investigation or request by:
  - (a) the Head of Disciplinary Investigations;
  - (b) the Case Manager;
  - (c) the Investigation Actuary (if assigned);
  - (d) any barrister, advocate or solicitor instructed by the Case Manager to undertake the investigation;
  - (e) any legal or expert advisor instructed by the Case Manager to assist in the investigation; and/or
  - (f) any other person instructed by the Case Manager to assist in the investigation.

- B11.** The duty to co-operate fully and promptly shall include (but is not limited to) providing all oral and written information and/or evidence requested by anyone detailed in Regulation B10 above. However:
- (a) the requirement to disclose information and/or documentary evidence does not include any document or information which is the subject of legal professional privilege;
  - (b) a Respondent, Member or former Member cannot be compelled to provide information or evidence which might incriminate them or expose them to penalties imposed by law.

#### **Co-operation with the Conduct Committee of the FRC**

- B12.** The duty of co-operation with the FRC under Rules 5.3, 5.5 and 5.9 includes (but is not limited to):
- (a) providing the Conduct Committee and its representatives with any relevant information or documentation requested; and/or
  - (b) attending any meeting requested by the Conduct Committee or its representatives; and/or
  - (c) attending to and completing any other request by the Conduct Committee or its representatives.
- B13.** The duty to co-operate with the FRC may include (but is not limited to) providing all oral and written information and/or evidence requested by anyone detailed in Regulation B12 above. However:
- (a) the requirement to disclose information and/or documentary evidence does not include any document or information which is the subject of legal professional privilege;
  - (b) a Respondent, Member or former Member cannot be compelled to provide information or evidence which might incriminate them or expose them to penalties imposed by law.

#### **Failure or Partial Failure to Co-operate and/or Comply by a Respondent**

*Further Allegations of Misconduct in relation to a Respondent's failure to co-operate or comply*

- B14.** Where a Respondent fails or partly fails to:
- (a) Co-operate with any duty under Rule 5.3 during an investigation; or
  - (b) Comply with any Interim Order imposed under Rule 10; or
  - (c) Comply with a written undertaking agreed with the Case Manager under Rule 7.3
- then under Rule 5.7 the Case Manager shall consider whether a further Allegation of Misconduct should be brought against the Respondent about the failure or partial failure to co-operate or comply.
- B15.** Where the Case Manager considers that a further Allegation of Misconduct should not be brought against the Respondent, the investigation shall continue in accordance with this Scheme.

**B16.** Where the Case Manager considers that a further Allegation of Misconduct should be brought against the Respondent, the Case Manager shall refer the matter to the Head of Disciplinary Investigations. The Head of Disciplinary Investigations shall decide whether it is in the public interest for a further Allegation of Misconduct to be brought against the Respondent about their failure or partial failure to co-operate or comply.

**B17.** Where the Head of Disciplinary Investigations decides that:

- (a) It is in the public interest for a further Allegation to be brought, a further Allegation shall be added to the existing investigation against the Respondent, and the investigation shall continue under this Scheme; or
- (b) It is not in the public interest for a further Allegation to be brought, the investigation shall continue under this Scheme.

*Complaints in relation to a Respondent's failure to comply*

**B18.** Where a Respondent fails or partially fails to comply with:

- (a) An undertaking accepted by a Disciplinary Tribunal Panel under Rule 15.13; or
- (b) An undertaking accepted by a Capacity for Membership Panel under Rule 16.24; or
- (c) a Disciplinary Order; or
- (d) a determination of an Adjudication Panel, following its acceptance under Rule 13.5; or
- (e) a determination of a Disciplinary Tribunal Panel; or
- (f) an outcome of a Capacity for Membership Panel

then the IFoA shall consider whether a Complaint should be made under Rule 3.2 about the failure or partial failure to comply.

*Failure or Partial Failure to Co-operate and/or Comply by any other Member*

**B19.** Under Rule 5.11, the IFoA shall consider whether a Complaint should be made under Rule 3.2 against a Member (who is not the Respondent) about the failure or partial failure to comply with any duty in Rules 5.8 - 5.10.

## Section C: Proof of certain matters

**Rule 6.1** Where a Respondent:

- (a) has been the subject of a judgement or determination arising from civil proceedings before a court of competent jurisdiction; and/or
- (b) has been convicted of a criminal offence before a court of competent jurisdiction; and/or
- (c) has been the subject of an adverse final determination by an actuarial regulatory body which is a full member of the International Actuarial Association,

the findings of fact made in those proceedings shall be conclusive proof of those facts, under this Scheme.

**Rule 6.2** Where a Respondent has been the subject of:

- (a) an adverse final determination; and/or
- (b) judgment; and/or
- (c) a disqualification order

by any regulatory body in the exercise of its statutory and/or regulatory function other than where Rule 6.1 applies, the findings of fact made in those proceedings shall amount to Prima Facie evidence of those facts, under this Scheme.

**C1.** In a hearing before any panel under this Scheme:

- (a) where a Respondent has been convicted of a criminal offence, the facts relating to that conviction may be proved by a copy of the certificate or memorandum of conviction, and a copy of any final judgment, ruling or determination in relation to the conviction;
- (b) the finding and sanction of any tribunal or body exercising a statutory or regulatory function may be proved by a record of the finding and sanction; and
- (c) the judgment or determination of any civil court may be proved by a certified copy of the judgment or determination.

## Section D: Investigations

**Rule 7.1** Once an Allegation of Misconduct has been accepted for investigation under Rules 3.5 or 3.7, the Head of Disciplinary Investigations shall refer the Allegation to the Chair of the Pool of Investigation Actuaries.

- D1. The Head of Disciplinary Investigations shall also refer the Allegation to the Chair of the Pool of Investigation Actuaries if an Allegation of Misconduct has been accepted for investigation by a new Assessment Panel under Regulation A27.

### Appointment of an Investigation Actuary

- D2. After an Allegation has been referred to the Chair of the Pool of Investigation Actuaries under Rule 7.1 or Regulation D1, the Head of Disciplinary Investigations and the Chair of the Pool of Investigation Actuaries shall decide whether the Allegation should be referred to the Conduct Committee under Rule 4.3 of the Scheme. If they cannot agree, the Chair of the Pool of Investigation Actuaries shall have the final decision.
- D3. Where the Head of Disciplinary Investigations and the Chair decide that it is appropriate to make a referral to the Conduct Committee, they shall refer the Allegation to the Conduct Committee under Rule 4.3 of the Scheme.

**Rule 7.2** If not referred to the Conduct Committee of the FRC under Rule 4.3 a Case Manager will be assigned to the case. One or more members of the Pool of Investigation Actuaries may also be assigned.

- D4. Under Rule 7.2 the Head of Disciplinary Investigations shall assign a Case Manager, who shall carry out an investigation into the Allegation, and the Chair of the Pool of Investigation Actuaries may assign one or more Investigation Actuaries from the Pool of Investigation Actuaries to assist the Case Manager in their investigation. They shall have regard to the nature and complexity of the case when determining whether an Investigation Actuary should be assigned.
- D5. If more than one Investigation Actuary has been assigned, the Chair of the Pool of Investigation Actuaries shall appoint one of the Investigation Actuaries to be lead Investigation Actuary.
- D6. The Head of Disciplinary Investigations shall advise the Case Manager whether an Investigation Actuary (or Actuaries) has been assigned and who they are.
- D7. At any time during an investigation, the Chair of the Pool of Investigation Actuaries, may:
- (a) replace an existing Investigation Actuary; and/or
  - (b) replace the lead Investigation Actuary; and/or
  - (c) assign additional Investigation Actuaries to assist the Case Manager in their investigation.

## **Service of the Allegation on the Respondent**

- D8.** The Case Manager shall provide the following, in writing, to the Respondent:
- (a) a copy of the Allegation;
  - (b) a copy of this Scheme and Regulations;
  - (c) the name(s) of the Investigation Actuary (and other Investigation Actuaries, if assigned); and
  - (d) the name and contact details of the Case Manager.
- D9.** The Case Manager shall provide these documents as soon as is reasonable.

## **Investigation of the Allegation**

- D10.** The Allegation shall form the basis of the investigation by the Case Manager into the alleged Misconduct.
- D11.** At any stage after an investigation has commenced, but before an investigation has been completed under Rule 12.1, the Case Manager (and Investigation Actuary, if assigned), may send an Allegation to the Head of Disciplinary Investigations and the Chair of the Pool of Investigation Actuaries for referral to the Conduct Committee under Rule 4.5.
- D12.** During the investigation the Case Manager may also:
- (a) investigate any additional conduct of the Respondent which comes to the notice of the Case Manager and which may amount to Misconduct; and/or
  - (b) carry out the investigation together with the investigation into any other Allegation made against the same Respondent.
- D13.** In carrying out the investigation under Regulation D4, the Case Manager may:
- (a) require from the Respondent and/or any Member copies or originals of documents relevant to the investigation; and/or
  - (b) require from the Respondent and/or any Member an explanation of any information or documents relevant to the investigation; and/or
  - (c) require any information from the Respondent and/or any Member in relation to matters relevant to the investigation; and/or
  - (d) request any information they consider relevant from:
    - (i) the Referrer; and/or
    - (ii) the Respondent; and/or
    - (iii) any Member; and/or
    - (iv) any other relevant source.



- (e) request the following individuals to attend, in person or virtually, at a specified time and place to answer any relevant questions or provide any relevant information:
  - (i) the Referrer; and/or
  - (ii) the Respondent; and/or
  - (iii) any Member; and/or
  - (iv) any other relevant individual.

**D14.** Under Regulation D13:

- (a) The requirement to disclose information and/or documentary evidence does not include any document or information which is the subject of legal professional privilege.
- (b) The Case Manager may not compel a Respondent to provide information or evidence which might incriminate the Respondent or expose them to penalties imposed by law.
- (c) The Respondent may be legally represented at an interview or meeting with the Case Manager. They may also be represented by a Member or any other person.
- (d) The Referrer or any other relevant individual may be legally represented at an interview or meeting with the Case Manager. They may also be represented by a Member or any other person.
- (e) Neither the Respondent nor their representatives shall be present during an interview or meeting between the Case Manager and any other individual unless the Case Manager has agreed to their attendance.
- (f) The Investigation Actuary may be present at any interview or meeting.

**D15.** The Case Manager may:

- (a) instruct a barrister, advocate or solicitor to assist in the preparation of any documentation relating to the investigation, including the Case Report; and/or
- (b) receive any legal or other expert advice about any matter relevant to the investigation.

**D16.** If the Respondent fails or partially fails to co-operate fully with the investigation, the Case Manager will consider whether a further Allegation of Misconduct should be brought under Rule 5.

**Written Undertakings Received during an Investigation**

**Rule 7.3** During an investigation, the Case Manager may request and/or accept any written undertaking from the Respondent.

**D17.** If the Respondent fails or partially fails to co-operate fully with any undertaking under Rule 7.3, the Case Manager will consider whether a further Allegation of Misconduct should be brought under Rule 5.

## Suspension of investigation

**Rule 7.4** During an investigation, the Convener of Adjudication Panels may suspend an investigation following an application by the Case Manager and/or Respondent.

- D18. If either the Case Manager or the Respondent want the investigation of an Allegation to be suspended, under Rule 7.4, they must make a written application to the Convener of Adjudication Panels, via the Secretary. The application must set out reasons.
- D19. The Secretary will request representations, within 14 days, from the party who is not making the application.
- D20. The Convener of Adjudication Panels will determine whether the investigation should be suspended or not. They shall issue a written determination which includes their reasons.
- D21. If the Convener of Adjudication Panels determines that the investigation should be suspended, they shall state how long it should be suspended. The Case Manager shall suspend the investigation until that time.
- D22. On application by the Case Manager or the Respondent the Convener of Adjudication Panels may direct that a suspended investigation is resumed earlier than the suspension period set under Regulation D21.
- D23. If the Convener of Adjudication Panels determines that the investigation should not be suspended, the investigation shall continue under this Rule 7.

## Section E: IFoA request for direct referral to a Disciplinary Tribunal Panel

**Rule 8.1** At any stage before an Adjudication Panel considers an Allegation under Rule 13.1 if the Case Manager is satisfied that the criteria set out in the Regulations are met, they may request to refer the Allegation directly to a Disciplinary Tribunal Panel.

- E1. The Case Manager may only refer the Allegation directly to a Disciplinary Tribunal Panel under Rule 8.1 if:
- (a) they have already considered whether it is appropriate to send the matter to the Chair of the Pool of Investigation Actuaries for referral to the Conduct Committee under Rule 4 and
  - (b) they are satisfied that it is in the public interest to refer the Allegation directly to a Disciplinary Tribunal Panel.

### Intention to refer Allegation directly to a Disciplinary Tribunal Panel

**Rule 8.2** The Case Manager shall notify the Respondent of their intention to refer the Allegation directly to a Disciplinary Tribunal Panel.

- E2. When notifying the Respondent of their intention to refer the Allegation directly to a Disciplinary Tribunal Panel, under Rule 8.2, the Case Manager shall set out the reasons in support of that intention.

**Rule 8.3** After receiving the Case Manager's notification under Rule 8.2, the Respondent shall either:

- (a) agree to the Allegation being referred directly to a Disciplinary Tribunal Panel; or
- (b) not agree to the Allegation being referred directly to a Disciplinary Tribunal Panel.

- E3. Under Rule 8.3, the Respondent shall confirm within 21 days, in writing, whether they agree or do not agree to the Allegation being directly referred to a Disciplinary Tribunal Panel.

### Respondent agrees to direct referral of Allegation to a Disciplinary Tribunal Panel

**Rule 8.4** If the Respondent agrees to the Allegation being referred directly to a Disciplinary Tribunal Panel:

- (a) a Case Report (under Rule 12) shall not be prepared by the Case Manager;
- (b) the Case Manager shall prepare a Charge in accordance with Rule 15;
- (c) Rule 13 and Rule 14 shall not apply to the case; and
- (d) the Charge shall then be considered by a Disciplinary Tribunal Panel under Rule 15.

- E4. If under Rule 8.3, the Respondent agrees to the Allegation being referred directly to a Disciplinary Tribunal Panel, the Case Manager shall notify the Secretary. The case shall then continue under Rule 14 of the Scheme.

## **Respondent does not agree to direct referral of an Allegation to a Disciplinary Tribunal Panel.**

**Rule 8.5** If the Respondent does not agree to the Allegation being referred directly to a Disciplinary Tribunal Panel, the Case Manager may apply to the Convener of Adjudication Panels for the Allegation to be referred directly to a Disciplinary Tribunal Panel.

- E5. The Case Manager's application under Rule 8.5 shall be in writing and served on the Respondent and the Secretary. The application shall include reasons.
- E6. The Respondent shall serve any written representations on the Case Manager and the Secretary within 14 days of the application being served on them.

### **Decision of the Convener of Adjudication Panels**

**Rule 8.6** The Convener of Adjudication Panels shall decide whether the Allegation should be referred directly to a Disciplinary Tribunal Panel.

- E7. In deciding whether the Allegation should be referred directly to a Disciplinary Tribunal Panel under Rule 8.6, the Convener of Adjudication Panels shall take into account the following factors:
- (a) whether the Allegation discloses a Prima Facie case of Misconduct;
  - (b) the seriousness of the issues raised, including whether the Allegation, if proved, would result in a sanction exceeding the level available in an Adjudication Panel's invitation under Rule 13.4(b);
  - (c) whether there is a realistic prospect of establishing, before a Disciplinary Tribunal Panel, the factual matters giving rise to the Allegation;
  - (d) the interests of the public and/or the reputation of actuarial profession;
  - (e) any submissions made by the Respondent under Regulation E6; and
  - (f) any other relevant circumstances.
- E8. The decision of the Convener of the Adjudication Panels shall be in writing.

**Rule 8.7** If the Convener of Adjudication Panels decides that the Allegation should be referred directly to a Disciplinary Tribunal Panel, the process in Rule 8.4 applies.

**Rule 8.8** If the Convener of Adjudication Panels decides that an Allegation should not be referred directly to a Disciplinary Tribunal Panel, the Case Manager shall prepare a Case Report as detailed in Rule 12.1.

- E9. The Secretary shall serve the decision of the Convener of Adjudication Panels on:
- (a) the Case Manager;
  - (b) the Respondent;
  - (c) the Referrer; and
  - (d) the Disciplinary Committee.

**Rule 8.9** The decision of the Convener of Adjudication Panels shall be final and cannot be appealed.

## Section F: Transfer to Capacity for Membership process

### Application to Transfer to a Capacity for Membership Panel

- Rule 9.1** The Case Manager or the Respondent may apply to transfer a case to a Capacity for Membership Panel at any time:
- (a) after an Allegation has been accepted for investigation under Rule 3.5 or 3.7(a); and
  - (b) before:
    - (i) a Disciplinary Orders Panel approves a Disciplinary Order under Rule 11;
    - (ii) an Adjudication Panel issues a determination under Rule 13; or
    - (iii) a Disciplinary Tribunal Panel issues a determination under Rule 15.
- Rule 9.2** An application to transfer a case to a Capacity for Membership Panel under Rule 9.1 shall be made to:
- (a) an Adjudication Panel; or
  - (b) a Disciplinary Tribunal Panel.

- F1.** An application to transfer a case to a Capacity for Membership Panel under Rule 9.2 shall be made:
- (a) in writing to an Adjudication Panel or Disciplinary Tribunal Panel, via the Secretary and will be copied to the other party; or
  - (b) orally at a Disciplinary Tribunal Panel hearing.
- F2.** An application to transfer shall include evidence of the Respondent's illness or other relevant health or medical condition. The evidence may include:
- (a) relevant medical records;
  - (b) reports from any medical advisor or health professional involved in the Respondent's treatment;
  - (c) expert evidence regarding the effect of the Respondent's condition on their capacity for membership of the IFoA; and/or
  - (d) any other relevant evidence.
- F3.** In preparing the application to transfer a case to a Capacity for Membership Panel, the Case Manager may carry out any inquiries and/or obtain any relevant information, including requesting the Respondent's consent for disclosure of the Respondent's medical information.

- F4. Where an application to transfer a case is made orally at a Disciplinary Tribunal Panel hearing, the Disciplinary Tribunal Panel may suspend its consideration of the case and request:
- (a) any relevant medical records or information from the Respondent;
  - (b) any reports from any medical advisor or health professional involved in the Respondent's treatment;
  - (c) any expert evidence regarding the effect of the Respondent's condition on their capacity for membership of the IFoA; and/or
  - (d) any other relevant evidence or information.

#### **Determination of an Application to Transfer**

**Rule 9.3** The Adjudication Panel or Disciplinary Tribunal Panel can:

- (a) grant the application; or
- (b) refuse the application.

#### *Granting an application to transfer*

**Rule 9.4** The Adjudication Panel or Disciplinary Tribunal Panel shall grant the application to transfer the case to a Capacity for Membership Panel if it is satisfied that the criteria set out in the Regulations are met.

- F5. Under Rule 9.4, the Adjudication Panel or Disciplinary Tribunal Panel shall grant the application to transfer a case if:
- (a) there is Prima Facie evidence that the Respondent's current capacity to hold membership of the IFoA is significantly impaired by reason of illness or other relevant health or medical condition; and
  - (b) there is Prima Facie evidence the Respondent's impairment is directly relevant to the Allegation; and
  - (c) it is in the public interest that the case be transferred to a Capacity for Membership Panel.
- F6. The party applying to transfer the case shall provide sufficient evidence to allow the Adjudication Panel or Disciplinary Tribunal Panel to make a decision under Rule 9.4. The evidence shall be provided to the Secretary, and shall be about:
- (a) the Respondent's current capacity to hold membership of the IFoA being significantly impaired by reason of illness or other relevant health or medical condition; and
  - (b) the Respondent's impairment being directly relevant to the Allegation; and
  - (c) the public interest considerations in favour of the case being transferred to a Capacity for Membership Panel.

- F7. Where the application is made under Regulation F1 (a), the other party may provide written submissions to the Secretary and the party making the application. The other party shall serve any written submissions on the Secretary and the party making the application no later than seven days before the hearing.
- F8. If the Adjudication Panel or Disciplinary Tribunal Panel grants the application to transfer the case under Rule 9.4, the Secretary shall arrange for the appointment of a Capacity for Membership Panel as soon as is reasonable, in accordance with the Appointments Regulations. The Capacity for Membership Panel shall then consider the case in accordance with Rule 16.

*Refusing an application to transfer*

- Rule 9.5** If the Adjudication Panel or Disciplinary Tribunal Panel refuses the application to transfer the case to a Capacity for Membership Panel under Rule 9.3:
- (a) the case shall continue in accordance with the Rules of this Scheme as if an application had not been made under Rule 9.1, and
  - (b) any further application to transfer will only be accepted at the discretion of the Convener of Adjudication Panels or Convener of Disciplinary Tribunal Panels.

*Other matters relating to determination of application to transfer*

- F9. The relevant panel shall provide written reasons when deciding whether to grant or refuse the application to transfer under Rule 9.3. The written reasons are to be served on:
- (a) the Respondent; and
  - (b) the Case Manager.
- F10. If the Respondent wishes to make a further application to have the matter transferred to a Capacity for Membership Panel after it has been refused under Rule 9.5, they shall apply, in writing, to the Convener of Adjudication Panels or the Convener of Disciplinary Tribunal Panels. The Convener shall have discretion to accept or reject the further application. The Respondent's written application shall contain:
- (a) the reason(s) why a further application is being made to have the matter transferred to a Capacity for Membership Panel; and
  - (b) any relevant documentation or information in support of the further application
- F11. If the further application under Regulation F10 is accepted, the process at Regulations F6 - F8 shall be followed.



## Transfer of Case on Own Motion by Adjudication Panel or Disciplinary Tribunal Panel

**Rule 9.6** An Adjudication Panel or Disciplinary Tribunal Panel may transfer a case to a Capacity for Membership Panel without an application being made under Rule 9.1 if it is satisfied that the criteria set out in the Regulations are met.

**F12.** Under Rule 9.6, an Adjudication Panel or Disciplinary Tribunal Panel may transfer a case if it is satisfied that:

- (a) there is Prima Facie evidence that the Respondent's current capacity to hold membership of the IFoA is significantly impaired by reason of illness or other relevant health or medical condition; and
- (b) there is Prima Facie evidence the Respondent's impairment is directly relevant to the Allegation; and
- (c) it is in the public interest that the case be transferred to a Capacity for Membership Panel.

**F13.** If an Adjudication Panel or Disciplinary Tribunal Panel decides to consider the transfer of a case under Rule 9.6, the Adjudication Panel or Disciplinary Tribunal Panel may suspend its consideration of the case and request:

- (a) any relevant medical records or information from the Respondent;
- (b) any reports from any medical advisor or health professional involved in the Respondent's treatment;
- (c) any expert evidence regarding the effect of the Respondent's condition on their capacity for membership of the IFoA; and/or
- (d) any other relevant evidence or information.

## Effect of Transfer of Case to Capacity for Membership Panel

**Rule 9.7** Where a case is transferred to a Capacity for Membership Panel by an Adjudication Panel or Disciplinary Tribunal Panel under Rule 9.4 or 9.6:

- (a) the Capacity for Membership Panel shall consider the case as soon as is reasonable; and
- (b) that Adjudication Panel or Disciplinary Tribunal Panel shall stand down.

## Reference to Other Relevant Provisions

**F14.** The provisions regarding Capacity for Membership Panels are at Rule 16 of the Scheme.

## Section G: Service of Notices and Documents

**Rule 21.1** Any document or notice required to be served on a relevant person under this Scheme or any Regulation must be served as detailed in the Regulations.

- G1.** Under Rule 21.1 any notice or document required to be served shall be delivered by:
- (a) sending the notice or document by email to the email address recorded in the IFoA's database for the relevant person; or
  - (b) sending the notice or document by post or courier to the postal address recorded in the IFoA's database for the relevant person; or
  - (c) sending the notice or document to any other email or postal address nominated in writing by the relevant person for service; or
  - (d) sending the notice or document to the email address or postal address of the relevant person's nominated representative.
- G2.** The service of any notice or document under Regulation G1 may be proved by:
- (a) providing a copy of the email (and attachments) showing that it was properly addressed to the relevant person, unless a delivery failure notification has been received; or
  - (b) providing a copy of the letter showing that it was properly addressed, and confirmation of posting issued by or on behalf of the postal operator or delivery service.
- G3.** The service of any notice or document under Regulation G1 shall be considered to have been served:
- (a) on the day it was sent, if the notice or document has been sent by email; or
  - (b) 48 hours after it was sent, if the notice or document was served by post or courier.

## Section H: Correction of Errors

### Application to Correct Accidental Errors or Omissions

- Rule 23.1** Where a written determination or order made by any panel under this Scheme contains an accidental error or omission, an application to correct the accidental error or omission may be made by any party to the proceedings. The application will be considered as detailed in the Regulations.
- Rule 23.2** Where a written determination or order made by any panel under this Scheme contains an accidental error or omission, the panel itself may, of its own motion, amend the wording of its own written determination or order for the purpose of making the meaning and intention clear.

- H1. An application under Rule 23.1 may be made, no later than 28 days following the date of the determination or order of the relevant Panel, by any party to the proceedings.
- H2. The application under Rule 23.1 shall:
- (a) be served on the Secretary;
  - (b) identify the determination or order of the relevant panel;
  - (c) describe the error or omission made; and
  - (d) describe the correction required.
- H3. The Secretary shall refer the application to the relevant panel. The relevant panel shall determine whether the error or omission identified is obvious.
- H4. Where the error or omission identified is obvious, the relevant panel may determine the application without notice to the other party. Once the application is determined, the Secretary shall:
- (a) notify the parties regarding the correction of the error or omission; and
  - (b) serve the amended determination or outcome of the relevant panel on all the parties who had been served with the original determination or outcome.
- H5. Where the error or omission identified is not obvious, the relevant panel shall direct the Secretary to serve notice of the application on the other party.
- H6. Within 14 days of the date the notice of application being served the other party shall advise the Secretary whether the application is opposed.
- H7. If the application is not opposed under Regulation H6, the relevant panel shall determine the application without receiving written representations from the other party. Once the application is determined, the Secretary shall:
- (a) notify the parties regarding the correction of the error or omission; and
  - (b) serve the amended determination or outcome of the relevant panel on all the parties who had been served with the original determination or outcome.

- H8. If the application is opposed under Regulation H6:
- (a) the Secretary shall set a date, giving a minimum of 14 days' notice, for the application to be considered by the relevant panel;
  - (b) the Secretary shall advise the parties of the date the application will be considered by the relevant panel; and
  - (c) both parties may provide written representations to the relevant panel no later than seven days before the date the application is scheduled to be heard by the relevant panel.
- H9. The relevant panel shall meet in private and consider the application, together with any written representations, on the papers.
- H10. In determining whether to grant or reject the application, the relevant panel shall consider whether it is in the interest of justice to rectify any accidental error or omission.
- H11. The relevant panel shall provide written reasons for its determination to grant or reject the application. The Secretary shall serve the determination on the parties.
- H12. No appeal shall be made in respect of a determination to grant or reject an application made under Rule 23.1.
- H13. No costs may be awarded in connection with any application under Rule 23.1.

## Section I: Transitional Provisions

- Rule 26.1** As set out in Rule 1.3:
- (a) any Complaint received by the IFoA under Rule 3.1 on or after 1 August 2023; or
  - (b) any Complaint referred to the Head of Disciplinary Investigations by an Executive Officer under Rule 3.2 on or after 1 August 2023; or
  - (c) any application for readmission to membership under Rule 17.1 made on or after 1 August 2023
- shall be considered under this version of the Scheme.
- Rule 26.2** If:
- (a) any Complaint was received by the IFoA under Rule 3.1 before 1 August 2023; or
  - (b) any Complaint was referred to the Head of Disciplinary Investigations by an Executive Officer under Rule 3.2 before 1 August 2023,
- the Complaint shall be dealt with under the version of the Disciplinary Scheme in force at the time the Complaint was received.
- Rule 26.3** Where Rule 26.2 applies to a Complaint, the IFoA shall apply the former version of the Disciplinary Scheme to the extent that it is possible to do so otherwise this Scheme shall apply.
- Rule 26.4** Even where Rule 26.2 applies to a Complaint, the Respondent may provide written consent to the IFoA for the Complaint to be considered in accordance with this version of the Scheme.
- Rule 26.5** Where the Respondent has provided written consent under Rule 26.4, the IFoA shall deal with the Complaint in accordance with this version of the Scheme.

- I1** Where Rule 26.5 applies:
- (a) the Complaint shall be dealt with from the point in the process that it was transferred to this Scheme; and
  - (b) any decisions, determinations and appointments made under a former version of the Disciplinary Scheme shall continue to apply; and
  - (c) the Complaint cannot be transferred back for consideration under a former version of the Disciplinary Scheme.

## 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.  |
| Assessment Panel                             | A panel referred to in Rule 3 of this Scheme.  |
| Bye-laws                                     | The Bye-laws of the IFoA from time to time.  |
| 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.  |
| Chair of the Pool of Investigation Actuaries | The person appointed to chair the Pool of Investigation Actuaries in accordance with the Appointments Regulations.   |
| 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.  |
| 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.  |
| Conduct Committee                            | The Conduct Committee of the FRC, established under the FRC's Articles of Association or any successor entity.   |
| Convener of Adjudication Panels              | The person appointed to that role in accordance with the Appointments Regulations.   |
| Convener of Disciplinary Tribunal Panels     | The person appointed to that role in accordance with the Appointments Regulations.   |
| Disciplinary Committee                       | The Disciplinary Committee of the IFoA or its successor.   |
| Disciplinary Order                           | An order as defined by Rule 11.1 of this Scheme.   |
| Disciplinary Orders Panel                    | A panel referred to in Rule 11 of this Scheme.   |

| Term                                      | Meaning   |
|---|---|
| Disciplinary Tribunal Panel               | A panel referred to in Rule 15 of this Scheme.  |
| Executive Officer                         | The Chief Executive of the IFoA and any other person nominated by the Chief Executive.  |
| FRC                                       | The Financial Reporting Council Limited, a company limited by guarantee incorporated in England and Wales, number 2486368 and any other body which takes over the functions of the FRC.   |
| FRC Scheme                                | <p>The Actuarial Scheme of the FRC dated 1 January 2021 as amended from time to time by the FRC, or any actuarial scheme issued by any other body which takes over the functions of the FRC.</p> <p>The FRC Scheme was originally adopted by the Accountancy and Actuarial Disciplinary Board (AADB) on 13 September 2007. It was amended with effect from 13 October 2011 and 18 October 2012. It was amended by the FRC on 1 July 2013 and 1 June 2014.</p> |
| Head of Disciplinary Investigations       | The person appointed as Head of the Disciplinary Investigations Team of the IFoA, and any person nominated by the Head of the Disciplinary Investigations Team.   |
| IFoA                                      | The Institute and Faculty of Actuaries.   |
| International Actuarial Association (IAA) | A worldwide association of local professional actuarial associations.   |
| 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 Investigation Actuaries           | A pool of Investigation Actuaries appointed by the Regulatory Appointments Committee to assist and support the Case Manager.  |
| Pool of Legal Advisers                    | A pool of Legal Advisers appointed by the Regulatory Appointments Committee to provide independent legal advisory support to panels.  |
| 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.  |

| Term              | Meaning   |
|-------------------|---|
| 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.  |

### Document control

| Version | Date of publication | Overview   |
|---------|---------------------|--|
| 1.0     | 1 August 2023       | To support Disciplinary Scheme effective 1 August 2023.                                  |
| 1.1     | 14 September 2023   | To clarify the transitional provisions in relation to the Disciplinary Scheme.           |
| 1.2     | 1 November 2023     | To clarify the version of the Regulations that will apply to a Complaint or application. |





# Institute and Faculty of Actuaries

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# FRC Scheme Regulations

Disciplinary Committee

Version 1.1

1 November 2023

# FRC Scheme 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. With regard to the applicability of these Regulations:
  - (a) Any Complaint or application for readmission to membership received by the IFoA shall be considered under the version of these Regulations in force at the time the Complaint or application for readmission to membership is received by the IFoA.
  - (b) In the event these Regulations are amended after a Complaint or application for readmission to membership has been received by the IFoA:
    - (i) the Respondent or Applicant may provide written consent to the IFoA for the Complaint/application for readmission to membership to be considered in accordance with the most recent version of these Regulations, otherwise
    - (ii) the version of the Regulations in force at the time the Complaint or application is received shall be applied to the extent that it is possible to do so, having regard to the need to ensure the fair and just determination of the case, otherwise the most recent version of the Regulations shall apply.
- E. These Regulations shall be interpreted and applied in accordance with the principles of natural justice, procedural fairness, and any applicable human rights law.
- F. The Rules contained in these Regulations are inserted for convenience of reference only. They shall not be considered a part of the Regulations.

**Rule 4.1** All Members may be subject to disciplinary proceedings under the FRC Scheme, regardless of whether the Misconduct took place before or after the commencement of the FRC Scheme.

### Duty to Co-operate

1. Under Rule 5 all Members shall co-operate fully and promptly in the consideration of any complaint, any investigation and/or any misconduct proceedings under the FRC Scheme. All former Members shall co-operate fully in relation to any investigation or proceedings under the FRC Scheme concerning any conduct by them that occurred whilst they were a Member, regardless of their membership status at the time a complaint was made.

### Referral to the Conduct Committee of the FRC by an Executive Officer of the IFoA

**Rule 4.2** An Executive Officer of the IFoA may, before referring a Complaint to the Head of Disciplinary Investigations under Rule 3.2, refer a Complaint to the Conduct Committee.

2. Where the Conduct Committee accepts the referral of a Complaint under Rule 4.2, the Executive Officer of the IFoA shall:
  - (a) take no further action on the Complaint; and
  - (b) inform the Member/former Member and the Disciplinary Committee of the referral to the Conduct Committee.
3. Where the Conduct Committee does not accept the referral of the Complaint, the Executive Officer shall refer the Complaint to the Head of Disciplinary Investigations under Rule 3.2.

### Referral to the Conduct Committee of the FRC before an Investigation

**Rule 4.3** The Head of Disciplinary Investigations and the Chair of the Pool of Investigation Actuaries may, after an Allegation has been referred to them under Rule 7.1, refer an Allegation to the Conduct Committee.

4. If a referral is made under Rule 4.3, the Head of Disciplinary Investigations shall:
  - (a) suspend the investigation under this Scheme; and
  - (b) inform the Respondent, the Referrer and the Disciplinary Committee that the Conduct Committee is considering the referral.
5. Where the Conduct Committee accepts the referral of the Allegation under Rule 4.3, the Head of Disciplinary Investigations and the Chair of the Pool of Investigation Actuaries shall:
  - (a) not take any further action on the Allegation; and
  - (b) inform the Respondent, the Referrer, and the Disciplinary Committee of the referral to the Conduct Committee.

6. Where the Conduct Committee does not accept the referral of the Allegation, the investigation shall proceed under Rule 7.2 and the Head of Disciplinary Investigations shall inform the Respondent, the Referrer, and the Disciplinary Committee that the FRC has not accepted the referral.

### Referral to the Conduct Committee of the FRC during an Investigation

**Rule 4.4** At any stage after an investigation has commenced under Rule 7.2, but before the investigation has been completed under Rule 12.1, the Case Manager may send an Allegation to the Head of Disciplinary Investigations and the Chair of the Pool of Investigation Actuaries who shall consider whether it is appropriate for referral to the Conduct Committee.

7. If a referral is made under Rule 4.4, the Case Manager shall:
  - (a) suspend the investigation under this Scheme; and
  - (b) inform the Respondent, the Referrer and the Disciplinary Committee that the Conduct Committee is considering the referral.
8. Where the Conduct Committee accepts the referral of the Allegation under Rule 4.4, the Case Manager shall:
  - (a) take no further action on the Allegation under this Scheme; and
  - (b) inform the Respondent, the Referrer, and the Disciplinary Committee that the Conduct Committee has accepted the referral and that the Allegation will be investigated by the Conduct Committee.
9. Where the Conduct Committee does not accept the referral of the Allegation, the Case Manager shall recommence the investigation and shall inform the Respondent, the Referrer, and the Disciplinary Committee.
10. The Chair of the Pool of Investigation Actuaries may assign an Investigation Actuary.
11. Any Investigation Actuary assigned under Regulation 10 may be:
  - (a) the Investigation Actuary initially assigned to investigate the Allegation; or
  - (b) a newly appointed Investigation Actuary.

### Referral to the Conduct Committee of the FRC by an Adjudication Panel

**Rule 4.5** An Adjudication Panel may, before making any determination under Rule 13.3, refer any Allegation to the Conduct Committee.

12. Where an Adjudication Panel makes a referral under Rule 4.5, the Adjudication Panel shall:
  - (a) suspend its consideration of the Case Report; and
  - (b) inform the Respondent, the Referrer, the Case Manager, and the Disciplinary Committee that the Conduct Committee is considering the referral.

13. Where the Conduct Committee accepts the referral of the Allegation under Rule 4.5, the Case Manager shall:
  - (a) take no further action in respect of the Case Report; and
  - (b) inform the Respondent, the Referrer and the Disciplinary Committee that the Conduct Committee has accepted the referral and that the Allegation will be investigated by the Conduct Committee.
14. Where the Conduct Committee does not accept the referral of the Allegation under Rule 4.5:
  - (a) The Case Manger shall inform the Respondent, the Referrer and the Disciplinary Committee; and
  - (b) The Convener of Adjudication Panels shall determine whether the Case Report should be considered by the initial Adjudication Panel or a newly appointed Adjudication Panel; and
  - (c) the Adjudication Panel shall consider (or resume consideration of) the Case Report under Rule 13.1.

### Call In of Cases by the Conduct Committee of the FRC.

**Rule 4.6** At any stage before:

- (a) the Adjudication Panel makes a determination under Rule 13.3; or
- (b) the Respondent notifies the Case Manager that they wish to proceed directly to a Disciplinary Tribunal Panel hearing under Rule 12.2,

the Conduct Committee may issue a written notice to the IFoA, notifying them that it has decided to call in a case for investigation under the FRC Scheme.

15. Where the IFoA receives a written notice under Rule 4.6, it shall:
  - (a) suspend any further action on the Allegation under this Scheme; and
  - (b) inform the Respondent, the Referrer, the Case Manager, and the Disciplinary Committee that a written notice has been received from the Conduct Committee.
16. Where the Conduct Committee determines that the Allegation should be called in for investigation under the FRC Scheme, the IFoA shall:
  - (a) take no further action on the Allegation under this Scheme; and
  - (b) inform the Respondent, the Referrer, the Case Manager and the Disciplinary Committee that the Allegation will be investigated by the FRC.
17. Where the Conduct Committee determines that the Allegation should not be called in for investigation under the FRC Scheme, the IFoA shall:
  - (a) commence or resume investigation of the Allegation under this Scheme; and
  - (b) inform the Respondent, the Referrer, the Case Manager, and the Disciplinary Committee that the investigation of the Allegation under this Scheme has commenced or resumed.

## Case in the Process of Investigation by the Conduct Committee of the FRC

18. Where a Complaint is received by the IFoA which relates to matters which are already the subject of an investigation under the FRC Scheme, the IFoA shall notify the Conduct Committee. The IFoA shall take no further action under this Scheme in relation to that Complaint unless otherwise agreed with the Conduct Committee.

## Enforcement of FRC Findings, Sanctions and Costs

**Rule 4.7** Any final finding made, sanction imposed, and/or costs awarded by the Conduct Committee shall be enforced as if it had been made under this Scheme.

19. The findings, sanctions and/or costs under Rule 4.7 shall only be enforced where there is no further right of appeal available under the FRC Scheme.

## Definitions

| Term                                | Meaning   |
|-------------------------------------|---|
| Adjudication Panel                  | A panel referred to in Rule 13 of this Scheme.  |
| Bye-laws                            | The Bye-laws of the IFoA from time to time.   |
| 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.   |
| Conduct Committee                   | The Conduct Committee of the FRC, established under the FRC's Articles of Association or any successor entity.  |
| Disciplinary Committee              | The Disciplinary Committee of the IFoA or its successor.  |
| Executive Officer                   | The Chief Executive of the IFoA and any other person nominated by the Chief Executive.  |
| FRC                                 | The Financial Reporting Council Limited, a company limited by guarantee incorporated in England and Wales, number 2486368 and any other body which takes over the functions of the FRC.   |
| FRC Scheme                          | <p>The Actuarial Scheme of the FRC dated 1 January 2021 as amended from time to time by the FRC, or any actuarial scheme issued by any other body which takes over the functions of the FRC.</p> <p>The FRC Scheme was originally adopted by the Accountancy and Actuarial Disciplinary Board (AADB) on 13 September 2007. It was amended with effect from 13 October 2011 and 18 October 2012. It was amended by the FRC on 1 July 2013 and 1 June 2014.</p> |
| Head of Disciplinary Investigations | The person appointed as Head of the Disciplinary Investigations Team of the IFoA, and any person nominated by the Head of the Disciplinary Investigations Team.   |
| IFoA                                | The Institute and Faculty of Actuaries.   |
| 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.  |



| Term                              | Meaning   |
|-----------------------------------|---|
| Misconduct                        | The meaning under Rule 2 of this Scheme.  |
| Pool of Investigation Actuaries   | A pool of Investigation Actuaries appointed by the Regulatory Appointments Committee to assist and support the Case Manager.  |
| Pool of Legal Advisers            | A pool of Legal Advisers appointed by the Regulatory Appointments Committee to provide independent legal advisory support to panels.                                      |
| 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.  |

## Document control

| Version | Date of publication | Overview   |
|---------|---------------------|--|
| 1.0     | 1 August 2023       | To support Disciplinary Scheme effective 1 August 2023.                                  |
| 1.1     | 1 November 2023     | To clarify the version of the Regulations that will apply to a Complaint or application. |



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# Interim Order Regulations

Disciplinary Committee

Version 1.1

1 November 2023

# Interim Order 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. With regard to the applicability of these Regulations:
  - (a) Any Complaint or application for readmission to membership received by the IFoA shall be considered under the version of these Regulations in force at the time the Complaint or application for readmission to membership is received by the IFoA.
  - (b) In the event these Regulations are amended after a Complaint or application for readmission to membership has been received by the IFoA:
    - (i) the Respondent or Applicant may provide written consent to the IFoA for the Complaint/application for readmission to membership to be considered in accordance with the most recent version of these Regulations, otherwise
    - (ii) the version of the Regulations in force at the time the Complaint or application is received shall be applied to the extent that it is possible to do so, having regard to the need to ensure the fair and just determination of the case, otherwise the most recent version of the Regulations shall apply.
- E. These Regulations shall be interpreted and applied in accordance with the principles of natural justice, procedural fairness, and any applicable human rights law.
- F. The Rules contained in these Regulations are inserted for convenience of reference only. They shall not be considered a part of the Regulations.

## The Interim Order application

- Rule 10.1** An Interim Order is an order which:
- (a) imposes any condition on the Respondent's practice;
  - (b) suspends any Certificate held by the Respondent; or
  - (c) suspends the Respondent from membership of the IFoA.
- Rule 10.2** The Case Manager may apply for an Interim Order at any time between the date:
- (a) an Allegation has been accepted for investigation under Rule 3.5 or 3.7(a) and
  - (b) an Adjudication Panel has made a final determination under Rule 13.3, a Disciplinary Tribunal Panel has made a determination under Rule 15, or the Capacity for Membership Panel has imposed an order under Rule 16.

1. An application for an Interim Order under Rule 10.2 shall be prepared by the Case Manager.
2. In preparing an Interim Order application, the Case Manager may carry out any investigation and obtain any information they consider appropriate.
3. An application for an Interim Order shall include:
  - (a) the Allegation(s) against the Respondent;
  - (b) the terms of the proposed Interim Order; and
  - (c) relevant evidence or information.
4. The Case Manager shall serve the Interim Order application on the Respondent and the Secretary.

## Notice of Interim Orders Panel hearing

5. Once an Interim Order application has been received by the Secretary, the Secretary shall arrange for an Interim Orders Panel to consider the application. This shall be done in accordance with the Appointment Regulations.
6. The Secretary shall serve notice of the hearing on the Respondent and the Case Manager. Both parties shall be given a minimum of 14 days' notice of the hearing.
7. In exceptional circumstances, the Secretary may provide less than 14 days' notice of the hearing. Exceptional circumstances means where there is clear evidence to show a risk of immediate and substantial harm if the Respondent continues to practise without restriction.
8. If the Case Manager considers that exceptional circumstances exist, the Interim Order application must:
  - (a) advise that they consider exceptional circumstances to exist;
  - (b) provide the reasons why they consider exceptional circumstances to exist; and
  - (c) provide relevant supporting evidence, if available.

9. The chair of the Interim Orders Panel shall decide whether exceptional circumstances exist. Where they decide that exceptional circumstances exist, Regulations 16 and 27 shall not apply, and the chair may determine the appropriate timeframes for:
  - (a) when the Respondent is to serve written submissions on the Secretary and the Case Manager; and/or
  - (b) when the Respondent is to indicate that they wish to make oral submissions at an Interim Orders Panel hearing.

### **General Procedure of the Interim Orders Panel**

10. The Interim Orders Panel may, at any stage, appoint an individual from the Pool of Legal Advisers to assist it in matters of law or procedure. Once appointed, the Legal Adviser may be present at any hearing and may give legal advice to the Interim Orders Panel. Any advice given in private must be made available to the parties and included in the record of the hearing.
11. Under Rule 22.2, the Interim Orders Panel has the power to determine its own conduct and procedure in holding hearings. The Interim Orders Panel has the discretion to give any directions, change any time limits, suspend any hearings, and/or accept any written undertakings from the Respondent. The Interim Orders Panel may depart from these Regulations in matters of procedure if it considers that there are good reasons to do so.
12. The Interim Orders 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 Interim Orders Panel shall consider representations from both parties. The Interim Orders Panel may then give whatever weight it thinks appropriate to the contents of the document.
13. The IFoA and the Respondent may be legally represented at an Interim Orders Panel hearing. The Respondent may also be represented by a Member or any other person.
14. If the Case Manager and/or the Respondent obtains additional relevant information after the notice of hearing has been served but before the Interim Orders Panel has made its determination, they may serve this additional information on the Interim Orders Panel and the other party. The Interim Orders Panel may admit the additional relevant information if it is reasonable and in the interests of justice to do so and shall give a reasonable opportunity to the other party to comment on the additional information.

### **Interim Orders Panel hearing**

15. As a general principle an Interim Orders Panel shall consider the Interim Order application papers in private and without hearing oral submissions.
16. The Respondent may provide written submissions to the Secretary in advance of the hearing. The Respondent shall serve any written submissions on the Secretary and the Case Manager no later than seven days before the date of the hearing.

17. Any written submissions made by the Respondent under Regulation 16 should include representations about:
  - (a) whether the Interim Orders Panel should impose an Interim Order;
  - (b) the terms of the proposed Interim Order; and/or
  - (c) how long any Interim Order should be in place.
18. The Interim Orders Panel may direct a party to provide further information to assist their decision.

**Rule 10.3** In considering an Interim Order application, the Interim Orders Panel can either:

- (a) dismiss the application; or
- (b) make an Interim Order.

**Rule 10.4** The Interim Orders Panel shall impose an Interim Order if a majority of the Interim Orders Panel members are satisfied that the criteria set out in the Regulations have been established.

19. When considering an Interim Order under Rule 10.3, the Interim Orders Panel shall decide, by simple majority:
  - (a) whether there is Prima Facie evidence to support the Allegation(s) against the Respondent;
  - (b) whether an Interim Order should be imposed; and
  - (c) if an Interim Order is to be imposed, the terms and duration of the Interim Order.
20. In deciding whether an Interim Order should be imposed and, if so, its terms and duration, the Interim Orders Panel shall take into account:
  - (a) the need to protect members of the public, taking into consideration the seriousness of the alleged Misconduct and the likelihood of further alleged Misconduct occurring; and
  - (b) the effect of the Interim Order on the Respondent.
21. The Interim Orders Panel shall give written reasons for its determination.
22. Where the Respondent fails to respond to the notice of the hearing served under Regulation 6, the Interim Orders Panel shall decide whether it is in the interests of justice to proceed without any representations from the Respondent.
23. It is in the interests of justice to proceed without any representations from the Respondent if the Interim Orders Panel is satisfied that:
  - (a) all reasonable steps have been taken to serve notice of the time and date of the hearing on the Respondent, in accordance with Regulation 6; and
  - (b) it is fair to do so, taking into account the circumstances of the case.
24. In considering whether it is fair to do so, the Interim Orders Panel must have regard to the protection of the public.

25. Where the Interim Orders Panel has decided that a hearing should take place without representations from the Respondent, this must be clearly recorded in the Interim Orders Panel's determination. The determination must contain a full explanation as to why the Interim Orders Panel proceeded without submissions from the Respondent.
26. If the Interim Orders Panel decides not to proceed without any representations from the Respondent, the Interim Orders Panel shall suspend the hearing and set a later date for the hearing. In setting the later date, the Interim Orders Panel shall have regard to:
  - (a) the length of time required for the Respondent to make representations; and
  - (b) the need for public protection.

### **Oral hearing of the Interim Orders Panel**

27. If the Respondent wishes to make oral submissions they shall tell the Secretary no later than seven days prior to the hearing.
28. The Respondent may request a public hearing of the Interim Orders Panel. If there is a public hearing, the Interim Orders Panel may still decide to hold part of the hearing in private if there is good reason to do so. The Interim Orders Panel may exclude any person from the hearing if they are disrupting the proceedings.
29. If the Respondent is to make oral submissions at the Interim Orders Panel hearing, the order of proceedings at the hearing shall be as follows, unless the Panel decides otherwise:
  - (a) The IFoA shall:
    - (i) inform the Interim Orders Panel of the background to the case, including why it is seeking an interim order;
    - (ii) inform the Interim Orders Panel of the proposed terms and duration of the Interim Order and why it considers this to be appropriate; and
    - (iii) direct the Interim Orders Panel to the relevant evidence, which may include calling witnesses or presenting expert evidence;
  - (b) The Respondent may then provide representations and any relevant evidence, which may include calling witnesses or presenting expert evidence, about whether an Interim Order should be imposed, the terms of the Interim Order, and/or how long any Interim Order should be;
  - (c) The Interim Orders Panel may question the parties or any witnesses called by the parties;
  - (d) Either party may cross examine the other party's witnesses;
  - (e) The Interim Orders Panel may direct a party to provide further information to assist their decision.
30. The Interim Orders Panel shall make their decision as set out in Regulation 19. In deciding whether an Interim Order should be imposed and, if so, its terms and duration, the Interim Orders Panel shall take into account the factors set out at Regulation 20.
31. The Interim Orders Panel shall provide a written determination.



32. If there is a dispute about the facts of any matter, the IFoA shall bear the burden of proving the facts on the balance of probabilities.

### **Oral Hearing - Proceeding in the Respondent's Absence**

33. If the Respondent indicates that they wish to make oral submissions under Regulation 27 but they fail to attend, the Interim Orders Panel shall decide whether it is in the interests of justice to proceed in the Respondent's absence.
34. It is in the interests of justice to proceed in the Respondent's absence if the Interim Orders Panel is satisfied that:
- (a) all reasonable steps have been taken to serve notice of the time and date of the hearing on the Respondent, in accordance with Regulations 6 and 7; and
  - (b) it is fair to do so, taking into account the circumstances of the case.
35. In considering whether it is fair to do so, the Interim Orders Panel must have regard to the protection of the public.
36. The Interim Orders Panel may suspend hearings if there is a good reason to do so. Examples of this may include the Respondent's ill health or a serious injury.
37. Where the Interim Orders Panel has decided that a hearing should take place in the Respondent's absence, this must be clearly recorded in the Panel's determination. The determination must contain a full explanation as to why the Interim Orders Panel proceeded in the Respondent's absence.
38. If the Interim Orders Panel decides not to proceed without the Respondent, the Panel shall suspend the hearing and set a later date for the hearing. In setting the later date, the Interim Orders Panel shall have regard to:
- (a) the reason why the Respondent failed to attend (if known);
  - (b) the length of time required before the Respondent is available to attend in future; and
  - (c) the need for public protection.

### **The Interim Order Panel's determination**

39. The Interim Orders Panel's determination shall be effective on the day it is made. A copy of the determination shall be served on the Respondent and the Case Manager as soon as is reasonable.
40. The IFoA shall publicise the details of the Interim Orders Panel's determination as soon as is reasonable, subject to any conditions on publication imposed by the Interim Orders Panel in its determination. This shall be in accordance with any relevant guidance issued by the Disciplinary Committee.

- Rule 10.5** Unless an Interim Order is renewed by a further hearing of an Interim Orders Panel, it will no longer have effect:
- (a) after six months or when any period set out in the Interim Order expires, whichever is shorter;
  - (b) if it is amended or cancelled by an Interim Orders Panel under Rule 10.6 or by a Disciplinary Tribunal Panel or Capacity for Membership Panel under Rule 10.8;
  - (c) once an Adjudication Panel has made a determination to dismiss the case under Rule 13.3;
  - (d) once the Respondent has accepted an Adjudication Panel invitation under Rule 13;
  - (e) once a Disciplinary Tribunal Panel has made a determination under Rule 15; or
  - (f) once a Capacity for Membership Panel has made a determination under Rule 16.

### Review of an Interim Order imposed

- Rule 10.6** Where an Interim Orders Panel has imposed an Interim Order on the Respondent, the Case Manager or the Respondent may, at any time, apply to the Interim Orders Panel, to:
- (a) renew an Interim Order which would otherwise expire;
  - (b) make an alternative Interim Order; or
  - (c) amend or cancel an Interim Order.

41. The Respondent or the Case Manager may apply to the Secretary, under Rule 10.6, for an Interim Orders Panel to review any Interim Order before its expiry if;
- (a) there is significant new information available that is relevant to the order imposed; or
  - (b) there has been a substantial change in circumstances which justifies an early review of the Interim Order; or
  - (c) there is evidence that the Respondent has failed to comply with the Interim Order terms.
42. At a review hearing of the Interim Orders Panel, the Panel shall consider, using the factors set out at Regulation 20:
- (a) whether to renew an Interim Order where the Interim Order is due to expire; and/or
  - (b) whether to make an alternative Interim Order; and/or
  - (c) whether to amend or cancel the Interim Order.

## Interim Orders by other Panels

**Rule 10.7** A Disciplinary Tribunal Panel or Capacity for Membership Panel may also impose an Interim Order.

43. Under Rule 10.7 an Interim Order may be imposed by a Disciplinary Tribunal Panel or Capacity for Membership Panel following an application by the IFoA or by the panel acting on its own.
44. A Disciplinary Tribunal Panel or Capacity for Membership Panel shall not be subject to the requirements to serve notice of the Interim Orders hearing under Regulation 6.
45. Except for the provision in Regulation 44, all decisions about whether an Interim Order should be imposed shall be made in accordance with these Regulations.

**Rule 10.8** Where a Disciplinary Tribunal Panel or Capacity for Membership Panel has imposed an Interim Order on the Respondent, or where that Panel is considering a case where an Interim Orders Panel has previously imposed an Interim Order, the Case Manager or the Respondent may apply to that Panel to:

- (a) renew an Interim Order which would otherwise expire;
  - (b) make an alternative Interim Order or
  - (c) amend or cancel an Interim Order.
46. The Respondent or the Case Manager may apply to the Secretary for a review of an Interim Order, before its expiry, under Rule 10.8. The conditions at Regulation 41 will apply.
  47. The Disciplinary Tribunal Panel or a Capacity for Membership Panel will consider an application under Rule 10.8 at a review hearing.
  48. At a review hearing of the Disciplinary Tribunal Panel or Capacity for Membership Panel, the Panel shall consider, using the factors set out at Regulation 20:
    - (a) whether to renew an Interim Order where it is due to expire; and/or
    - (b) whether to make an alternative Interim Order; and/or
    - (c) whether to amend or cancel the Interim Order.

## Minor amendments to Interim Orders

49. If both the Case Manager and the Respondent agree, they may apply to the Secretary to make minor amendments to an existing Interim Order. The Secretary may make such minor amendments, subject to the approval of the Head of Legal Services. Minor amendments mean administrative changes to an Interim Order, which would not have a material impact on its intended effect.

## Costs

**Rule 10.9** The Interim Orders Panel shall not make an order for costs to be paid by any party to an Interim Order application.

50. Where an Allegation giving rise to an Interim Order application is later determined by a Disciplinary Tribunal Panel, the costs incurred at the Interim Order stage may be considered by that Disciplinary Tribunal Panel when making any order for costs under Rule 15.13.

## Failure to comply with determination of Interim Orders Panel

51. Any failure or partial failure by the Respondent to comply with the Interim Order shall be considered by the Head of Disciplinary Investigations as to whether a further Allegation of Misconduct should be brought under Rule 5.

## Appeal against Determination of Interim Orders Panel

**Rule 10.10** The Respondent may appeal the making, amendment or renewal of an Interim Order by giving notice to the Appeals Assessor under Rule 18.

**Rule 10.11** The IFoA may appeal any Interim Order determination by giving notice to the Appeals Assessor under Rule 18.

52. The notice of appeal, under Rule 10.10 or Rule 10.11 must be served on the Appeals Assessor, via the Secretary, within 14 days of the date the Interim Order Panel's written determination was made.
53. The appeal of the determination of the Interim Orders Panel shall proceed in accordance with Rule 18 and the Appeals Regulations.
54. The determination of the Interim Orders Panel remains in force until the appeal is decided.

## 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. |
| Appeals Assessor                    | An assessor referred to in Rule 18 of this Scheme.  |
| Appointments Regulations            | Regulations issued by the Disciplinary Committee setting out the process for making appointments under this Scheme.   |
| Bye-laws                            | The Bye-laws of the IFoA from time to time.   |
| Capacity for Membership Panel       | A panel referred to in Rule 16 of this Scheme.  |
| Certificate                         | Any practising certificate issued by the IFoA.  |
| Disciplinary Committee              | The Disciplinary Committee of the IFoA or its successor.  |
| Disciplinary Tribunal Panel         | A panel referred to in Rule 15 of this Scheme.  |
| Head of Disciplinary Investigations | The person appointed as Head of the Disciplinary Investigations Team of the IFoA, and any person nominated by the Head of the Disciplinary Investigations Team.   |
| Head of Legal Services              | The person appointed as Head of the Legal Services of the IFoA, and any person nominated by the Head of Legal Services.   |
| IFoA                                | The Institute and Faculty of Actuaries.   |
| Interim Order                       | An order as defined by Rule 10.1 of this Scheme   |
| Interim Orders Panel                | A panel referred to in Rule 10 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.  |
| Prima Facie                         | Upon initial examination there appears to be sufficient evidence.   |
| Regulations                         | Any regulations issued by the Disciplinary Committee.   |

| Term                              | Meaning  |
|-----------------------------------|--|
| Regulatory Appointments Committee | The Regulatory Appointments Committee of the IFoA or any successor body.                 |
| 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.   |

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|---------|---------------------|--|
| 1.0     | 1 August 2023       | To support Disciplinary Scheme effective 1 August 2023.                                  |
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# Disciplinary Order Regulations

Disciplinary Committee

Version 1.1

1 November 2023



# Disciplinary Order Regulations

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  - (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. With regard to the applicability of these Regulations:
  - (a) Any Complaint or application for readmission to membership received by the IFoA shall be considered under the version of these Regulations in force at the time the Complaint or application for readmission to membership is received by the IFoA.
  - (b) In the event these Regulations are amended after a Complaint or application for readmission to membership has been received by the IFoA:
    - (i) the Respondent or Applicant may provide written consent to the IFoA for the Complaint/application for readmission to membership to be considered in accordance with the most recent version of these Regulations, otherwise
    - (ii) the version of the Regulations in force at the time the Complaint or application is received shall be applied to the extent that it is possible to do so, having regard to the need to ensure the fair and just determination of the case, otherwise the most recent version of the Regulations shall apply.
- E. These Regulations shall be interpreted and applied in accordance with the principles of natural justice, procedural fairness, and any applicable human rights law.
- F. The Rules contained in these Regulations are inserted for convenience of reference only. They shall not be considered a part of the Regulations.

## Disciplinary Orders

**Rule 11.1** A Disciplinary Order is an order which states the Respondent committed Misconduct and imposes one or more of the following outcomes against them:

- (a) a reprimand; and/or
- (b) a fine, up to the maximum amount specified in the Regulations; and/or
- (c) a period of education, retraining and/or supervised practice; and/or
- (d) if the Respondent is no longer a Member at the time the Case Manager is proposing the Disciplinary Order, exclusion from membership of the IFoA up to a maximum period of five years.

1. The maximum fine to be imposed under Rule 11.1(b) is £10,000.

## Proposal of Disciplinary Order by the Case Manager

**Rule 11.2** The Case Manager may propose that an Allegation is resolved by way of a Disciplinary Order at any time between:

- (a) an Allegation being accepted under Rule 3.5 or 3.7(a); and
- (b) the Case Report being submitted to an Allegation under Rule 12.3.

**Rule 11.3** Before proposing a Disciplinary Order under Rule 11.2, the Case Manager must consider:

- (a) the criteria set out in the Regulations; and
- (b) any relevant guidance issued by the Disciplinary Committee.

2. Under Rule 11.3, the Case Manager must be satisfied that it is in the public interest for the Allegation to be dealt with by way of a Disciplinary Order.
3. The Case Manager shall then consider the following criteria and any relevant guidance issued by the Disciplinary Committee in determining whether or not the Allegation be resolved by way of a Disciplinary Order:
  - (a) there has been an appropriate level of investigation into the Allegation to conclude that a Prima Facie case of Misconduct may exist;
  - (b) the Allegation does not concern any possible breaches of the FRC's Technical Actuarial Standards, the IFoA's Actuarial Professional Standards, or any related Guidance Notes for both standards;
  - (c) the Allegation, if proven, would likely result in an outcome within the range of outcomes set out in Rule 11.1; and
  - (d) the Disciplinary Order will offer an appropriate level of public protection.
4. Where an Investigation Actuary has been appointed, the Case Manager shall consult with the Investigation Actuary when considering whether or not the Allegation may be resolved by way of a Disciplinary Order.

## Preparing and Serving the Proposed Disciplinary Order

**Rule 11.4** If the Case Manager considers, under Rule 11.3, that a Disciplinary Order should be proposed, they shall prepare and serve a proposed Disciplinary Order on the Respondent.

5. If a Case Manager considers that an Allegation could be resolved by way of a Disciplinary Order under Rule 11.3, they shall write to the Respondent to inquire whether they would agree, in principle, to a Disciplinary Order.
6. The Respondent shall provide a written response to the Case Manager's inquiry within 14 days, stating whether they would agree in principle to a Disciplinary Order.
7. Where the Respondent does not agree in principle to a Disciplinary Order, the Allegation shall be investigated (or continue to be investigated) in accordance with Rule 7.
8. Where the Respondent agrees in principle to a Disciplinary Order, the Case Manager shall prepare a proposed Disciplinary Order under Rule 11.4. The proposed Disciplinary Order shall include:
  - (a) a summary of the relevant facts;
  - (b) the details of the Allegation(s) against the Respondent;
  - (c) the proposed Misconduct finding(s) to be agreed between the IFoA and the Respondent;
  - (d) the details of any Allegation(s) which do not form part of the proposed Disciplinary Order, and the reasons why they do not (if appropriate);
  - (e) the proposed outcome(s) under Rule 11.1;
  - (f) the proposed costs;
  - (g) the details of the proposed publication of the Disciplinary Order; and
  - (h) any other relevant matters.
9. The Case Manager shall serve a copy of the proposed Disciplinary Order on the Respondent. The Respondent must provide a written response to the proposed Disciplinary Order within 14 days. The Respondent's written response must:
  - (a) state whether or not they agree to resolve the case by way of the proposed Disciplinary Order; and
  - (b) if they agree to resolve the case by way of the proposed Disciplinary Order, may also include any comments and/or additional information regarding the factual matters referred to in the proposed Disciplinary Order.

10. The Respondent's comments at Regulation 9 above:
  - (a) may be provided only if the Respondent intends to accept the proposed Disciplinary Order;
  - (b) shall only relate to factual matters, and cannot be negotiations on the terms, sanction(s) and/or costs of the proposed Disciplinary Order; and
  - (c) may be supported by any relevant information which the Respondent wishes to provide.

## Rejection/Acceptance of the Proposed Disciplinary Order

**Rule 11.5** If the Respondent rejects the proposed Disciplinary Order, the Allegation shall continue to be investigated by the Case Manager under Rule 7.

11. Under Rule 11.5, non-response by the Respondent to the proposed Disciplinary Order within 14 days of service will be treated as rejection of the proposed Disciplinary Order.

**Rule 11.6** If the Respondent accepts the proposed Disciplinary Order, the Case Manager shall submit the proposed Disciplinary Order to a Disciplinary Orders Panel for approval.

12. If the Respondent states that they agree to the proposed Disciplinary Order, the Case Manager shall consider the Respondent's written response under Regulation 9, including any comments and/or additional information provided. The Case Manager shall then make any amendments that they feel are appropriate and serve the proposed Disciplinary Order on the Respondent, and:
  - (a) if the Respondent agrees with the terms of the proposed Disciplinary Order, they shall sign and return it to the Case Manager within 14 days of the date it was served; or
  - (b) if the Respondent does not agree to the terms of the proposed Disciplinary Order, the investigation into the Allegation shall continue in accordance with Rule 7.
13. Once the Case Manager receives a copy of the proposed Disciplinary Order signed by the Respondent under Regulation 12(a), they shall, as soon as is reasonable, serve the proposed Disciplinary Order on the Secretary for consideration by a Disciplinary Orders Panel.

## Change of Intention by the Respondent

14. If the Respondent advises:
  - (a) that they do not agree in principle to a Disciplinary Order; or
  - (b) that they do not wish to accept the proposed Disciplinary Order,but later states that they do agree in principle to a Disciplinary Order, or wish to accept the proposed Disciplinary Order, they shall advise the Case Manager of this change of intention in writing.

15. Where the Respondent has advised the Case Manager of their change of intention under Regulation 14, the Case Manager shall consider the status of the investigation and assess whether resolving the Allegation by way of a Disciplinary Order remains appropriate with reference to the factors at Regulations 2 and 3 and any relevant guidance issued by the Disciplinary Committee. The Case Manager may:
- (a) decide that resolving the Allegation by way of a Disciplinary Order remains appropriate and proceed in accordance with Regulations 8 -13 above; or
  - (b) decide that resolving the Allegation by way of a Disciplinary Order is no longer appropriate and continue the investigation into the Allegation in accordance with Rule 7.

### Approval, variation or rejection of Disciplinary Order by Disciplinary Orders Panel

- Rule 11.7** A Disciplinary Orders Panel shall consider the proposed Disciplinary Order.
- Rule 11.8** In considering the Disciplinary Order, the Disciplinary Orders Panel can:
- (a) approve the proposed Disciplinary Order;
  - (b) vary the proposed Disciplinary Order, if the Case Manager and the Respondent both agree to the variation; or
  - (c) reject the proposed Disciplinary Order.
- Rule 11.9** If the Disciplinary Orders Panel rejects the proposed Disciplinary Order under Rule 11.8 (c), or if the Case Manager and Respondent do not agree to a variation to the proposed Disciplinary Order under Rule 11.8 (b), the Allegation shall continue to be investigated by the Case Manager under Rule 7.

16. Once the Secretary has received a signed copy of the proposed Disciplinary Order under Regulation 13, the Secretary shall arrange for a Disciplinary Orders Panel to consider the proposed Disciplinary Order, under Rule 11.7, as soon as is reasonable. A Disciplinary Orders Panel shall be appointed in accordance with the Appointments Regulations.
17. The Disciplinary Orders Panel shall consider the proposed Disciplinary Order, and any other relevant information provided by both parties, in private.
18. In deciding whether to approve the proposed Disciplinary Order under Rule 11.8, the Disciplinary Orders Panel shall consider the factors at Regulation 3, any relevant guidance issued by the Disciplinary Committee and whether it is in the public interest to approve the proposed Disciplinary Order. If the Disciplinary Orders Panel is unable to reach a unanimous decision, the proposed Disciplinary Order shall be rejected and the Allegation will proceed in accordance with Rule 11.9.

19. The Disciplinary Orders Panel may, at any time, suspend its consideration of a proposed Disciplinary Order and request any further relevant information, via the Secretary, from:
  - (a) the Case Manager; and/or
  - (b) the Investigation Actuary (if appointed); and/or,
  - (c) the Respondent; and/or
  - (d) the Referrer; and/or
  - (e) any other source considered to be relevant.
20. The Disciplinary Orders Panel may, at any stage, appoint an individual from the Pool of Legal Advisers to 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.
21. Where the Disciplinary Orders Panel approves the proposed Disciplinary Order, under Rule 11.8 (a), the Disciplinary Order shall be considered a formal finding of Misconduct. The Disciplinary Order shall take effect on the day it is approved. The Disciplinary Orders Panel's written determination and a copy of the Disciplinary Order shall be served on:
  - (a) the Case Manager;
  - (b) the Respondent; and
  - (c) the Referrer.
22. If the Disciplinary Orders Panel wishes to vary the terms of a proposed Disciplinary Order under Rule 11.8 (b), it shall refer the proposed variations to the Case Manager and the Respondent to consider. The Case Manager and the Respondent shall consider the proposed variations and respond to the Disciplinary Orders Panel, in writing, within 14 days from the date of service of the proposed variations.
23. Where the Case Manager and the Respondent agree to the Disciplinary Orders Panel's proposed variations, the Disciplinary Order shall be treated as approved by the Disciplinary Orders Panel and Regulation 21 shall apply.
24. Where either the Case Manager or the Respondent do not agree to the Disciplinary Orders Panel's proposed variations, the Allegation shall be investigated (or continue to be investigated) in accordance with Rule 7.
25. Where the Disciplinary Orders Panel rejects a Disciplinary Order under Rule 11.8 (c), or where any proposed variation under Rule 11.8 (b) is not agreed by the Case Manager and/or the Respondent, the Disciplinary Orders Panel's written determination shall be served on:
  - (a) the Case Manager; and
  - (b) the Respondent.
26. If the Respondent has made admissions to the Allegation in the course of the Disciplinary Orders process, they may be admitted as evidence in any later disciplinary proceedings.

## Costs

**Rule 11.10** Where the Disciplinary Orders Panel approves or varies a Disciplinary Order under Rule 11.8 (a) and/or (b), the Disciplinary Orders Panel shall impose an order for costs.

27. If the Disciplinary Orders Panel approves the proposed Disciplinary Order the Panel shall also make an award of costs against the Respondent under Rule 11.10 and in line with any guidance issued by the Disciplinary Committee.

## Withdrawal of Agreement to Proposed Disciplinary Order

**Rule 11.11** The Case Manager or Respondent may, at any time before the Disciplinary Orders Panel makes a decision on the Order under Rule 11.8, withdraw it from the Disciplinary Orders Panel's consideration.

28. At any stage before a Disciplinary Orders Panel makes a decision under Rule 11.8, either the Respondent or the Case Manager may withdraw their agreement to the proposed Disciplinary Order under Rule 11.11.
29. Where either party withdraws their agreement, the withdrawing party must confirm their withdrawal in writing, to the Disciplinary Orders Panel, via the Secretary. Once a withdrawal has been served on the Panel, the Allegation shall be investigated (or continue to be investigated) in accordance with Rule 7.

## Publication of Approved Disciplinary Orders

30. The IFoA shall publicise the details of the Disciplinary Order as soon as is reasonable, subject to any conditions on publication as detailed in the Order. This shall be in accordance with any relevant guidance issued by the Disciplinary Committee.

## Failure to comply with Approved Disciplinary Orders

31. Failure or partial failure by the Respondent to comply with a Disciplinary Order shall be referred to the IFoA. The IFoA will consider whether a Complaint should be brought under Rule 5.

## No Appeal against Disciplinary Orders Panel Determination

**Rule 11.12** Neither the IFoA nor the Respondent may appeal any decision of the Disciplinary Orders Panel.

## Effect of Previous Disciplinary Orders

32. Where a subsequent Allegation against the Respondent is accepted for investigation, the Case Manager may take into account any previous Disciplinary Orders and the Respondent's compliance with them when considering whether it is appropriate to propose further Disciplinary Orders.

## 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.  |
| Bye-laws                  | The Bye-laws of the IFoA from time to time.  |
| 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   |
| Disciplinary Committee    | The Disciplinary Committee of the IFoA or its successor.   |
| Disciplinary Order        | An order as defined by Rule 11.1 of this Scheme.   |
| Disciplinary Orders Panel | A panel referred to in Rule 11 of this Scheme.   |
| FRC                       | The Financial Reporting Council Limited, a company limited by guarantee incorporated in England and Wales, number 2486368 and any other body which takes over the functions of the FRC.  |
| IFoA                      | The Institute and Faculty of Actuaries.  |
| 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.   |
| Prima Facie               | Upon initial examination there appears to be sufficient evidence.  |



| Term                              | Meaning   |
|-----------------------------------|---|
| 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.  |

## Document control

| Version | Date of publication | Overview   |
|---------|---------------------|--|
| 1.0     | 1 August 2023       | To support Disciplinary Scheme effective 1 August 2023.                                  |
| 1.1     | 1 November 2023     | To clarify the version of the Regulations that will apply to a Complaint or application. |



# Institute and Faculty of Actuaries

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# Case Report and Adjudication Panel Regulations

Disciplinary Committee

Version 1.1

1 November 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. With regard to the applicability of these Regulations:
  - (a) Any Complaint or application for readmission to membership received by the IFoA shall be considered under the version of these Regulations in force at the time the Complaint or application for readmission to membership is received by the IFoA.
  - (b) In the event these Regulations are amended after a Complaint or application for readmission to membership has been received by the IFoA:
    - (i) the Respondent or Applicant may provide written consent to the IFoA for the Complaint/application for readmission to membership to be considered in accordance with the most recent version of these Regulations, otherwise
    - (ii) the version of the Regulations in force at the time the Complaint or application is received shall be applied to the extent that it is possible to do so, having regard to the need to ensure the fair and just determination of the case, otherwise the most recent version of the Regulations shall apply.
- E. These Regulations shall be interpreted and applied in accordance with the principles of natural justice, procedural fairness, and any applicable human rights law.
- F. 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:
    - (iii) have come to the attention of the Case Manager during the investigation; and
    - (iv) 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.  |

### Document control

| Version | Date of publication | Overview   |
|---------|---------------------|--|
| 1.0     | 1 August 2023       | To support Disciplinary Scheme effective 1 August 2023.                                  |
| 1.1     | 1 November 2023     | To clarify the version of the Regulations that will apply to a Complaint or application. |



# Institute and Faculty of Actuaries

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# Independent Reviewer Regulations

Disciplinary Committee

Version 1.1

1 November 2023

# Independent Reviewer 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. With regard to the applicability of these Regulations:
  - (a) Any Complaint or application for readmission to membership received by the IFoA shall be considered under the version of these Regulations in force at the time the Complaint or application for readmission to membership is received by the IFoA.
  - (b) In the event these Regulations are amended after a Complaint or application for readmission to membership has been received by the IFoA:
    - (i) the Respondent or Applicant may provide written consent to the IFoA for the Complaint/application for readmission to membership to be considered in accordance with the most recent version of these Regulations, otherwise
    - (ii) the version of the Regulations in force at the time the Complaint or application is received shall be applied to the extent that it is possible to do so, having regard to the need to ensure the fair and just determination of the case, otherwise the most recent version of the Regulations shall apply.
- E. These Regulations shall be interpreted and applied in accordance with the principles of natural justice, procedural fairness, and any applicable human rights law.
- F. The Rules contained in these Regulations are inserted for convenience of reference only. They shall not be considered a part of the Regulations.



## Independent Reviewer

**Rule 14.1** The Independent Reviewer may review a determination of an Adjudication Panel under Rule 13.3 on application by:

- (a) the Referrer; or
- (b) the IFoA.

## Application for Review of an Adjudication Panel Determination by the Referrer

**Rule 14.2** Where an Adjudication Panel has dismissed a case under Rule 13.3 (a), the Referrer may apply for a review of an Adjudication Panel's determination under Rule 14.1, subject to the grounds in the Regulations.

1. The Referrer may apply for a review of an Adjudication Panel's determination, under Rule 14.2, if:
  - (a) the Adjudication Panel has determined, under Rule 13.3 (a) that a Prima Facie case of Misconduct has not been established; and
  - (b) the Referrer considers that one or more of the following applies:
    - (i) the Adjudication Panel's determination was manifestly unreasonable or wrong in law; and/or
    - (ii) there was injustice because of a serious procedural error or other irregularity during the Adjudication Panel proceedings; and/or
    - (iii) significant and relevant new evidence has come to light, which was not previously available and could not reasonably have been made available during the investigation.
2. The Referrer's application for review under Rule 14.2 shall contain:
  - (a) the determination of the Adjudication Panel which they are seeking to review;
  - (b) the relevant ground(s) for review under Regulation 1; and
  - (c) the reasons why the Referrer considers that the relevant ground(s) for review applies to the case.
3. The Referrer's application must be made to the Secretary, in writing, within 28 days of service of the Adjudication Panel's determination.
4. If an application for review by the Referrer is not served within the time period specified under Regulation 3 the Independent Reviewer shall refuse to accept it, unless satisfied that exceptional circumstances exist in relation to the late submission.

## Application for Review of an Adjudication Panel Determination by the IFoA

**Rule 14.3** The IFoA may apply for a review of any Adjudication Panel's determination, under Rule 14.1, subject to the grounds in the Regulations.

5. Under Rule 14.3, an application for review of the Adjudication Panel determination may be prepared and submitted by the Case Manager on behalf of the IFoA.
6. The IFoA may apply for the review of any Adjudication Panel determination under Rule 13.3.
7. The IFoA may apply for a review of an Adjudication Panel's determination only if:
  - (a) the Adjudication Panel has made any determination under Rule 13.3; and
  - (b) it is in the public interest that the Adjudication Panel's determination be reviewed; and
  - (c) the IFoA considers that one or more of the following applies:
    - (i) the Adjudication Panel's determination was manifestly unreasonable or wrong in law; and/or
    - (ii) there was injustice because of a serious procedural error or other irregularity during the Adjudication Panel proceedings; and/or
    - (iii) significant and relevant new evidence has come to light, which was not previously available and could not reasonably have been made available during the investigation.
8. The IFoA's application for review shall contain:
  - (a) a copy of the Adjudication Panel's determination under Rule 13.3;
  - (b) the reasons why it is in the public interest that the Adjudication Panel's determination be reviewed;
  - (c) the relevant ground(s) for review under Regulation 7(c); and
  - (d) the reasons why the IFoA considers that the relevant ground(s) for review applies to the case.
9. The IFoA's application for review must be made to the Secretary, in writing, within 28 days of service of the Adjudication Panel's determination.
10. If an application for review by the IFoA is not served within the time period specified under Regulation 9 the Independent Reviewer shall refuse to accept it, unless satisfied that exceptional circumstances exist in relation to the late application.

## Application for Review of an Adjudication Panel Determination by Other Parties

11. A Respondent may not apply to the Independent Reviewer for a review of an Adjudication Panel's determination.

## Receipt of the Application by the Secretary

12. Where an application for review is made to the Secretary within the specified time period under Regulations 3 or 9, or where a late application for review is served under Regulations 4 or 10, the Secretary shall:
  - (a) appoint an Independent Reviewer in accordance with the Appointments Regulations;
  - (b) advise the Respondent that an application for review of the Adjudication Panel's determination has been made under Rule 14.1; and
  - (c) in circumstances:
    - (i) where the application was made by the Referrer, advise the IFoA that an application to review the Adjudication Panel's determination has been made under Rule 14.2 or
    - (ii) where the application was made by the IFoA, advise the Referrer that an application to review the Adjudication Panel's determination has been made under Rule 14.3.
13. The Referrer or the IFoA may apply to amend their application for review. The amended application must be made in writing to the Secretary. It may be made at any time before the Independent Reviewer makes a determination under Rule 14.4. The Independent Reviewer shall accept the amended application if they are satisfied that it is in the interests of justice to do so.
14. The Referrer or the IFoA may request the withdrawal of their application for review at any time. The request must be made in writing to the Secretary.

## Consideration of an Application for Review by the Independent Reviewer

**Rule 14.4** The Independent Reviewer may either:

- (a) accept the application for review; or
- (b) reject the application.

15. Under Rule 14.4, in deciding whether to accept or reject the application, the Independent Reviewer shall consider whether there is an arguable and relevant basis that the grounds for review put forward under Regulations 1 or 7 have been met.

### Rejection of application for review

**Rule 14.5** The Independent Reviewer shall reject the application if they consider there is no arguable and relevant basis that the grounds have been met.

16. Where the Independent Reviewer rejects the application, they shall provide written reasons for their decision. The decision shall be provided to the Referrer, the Respondent and the IFoA.

## Acceptance of application for review

**Rule 14.6** The Independent Reviewer shall accept the application for review if they consider there is an arguable and relevant basis that the grounds have been met.

## Consequences of acceptance of application for review

**Rule 14.7** Where the application for review is accepted under Rule 14.4 (a), the Independent Reviewer shall review the Adjudication Panel's determination.

17. In reviewing the Adjudication Panel's determination under Rule 14.7, the Independent Reviewer may consider:
- (a) the Allegation;
  - (b) the investigation conducted by the Case Manager and/or Investigation Actuary;
  - (c) the Case Report;
  - (d) any submissions made by the Respondent to the Adjudication Panel;
  - (e) the determination of the Adjudication Panel;
  - (f) the procedures followed by the Adjudication Panel in reaching its determination;
  - (g) any information considered by the Adjudication Panel in reaching its determination;
  - (h) any representations on the application made by the Referrer or the IFoA;
  - (i) any representations on the application made by the Respondent;
  - (j) any representations on the application made by the Case Manager; and/or
  - (k) any other information which the Independent Reviewer considers to be relevant.
18. When conducting their review, the Independent Reviewer may receive advice from any individual on any relevant legal or actuarial matters.

## Outcome of the Independent Reviewer's Review

**Rule 14.8** Following the review under Rule 14.7, the Independent Reviewer may either:

- (a) affirm the Adjudication Panel's determination; or
- (b) send the case back to an Adjudication Panel for reconsideration.

19. The Independent Reviewer shall provide written reasons for their decision under Rule 14.8. The written decision shall be served by the Secretary on:
- (a) the Referrer;
  - (b) the Respondent;
  - (c) the Adjudication Panel;

- (d) the Case Manager;
  - (e) the Disciplinary Committee; and
  - (f) the IFoA.
20. Where the Independent Reviewer decides to send the case back to an Adjudication Panel for reconsideration under Rule 14.8 (b), they shall, in their written decision:
- (a) state whether the case should be considered by the original Adjudication Panel members (so far as is reasonably possible), or by a new Adjudication Panel; and
  - (b) specify matters that the Adjudication Panel should take into account when reconsidering the case.
21. At the end of any review under Rule 14.7, or at any other time the Independent Reviewer considers appropriate, they may provide a report to the Disciplinary Committee about:
- (a) the operation of the Scheme;
  - (b) the nature and manner in which the investigation was undertaken by the IFoA; and/or
  - (c) the procedures adopted by the Case Manager and/or Investigation Actuary during the investigation and/or the procedures adopted by the Adjudication Panel.

## Right of Appeal and Further Consideration

**Rule 14.9** The Independent Reviewer's decision shall be final and may not be reviewed or appealed by any party.

**Rule 14.10** The determination of an Adjudication Panel which has been accepted for review under Rule 14.6 shall not be the subject of any further application for review by the Independent Reviewer.

## 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.  |
| Bye-laws                 | The Bye-laws of the IFoA from time to time.  |
| 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.  |
| Disciplinary Committee   | The Disciplinary Committee of the IFoA or its successor.   |
| 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.   |
| 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.  |
| 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.  |

| Term              | Meaning  |
|-------------------|--|
| 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.   |

### Document control

| Version | Date of publication | Overview   |
|---------|---------------------|--|
| 1.0     | 1 August 2023       | To support Disciplinary Scheme effective 1 August 2023.                                  |
| 1.1     | 1 November 2023     | To clarify the version of the Regulations that will apply to a Complaint or application. |



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# Disciplinary Tribunal Panel Regulations

Disciplinary Committee

Version 1.1

1 November 2023

# Disciplinary Tribunal 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. With regard to the applicability of these Regulations:
  - (a) Any Complaint or application for readmission to membership received by the IFoA shall be considered under the version of these Regulations in force at the time the Complaint or application for readmission to membership is received by the IFoA.
  - (b) In the event these Regulations are amended after a Complaint or application for readmission to membership has been received by the IFoA:
    - (i) the Respondent or Applicant may provide written consent to the IFoA for the Complaint/application for readmission to membership to be considered in accordance with the most recent version of these Regulations, otherwise
    - (ii) the version of the Regulations in force at the time the Complaint or application is received shall be applied to the extent that it is possible to do so, having regard to the need to ensure the fair and just determination of the case, otherwise the most recent version of the Regulations shall apply.
- E. These Regulations shall be interpreted and applied in accordance with the principles of natural justice, procedural fairness, and any applicable human rights law.
- F. The Rules contained in these Regulations are inserted for convenience of reference only. They shall not be considered a part of the Regulations.

## Referral of Allegation to Disciplinary Tribunal Panel

- Rule 15.1** An Allegation may be referred to a Disciplinary Tribunal Panel:
- (a) as a direct referral under Rule 8; or
  - (b) by a Respondent who has chosen to proceed directly to a Disciplinary Tribunal Panel hearing under Rule 12.2; or
  - (c) by an Adjudication Panel, under Rule 13.3; or
  - (d) by a Capacity for Membership Panel under Rule 16.13 or 16.15 (d).

## The Charge and Pre-Hearing Procedure

- Rule 15.2** Where an Allegation has been referred to a Disciplinary Tribunal under Rule 15.1, the IFoA shall prepare and serve a Charge as detailed in the Regulations.

1. The Charge prepared under Rule 15.2 shall set out the formal allegations against the Respondent.
2. The Charge shall state:
  - (a) the acts, omissions or other conduct alleged to have been committed by the Respondent;
  - (b) the provisions of the Scheme, the Actuaries' Code and/or other obligations alleged to have been breached by the Respondent; and
  - (c) that the matters alleged amount to Misconduct within the meaning of Rule 2.
3. The Charge may contain alleged Misconduct which was not in the initial Allegation and/or Case Report, if:
  - (a) the alleged Misconduct is not or has not been the subject of a separate investigation by the IFoA; and
  - (b) the Respondent is given a proper opportunity to answer the additional matters in the Charge.
4. After the IFoA has prepared the Charge, it shall, as soon as is reasonable, serve:
  - (a) the Charge and supporting documentation on the Secretary and the Respondent; and
  - (b) any relevant case management documentation on the Respondent.
5. Once the Secretary has received the Charge they shall arrange for a Disciplinary Tribunal Panel to be appointed as soon as is reasonable. The Disciplinary Tribunal Panel shall be appointed in accordance with the Appointments Regulations.

**Rule 15.3** The Respondent shall prepare and serve written grounds of defence in accordance with the Regulations.

6. Once the Respondent has been served the Charge, if not intending to make an admission of Misconduct they shall serve their written grounds of defence under Rule 15.3, along with any completed case management forms, on:
  - (a) the Secretary; and
  - (b) the IFoA.
7. The documents detailed in Regulation 6 shall be served by the Respondent no later than 28 days from the date the Charge was served on them. The time to serve the written grounds of defence may be extended if:
  - (a) the IFoA and the Respondent agree to an extension; or
  - (b) the chair of the Disciplinary Tribunal Panel directs that the time be extended.

### **Amendments to Charge or Grounds of Defence following Service**

**Rule 15.4** The IFoA may amend a Charge and the Respondent may amend any grounds of defence after they have been served, subject to the approval of the Disciplinary Tribunal Panel and in accordance with the conditions set out in the Regulations.

8. Under Rule 15.4, the IFoA may amend the Charge after it has been served on the Respondent under Rule 15.2, if:
  - (a) the Respondent is given a proper opportunity to answer any new matters arising from the amendment; and
  - (b) the IFoA serves the amended Charge on the Respondent and Secretary no later than 28 days before the Disciplinary Tribunal Panel final hearing.
9. Under Rule 15.4 the Respondent may amend any grounds of defence after they have been served under Rule 15.3, provided that any amendments are served on the Secretary and the IFoA no later than 28 days before the Disciplinary Tribunal Panel final hearing.

10. If the Charge or the grounds of defence are amended under Rule 15.4 the Disciplinary Tribunal Panel, or the chair of the Disciplinary Panel, may, if they consider it appropriate, suspend the final hearing to allow the IFoA and/or the Respondent sufficient time to address the amendments.

### Application to Dismiss the Charge

**Rule 15.5** At any time following the service of a Charge under Rule 15.2 and before a final determination has been issued by a Disciplinary Tribunal Panel under Rule 15.12, the IFoA may apply to have the Charge against the Respondent dismissed.

11. An application to dismiss the Charge under Rule 15.5 shall be made by the IFoA:
  - (a) in writing to the Secretary, if it is made at any time before a final hearing of the Disciplinary Tribunal Panel; or
  - (b) orally to the Disciplinary Tribunal Panel, if it is made during a final hearing of the Disciplinary Tribunal Panel.

**Rule 15.6** The IFoA may apply to have the Charge dismissed if it is satisfied that one or more of the grounds set out in the Regulations are met.

12. Under Rule 15.6, the grounds on which the IFoA may apply to have the Charge dismissed are:
  - (a) it is in the public interest to dismiss the Charge; and/or
  - (b) there is no reasonable prospect of proving the factual matters giving rise to the Charge; and/or
  - (c) the factual matters alleged in the Charge could not amount to Misconduct even if they are proven.
13. An application to have the Charge dismissed, whether made in writing or orally, shall:
  - (a) set out the reasons why the IFoA is seeking to have the Charge dismissed;
  - (b) provide any relevant evidence in support of the application; and
  - (c) set out the public interest considerations associated with the withdrawal of the Charge.
14. If a written application is made to have the Charge dismissed, the application shall be served on the Respondent and the Secretary. The Secretary shall then arrange a preliminary hearing of the Disciplinary Tribunal Panel in accordance with the procedures set out at Regulations 37 - 51.
15. Any application to withdraw a Charge, whether in writing or orally, shall be determined by a full panel of the Disciplinary Tribunal Panel.

**Rule 15.7** In considering the IFoA's application to dismiss the Charge under Rule 15.6, the Disciplinary Tribunal Panel can:

- (a) grant the application and dismiss the Charge; or
- (b) refuse the application.

16. Under Rule 15.7 the Disciplinary Tribunal Panel shall determine, by simple majority, whether the Charge should be dismissed. The Disciplinary Tribunal Panel shall dismiss the Charge where:
- (a) it is in the public interest for the Charge to be dismissed; and/or
  - (b) there is no reasonable prospect of proving the factual matters giving rise to the Charge; and/or
  - (c) the factual matters alleged in the Charge could not amount to Misconduct even if they are proven.
17. The Disciplinary Tribunal Panel shall provide written reasons for their determination. The Disciplinary Tribunal Panel shall serve notice of their determination on the Respondent and the IFoA, as soon as is reasonable.

### **Dismissal of the Charge by the Disciplinary Tribunal Panel**

**Rule 15.8** At any time following the service of a Charge under Rule 15.2, if the Disciplinary Tribunal Panel considers the Charge does not disclose a Prima Facie case of Misconduct, the Disciplinary Tribunal Panel may dismiss the Charge.

18. Where the Disciplinary Tribunal Panel is considering whether to dismiss the Charge under Rule 15.8, it shall allow sufficient time for both parties to make written submissions and/or indicate whether they wish to make oral submissions on the proposed dismissal.
19. At the discretion of the Disciplinary Tribunal Panel, or where one or both of the parties wishes to make oral submissions, a preliminary hearing of the Disciplinary Tribunal Panel will be arranged by the Secretary in accordance with the procedures set out at Regulations 37 - 51. Otherwise the Disciplinary Tribunal Panel may determine whether to dismiss the Charge based on the papers and any written submissions made by the parties.
20. Any decision to dismiss the Charge under Rule 15.8 shall be determined by a full panel of the Disciplinary Tribunal Panel.
21. The Disciplinary Tribunal Panel shall determine, by simple majority, whether the Charge should be dismissed.
22. The Disciplinary Tribunal Panel shall provide written reasons for their determination. The Disciplinary Tribunal Panel shall serve notice of their determination on the Respondent and the IFoA, as soon as is reasonable.

## Dismissal of the Charge- Application for Costs

23. Where a Charge is dismissed under Rules 15.7 or 15.8 either party may make a written application for costs. Any application for costs must be served on the Secretary within 14 days of the date of the Disciplinary Tribunal Panel's determination being served.
24. If the Secretary receives an application for costs under Regulation 23, a preliminary hearing shall be arranged to consider the application in accordance with the procedures set out in Regulations 37 - 51.
25. The Disciplinary Tribunal Panel shall provide written reasons for their determination in respect of the costs application. The Disciplinary Tribunal Panel shall serve notice of their determination on the Respondent and the IFoA as soon as is reasonable.

## Notice of the Disciplinary Tribunal Panel Final Hearing

26. After the period for the Respondent to serve their written grounds of defence set out in Regulation 7 has passed, the Secretary shall schedule a final hearing of the Disciplinary Tribunal Panel.
27. The Secretary shall serve the notice of final hearing on the Respondent and the IFoA. Both parties shall be given a minimum of 28 days' notice of the final hearing.
28. After the notice of the final hearing has been served on the parties:
  - (a) the Respondent shall advise the Secretary and the IFoA, within 14 days of the date of service, whether they will attend the final hearing; and
  - (b) the IFoA and the Respondent shall provide to the Secretary and to the other party, no later than 21 days before the date of the final hearing, any additional documents they will be relying on during the final hearing.
29. If a point of law has been identified by the IFoA and/or the Respondent, both parties shall provide written submissions on the point of law to the Secretary and each other, no less than seven days before the date of the final hearing.
30. Both parties may agree to change the dates for service of any documents under Regulations 28 and 29. If the parties are unable to reach agreement, an application may be made by either party to the chair of the Disciplinary Tribunal Panel who will decide whether or not any service date shall be changed.

## Procedure for all Disciplinary Tribunal Panel Hearings

31. Regulations 32 to 36 apply to all hearings conducted by a Disciplinary Tribunal Panel or chair of a Disciplinary Tribunal Panel, including all preliminary and final hearings.
32. The Disciplinary Tribunal Panel may appoint an individual from the Pool of Legal Advisers to 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 and included in the record of the hearing.

33. The Disciplinary Tribunal Panel has the power to determine its own conduct and procedure in holding hearings. The Disciplinary Tribunal Panel has the discretion to give any directions, change any time limits, suspend any hearings, and/or accept any written undertakings from the Respondent. The Disciplinary Tribunal Panel may depart from these Regulations in matters of procedure if it considers that there are good reasons to do so.
34. The Disciplinary Tribunal Panel shall consider all documents placed before it to be authentic unless the authenticity of a document is challenged by the Respondent or the IFoA. If there is a challenge about whether a document is authentic, the Disciplinary Tribunal Panel shall consider representations from both parties. The Disciplinary Tribunal Panel may then give whatever weight it thinks appropriate to the contents of the document.
35. The IFoA and the Respondent may be legally represented at a Disciplinary Tribunal Panel hearing. The Respondent may also be represented by a Member or any other person. The chair or the Disciplinary Tribunal Panel may exclude any person from the hearing if they are disrupting the proceedings.
36. The chair of the Disciplinary Tribunal Panel may make any case management directions they consider appropriate in advance of the hearing.

## **Preliminary Hearings**

### **Notice of Preliminary Hearing**

37. The Respondent or the IFoA can make a written application for a preliminary hearing, or the chair of the Disciplinary Tribunal Panel may require the parties to appear at a preliminary hearing if the chair considers it appropriate to do so.
38. Any application by the Respondent or the IFoA to convene a preliminary hearing shall be made in writing to the Secretary and shall include details of the matters they wish considered at a preliminary hearing.
39. The chair of the Disciplinary Tribunal Panel shall determine whether the preliminary hearing should be determined by the chair alone or by a full panel of the Disciplinary Tribunal Panel.
40. The Secretary shall serve notice of the date of the preliminary hearing on the Respondent and the IFoA. Both parties shall be given no less than 14 days' notice of the preliminary hearing.
41. After the notice of the date of the preliminary hearing has been served on the parties, the parties shall advise the Secretary, within seven days of the date of the notice, whether they wish to make oral submissions at the preliminary hearing.
42. The parties must provide any written submissions that they would like to be considered at the preliminary hearing to the Secretary and the other party no later than seven days before the date of the preliminary hearing.



## Preliminary Hearing Procedure

43. All references to “chair of the Disciplinary Tribunal Panel” in Regulations 44 - 51 shall be taken to mean:
- (a) the chair of the Disciplinary Tribunal Panel; or
  - (b) the full Disciplinary Tribunal Panel,
- depending on the determination made by the chair of the Disciplinary Tribunal Panel under Regulation 39.
44. If neither party wishes to make oral submissions at the preliminary hearing, the chair of the Disciplinary Tribunal Panel shall consider the preliminary application in private, based on the written submissions provided by the parties.
45. If one or both parties wish to make oral submissions at the preliminary hearing, the chair of the Disciplinary Tribunal Panel shall consider any written submissions and hear the oral submissions.
46. The preliminary hearing to consider the oral submissions will be held in private, unless the chair of the Disciplinary Tribunal Panel directs that all or part of the preliminary hearing should be held in public.
47. The powers available to a chair of the Disciplinary Tribunal Panel at a preliminary hearing include:
- (a) the adjournment of the final hearing;
  - (b) the joining of separate Charges against a Respondent;
  - (c) allowing Charges against two or more Respondents to be heard at the same final hearing;
  - (d) ordering one party to disclose certain documents to the other before the final hearing;
  - (e) making any directions regarding the evidence to be presented at the final hearing;
  - (f) making any directions regarding special measures or reasonable adjustments to be taken for a witness or a Respondent at the final hearing;
  - (g) making any directions regarding whether a hearing should be conducted in private or public; and/or
  - (h) making any other directions required to ensure proceedings are fair at the final hearing.
48. In exercising their powers under Regulation 47, the chair of the Disciplinary Tribunal Panel:
- (a) shall not order the disclosure of information and/or documentary evidence which is the subject of legal professional privilege;
  - (b) shall not compel a Respondent to provide information or evidence which might incriminate the Respondent or expose them to penalties imposed by law; and
  - (c) shall ensure that disclosure of relevant documents only be ordered where it is fair in the circumstances to do so.

49. Where an application from either party is being considered at a preliminary hearing the chair of the Disciplinary Tribunal Panel may:
  - (a) grant the application; or
  - (b) refuse the application; or
  - (c) grant/refuse the application, subject to conditions imposed.
50. The chair of the Disciplinary Tribunal Panel shall provide written reasons for their determination to grant or refuse an application.
51. Once a determination or directions have been made by the chair of the Disciplinary Tribunal Panel, the written determination and/or directions shall be served on the Respondent and the IFoA as soon as is reasonable.

### Interim Orders

52. Under Rule 10.7, a Disciplinary Tribunal Panel may impose an Interim Order on the Respondent following an application by the IFoA or by the Disciplinary Tribunal Panel acting on its own.
53. Any Interim Order hearing before a Disciplinary Tribunal Panel shall proceed in accordance with Regulations 15 - 26 of the Interim Orders Regulations if it is a hearing in private without oral submissions, Regulations 27 - 32 of the Interim Orders Regulations if it is an oral hearing, or Regulations 33 - 38 of the Interim Orders Regulations if it is an oral hearing proceeding in the Respondent's absence.

### Final Hearing

54. The Disciplinary Tribunal Panel should conduct a final hearing in public in accordance with the procedures set out in Regulations 32 - 36. The chair or the Disciplinary Tribunal Panel may decide to hold all or part of a hearing in private if there is good reason to do so.
55. The Respondent or the IFoA may be legally represented at a Disciplinary Tribunal Panel final hearing. The Respondent may also be represented by a Member or any other person.
56. The Disciplinary Tribunal Panel may permit a Respondent to amend their grounds of defence within the 28 days prior to the final hearing or at the final hearing where it is in the interests of justice to allow it.
57. The IFoA may apply to the Disciplinary Tribunal Panel to amend the Charge within the 28 days prior to the final hearing or at the final hearing. The Disciplinary Tribunal Panel shall grant the application where:
  - (a) it is in the interests of justice to allow the amendments; and
  - (b) the Disciplinary Tribunal Panel is satisfied that the Respondent will not be substantially prejudiced in presenting their defence if the proposed amendments are made.
58. If the application to amend under Regulation 56 and/or Regulation 57 is granted, the Disciplinary Tribunal Panel may suspend the final hearing for a time that is reasonably necessary to allow the IFoA and/or the Respondent to address the amendments.

## Order of Proceedings

- Rule 15.9** At the conclusion of the Disciplinary Tribunal Panel final hearing, the Disciplinary Tribunal Panel shall determine, by a simple majority, whether the factual matters in the Charge against the Respondent are proved, in whole or in part.
- Rule 15.10** If the Disciplinary Tribunal Panel considers that the factual matters in the Charge against the Respondent are proved in whole or in part under Rule 15.9, it shall then consider whether the Respondent has committed Misconduct.
- Rule 15.11** If the Disciplinary Tribunal Panel considers that the factual matters in the Charge against the Respondent are not proved under Rule 15.9 or that the Respondent has not committed Misconduct under Rule 15.10, then the Charge will be dismissed.

59. Unless the Disciplinary Tribunal Panel determines otherwise, the order of proceedings at a final hearing shall be as follows:
- (a) the Disciplinary Tribunal Panel will consider any preliminary applications, including:
    - (i) an application to amend the Charge in accordance with Regulation 57;
    - (ii) an application to amend the grounds of defence in accordance with Regulation 56;
    - (iii) an application by either party that the Disciplinary Tribunal Panel hold all or part of the hearing in private;
    - (iv) an application to proceed in the Respondent's absence; and/or
    - (v) any other application that the Disciplinary Tribunal Panel considers appropriate;
  - (b) the Respondent will be invited to indicate which particulars of the Charge they admit or deny;
  - (c) the IFoA shall inform the Disciplinary Tribunal Panel of the background to the Charge;
  - (d) the IFoA shall present evidence in support of the Charge, including calling witnesses to give evidence in relation to any relevant matter;
  - (e) the Respondent may call witnesses to give evidence in relation to any matter relevant to their defence;
  - (f) either party may cross examine the other party's witnesses;
  - (g) the parties may present closing submissions to the Disciplinary Tribunal Panel;
  - (h) the Disciplinary Tribunal Panel shall decide, by simple majority, whether the factual matters alleged in the Charge have been proved, in whole or in part, and, if so, whether the Respondent has committed Misconduct within the meaning of Rule 2;
  - (i) where the Disciplinary Tribunal Panel determines that the factual matters have not been proved, or determines that the factual matters have been proved in whole or in part but there has been no Misconduct, the Charge shall be dismissed;

- (j) where the Disciplinary Tribunal Panel determines that the Respondent has committed Misconduct, the Disciplinary Tribunal Panel shall consider submissions from the parties on sanction, including hearing witness evidence, before determining:
    - (i) that no sanction is appropriate; or
    - (ii) that a sanction or sanctions should be imposed;
  - (k) the Disciplinary Tribunal Panel will communicate its determination on sanction orally to the parties, with the written determination to follow;
  - (l) where the Disciplinary Tribunal Panel has:
    - (i) made an oral decision on sanctions; or
    - (ii) dismissed the Charge;

the parties may make submissions to the Disciplinary Tribunal Panel regarding:

    - (i) the appropriate level of costs to be imposed (if any); and/or
    - (ii) any exceptional circumstances that should be considered by the Disciplinary Tribunal Panel regarding publication of its written determination.
60. During the final hearing the Disciplinary Tribunal Panel may:
- (a) question the parties or invite further submissions from the parties;
  - (b) direct a party to provide further evidence or information in order to assist them in their determination of the case;
  - (c) question any witnesses called by the parties;
  - (d) admit any new evidence if it is reasonable and in the interests of justice to do so. The Disciplinary Tribunal Panel shall determine the appropriate weight to place on such evidence;
  - (e) accept any written undertaking from the Respondent.
61. In reaching its determination, the Disciplinary Tribunal Panel shall not take into account any previous correspondence with and/or proceedings about the Charge involving:
- (a) an Assessment Panel under Rule 3 and/or
  - (b) a Disciplinary Orders Panel under Rule 11; and/or
  - (c) an IFoA request for direct referral to a Disciplinary Tribunal Panel under Rule 8; and/or
  - (d) an Adjudication Panel under Rule 13; and/or
  - (e) an Independent Reviewer under Rule 14: and/or
  - (f) a Capacity for Membership Panel under Rule 16.
62. Where the factual matters in the Charge are in dispute, the IFoA shall bear the burden of proving the facts on the Balance of Probabilities.
63. The final hearing may be recorded and/or transcribed at the discretion of the chair of the Disciplinary Tribunal Panel.

**Rule 15.12** If the Disciplinary Tribunal Panel determines that the Respondent has committed Misconduct under Rule 15.10, the Disciplinary Tribunal Panel shall:

- (a) determine that no sanction is appropriate; or
- (b) impose one or more of the following sanctions:
  - (i) reprimand the Respondent;
  - (ii) order the Respondent to pay a fine;
  - (iii) suspend any Certificate of the Respondent;
  - (iv) withdraw any Certificate of the Respondent;
  - (v) order the Respondent to complete a period of education, retraining and/or supervised practice;
  - (vi) impose conditions on the Member's continued membership of the IFoA;
  - (vii) exclude the Respondent from holding any Certificate for any period it thinks appropriate, up to a maximum of five years;
  - (viii) suspend the Respondent from membership of the IFoA for any period it thinks appropriate, up to a maximum of two years;
  - (ix) expel the Respondent from membership of the IFoA for any period it thinks appropriate, up to a maximum of five years; and/or
  - (x) exclude the Respondent, who is no longer a Member of the IFoA, from membership of the IFoA for any period it thinks appropriate, up to a maximum of five years.

64. In determining sanction under Rule 15.12 the Disciplinary Tribunal Panel shall take into account the sanctions guidance issued by the Disciplinary Committee.

**Rule 15.13** The Disciplinary Tribunal Panel may make an award of costs against the Respondent or the IFoA as it considers appropriate.

65. Any award of costs made by a Disciplinary Tribunal Panel under Rule 15.13 shall take into account the costs guidance issued by the Disciplinary Committee.

### **Determination of the Disciplinary Tribunal Panel**

66. The Disciplinary Tribunal Panel shall give written reasons for its determination, including any determination on costs and/or publication.

67. The Disciplinary Tribunal Panel's written determination shall be served, as soon as is reasonable, on:

- (a) the Respondent;
- (b) the Referrer;
- (c) the IFoA; and
- (d) the Disciplinary Committee.

68. A determination of the Disciplinary Tribunal Panel, including any sanctions imposed, shall be effective on the day it is made.
69. Subject to Regulation 78, any fine and/or cost order imposed by a Disciplinary Tribunal Panel shall be paid within 28 days of the date of the determination, unless the parties agree to a later payment date.
70. The IFoA shall publicise the details of the Disciplinary Tribunal Panel's determination as soon as is reasonable, subject to any conditions on publication imposed by the Disciplinary Tribunal Panel in its determination. This shall be in accordance with any relevant guidance issued by the Disciplinary Committee.

### **Proceeding in Absence**

71. If a Respondent fails to attend or be represented at a hearing, the Disciplinary Tribunal Panel shall decide whether it is in the interests of justice to proceed in their absence.
72. It is in the interests of justice to proceed in the Respondent's absence if the Disciplinary Tribunal Panel is satisfied that:
  - (a) all reasonable steps have been taken to serve notice of the time and date of the hearing on the Respondent, in accordance with Regulation 27; and
  - (b) it is fair to do so, taking into account the circumstances of the case.
73. The Disciplinary Tribunal Panel may suspend hearings if there is good reason to do so. Examples of a good reason may include the Respondent's ill health or a serious injury.
74. Where the Disciplinary Tribunal Panel has decided that a hearing should take place in the Respondent's absence, this must be clearly recorded and fully explained in their determination.
75. If the Disciplinary Tribunal Panel decides not to proceed in the Respondent's absence, the Disciplinary Tribunal Panel shall suspend the hearing and set a later date for the hearing. In setting the later date, the Disciplinary Tribunal Panel shall have regard to:
  - (a) the reason why the Respondent did not attend (if known);
  - (b) the length of time before the Respondent is available to attend in future; and
  - (c) the public interest in the proceedings being concluded as soon as possible.

### **Failure to Comply with the Disciplinary Tribunal Panel's Determination**

76. Failure or partial failure by the Respondent to comply with a determination of a Disciplinary Tribunal Panel shall be referred to the IFoA. The IFoA will consider whether a Complaint should be brought under Rule 5.

## Appeal against a Disciplinary Tribunal Panel Determination

**Rule 15.14** The Respondent or the IFoA may appeal the determination of a Disciplinary Tribunal Panel by giving notice to the Appeals Assessor under Rule 18.

77. If the Respondent or the IFoA appeal the determination of a Disciplinary Tribunal Panel under Rule 15.14, the notice of appeal must be served on the **Secretary and the other party within 28 days** of the Disciplinary Tribunal Panel's written determination being served.
78. The appeal shall proceed in accordance with Rule 18 and the Appeals Regulations.
79. Where the Disciplinary Tribunal Panel's determination is appealed:
- (a) the Disciplinary Tribunal Panel determination on Misconduct and the sanctions imposed (except for financial penalties and order of costs) continue to be in force until the appeal is decided; and
  - (b) the Disciplinary Tribunal Panel determination on financial penalties or costs ordered shall be paid:
    - (i) within 28 days of the date the Appeals Assessor has refused leave to appeal; or
    - (ii) in accordance with the determination of the Appeals Tribunal Panel.

## Undertakings

**Rule 15.15** The Disciplinary Tribunal Panel may accept any written undertaking from the Respondent at any time following referral under Rule 15.1.

## Definitions

| Term                          | Meaning   |
|-------------------------------|---|
| Adjudication Panel            | A panel referred to in Rule 13 of this Scheme.  |
| Actuaries' Code               | The ethical Code of Conduct that all members of the IFoA must adhere to.  |
| 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. |
| Appeals Assessor              | An assessor referred to in Rule 18 of this Scheme.  |
| Appeals Tribunal Panel        | A panel referred to in Rule 18 of this Scheme.  |
| Appointments Regulations      | Regulations issued by the Disciplinary Committee setting out the process for making appointments under this Scheme.   |
| Assessment Panel              | A panel referred to in Rule 3 of this Scheme.   |
| Balance of Probabilities      | It is more likely than not to be the case based on the available evidence.  |
| Bye-laws                      | The Bye-laws of the IFoA from time to time.   |
| Capacity for Membership Panel | A panel referred to in Rule 16 of this Scheme.  |
| 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.               |
| Certificate                   | Any practising certificate issued by the IFoA.  |
| 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.                 |
| 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.   |
| Disciplinary Committee        | The Disciplinary Committee of the IFoA or its successor.  |
| Disciplinary Orders Panel     | A panel referred to in Rule 11 of this Scheme.  |
| Disciplinary Tribunal Panel   | A panel referred to in Rule 15 of this Scheme.  |
| IFoA                          | The Institute and Faculty of Actuaries.   |



| Term                              | Meaning   |
|-----------------------------------|---|
| Independent Reviewer              | The person referred to in Rule 14 of this Scheme.   |
| Interim Order                     | An order as defined by Rule 10.1 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.                                      |
| 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.  |

## Document control

| Version | Date of publication | Overview   |
|---------|---------------------|--|
| 1.0     | 1 August 2023       | To support Disciplinary Scheme effective 1 August 2023.                                  |
| 1.1     | 1 November 2023     | To clarify the version of the Regulations that will apply to a Complaint or application. |



# Institute and Faculty of Actuaries

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Institute  
and Faculty  
of Actuaries

# Capacity for Membership Regulations

Disciplinary Committee

Version 1.1

1 November 2023

# Capacity for Membership 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. With regard to the applicability of these Regulations:
  - (a) Any Complaint or application for readmission to membership received by the IFoA shall be considered under the version of these Regulations in force at the time the Complaint or application for readmission to membership is received by the IFoA.
  - (b) In the event these Regulations are amended after a Complaint or application for readmission to membership has been received by the IFoA:
    - (i) the Respondent or Applicant may provide written consent to the IFoA for the Complaint/application for readmission to membership to be considered in accordance with the most recent version of these Regulations, otherwise
    - (ii) the version of the Regulations in force at the time the Complaint or application is received shall be applied to the extent that it is possible to do so, having regard to the need to ensure the fair and just determination of the case, otherwise the most recent version of the Regulations shall apply.
- E. These Regulations shall be interpreted and applied in accordance with the principles of natural justice, procedural fairness, and any applicable human rights law.
- F. The Rules contained in these Regulations are inserted for convenience of reference only. They shall not be considered a part of the Regulations.

## Consent Orders

- Rule 16.1** A Consent Order is an order, approved by a Capacity for Membership Panel, providing for one or more of the following outcomes:
- (a) dismissing the case, with no further action being taken;
  - (b) suspending the Respondent's membership of the IFoA for a specified period, up to a maximum of two years;
  - (c) imposing conditions on the Respondent's membership for a specified period, up to a maximum of two years; and/or
  - (d) continuing the case in accordance with this Scheme as if a transfer to a Capacity for Membership Panel had not been made under Rule 9.4 or 9.6.
- Rule 16.2** The Case Manager may invite the Respondent to agree to resolve the case through a Consent Order between the date:
- (a) a case has been transferred to a Capacity for Membership Panel under Rule 9.4 or 9.6; and
  - (b) a final determination has been reached by the Capacity for Membership Panel.
- Rule 16.3** Before proposing that a case be resolved by way of a Consent Order under Rule 16.2, the Case Manager shall have regard to the public interest in accordance with the Regulations.

### Consideration by Case Manager of Need for Consent Order

1. In considering, for the purpose of Rule 16.2, whether the case may be resolved through a Consent Order, the Case Manager must be satisfied that it is in the public interest to do so. They shall consider any relevant guidance and the following factors:
  - (a) the nature and evidence of the Respondent's illness or other relevant health or medical condition and its impact on their current capacity to hold membership of the IFoA;
  - (b) the nature of the Allegation, its seriousness and the likelihood of further alleged Misconduct occurring;
  - (c) the connection between the Allegation and the Respondent's illness or other relevant health or medical condition;
  - (d) the investigative steps taken by the Case Manager to date;
  - (e) any treatment or medical care that the Respondent is receiving for their illness or other relevant health or medical condition; and
  - (f) any other relevant matters.
2. When considering the public interest at Regulation 1, the Case Manager may take into account any expert medical reports or any other relevant evidence.

3. If a Case Manager considers that the case could be resolved by way of a Consent Order, they shall write to the Respondent to inquire whether the Respondent would agree, in principle, to a Consent Order. The Respondent must serve a written response on the Case Manager within 14 days, stating whether they would agree in principle to a Consent Order.
4. Where the Respondent does not agree in principle to a Consent Order, the case shall continue to be considered by a Capacity for Membership Panel under Rule 16.9.

### Preparation and Service of Consent Order

**Rule 16.4** If the Case Manager considers that a Consent Order should be proposed, they shall prepare and serve a proposed Consent Order on the Respondent in accordance with the Regulations.

5. Where the Respondent agrees in principle to a Consent Order, the Case Manager shall prepare a proposed Consent Order. The proposed Consent Order shall include:
  - (a) a summary of the relevant facts;
  - (b) the details of the Allegation(s) against the Respondent;
  - (c) details and evidence of the Respondent's illness or other relevant health or medical condition and its impact on their current capacity to hold membership of the IFoA;
  - (d) the proposed outcome(s) under Rule 16.1; and
  - (e) any other relevant matters.
6. The Case Manager shall serve a copy of the proposed Consent Order on the Respondent. The Respondent shall serve a written response on the Case Manager within 14 days of the date it was served on them. The Respondent's written response must:
  - (a) state whether or not they agree to resolve the case by way of the proposed Consent Order, including that the factual matters in the Allegation are proved; and
  - (b) provide any comments, documents and/or additional information on the proposed Consent Order that the Respondent wishes the Case Manager to consider before finalising the proposed Consent Order.

**Rule 16.5** If the Respondent does not agree to the proposed Consent Order, the case shall continue to be considered by a Capacity for Membership Panel under Rule 16.9.

**Rule 16.6** If the Respondent agrees to the proposed Consent Order, the Case Manager shall submit the proposed Consent Order to a Capacity for Membership Panel for approval.

7. If the Respondent states that they do not agree to the proposed Consent Order under Rule 16.5, the case shall continue to be considered by a Capacity for Membership Panel under Rule 16.9.

8. If the Respondent states that they agree to the proposed Consent Order under Rule 16.6, the Case Manager shall consider the Respondent's written response, together with any comments, documents and/or additional information provided. The Case Manager shall then, at their discretion, make any appropriate amendments and serve the proposed Consent Order on the Respondent, and:
  - (a) if the Respondent agrees with the terms of the proposed Consent Order, they shall sign it and serve it on the Case Manager within 14 days of the date it was served on them; or
  - (b) if the Respondent does not agree with the terms of the proposed Consent Order, the case shall continue to be considered by a Capacity for Membership Panel under Rule 16.9.
9. Once the Case Manager receives a copy of the signed proposed Consent Order under Regulation 8(a), they shall, as soon as is reasonable, serve the proposed Consent Order on the Secretary.

### Approval of the Consent Order by Capacity for Membership Panel

**Rule 16.7** A Capacity for Membership Panel shall consider the proposed Consent Order and can:

- (a) approve the Consent Order;
- (b) approve a variation of the proposed Consent Order, if the Case Manager and the Respondent both agree to the variation; or
- (c) reject the proposed Consent Order.

**Rule 16.8** Where the Capacity for Membership Panel approves or varies the Consent Order under Rule 16.7(a) or (b), the Capacity for Membership Panel shall set a date for a review hearing of the Consent Order.

10. Once the Secretary has received a signed copy of the proposed Consent Order they shall arrange for a Capacity for Membership Panel to consider the proposed Consent Order as soon as is reasonable. The Capacity for Membership Panel shall be arranged in accordance with the Appointments Regulations.
11. The Capacity for Membership Panel shall consider the proposed Consent Order, and any other relevant information provided by both parties, in private.
12. In deciding whether to approve the proposed Consent Order under Rule 16.7, the Capacity for Membership Panel shall consider whether it is in the public interest to approve the proposed Consent Order. When determining whether it is in the public interest to do so, the Capacity for Membership Panel shall consider the factors at Regulation 1.

13. The Capacity for Membership Panel may, at any time, suspend its consideration of a proposed Consent Order and request any further relevant information, via the Secretary, from:
  - (a) the Case Manager; and/or
  - (b) the Investigation Actuary (if appointed); and/or,
  - (c) the Respondent; and/or
  - (d) any medical expert; and/or
  - (e) any other source it considers to be relevant.
14. After considering the proposed Consent Order, the Capacity for Membership Panel can approve, vary or reject the proposed Consent Order.
15. The Capacity for Membership Panel shall provide written reasons for its decision under Rule 16.7.
16. If the Capacity for Membership Panel approves the proposed Consent Order it shall be considered a formal finding that the following matters are proved:
  - (a) the factual matters in the Allegation;
  - (b) that the Respondent's illness or other relevant health or medical condition significantly impairs their current capacity to hold membership; and
  - (c) that the Respondent's impairment is directly relevant to the Allegation.
17. The written reasons of the Capacity for Membership Panel and a copy of the Consent Order shall be served on:
  - (a) the Case Manager; and
  - (b) the Respondent.
18. Where the Capacity for Membership Panel approves the proposed Consent Order with an outcome set out in Rules 16.1(b) or (c), the Capacity for Membership Panel shall also set a date for a review hearing of the Consent Order. The review date must be no later than the date on which any specified periods under Rules 16.1(b) or (c) expire. At a review hearing, the Consent Order shall be reviewed in accordance with Rules 16.18 -16.25.
19. If the Capacity for Membership Panel wishes to vary the terms of a proposed Consent Order under Rule 16.7(b), it shall refer the proposed variations to the Case Manager and the Respondent to consider. The Case Manager and the Respondent shall respond to the Capacity for Membership Panel within seven days from the date the proposed variations were served on them.
20. Where the Case Manager and the Respondent agree to the Capacity for Membership Panel's proposed variations, they shall write to the Capacity for Membership Panel confirming their agreement. The Capacity for Membership Panel shall then approve the proposed Consent Order.
21. Where the Case Manager and the Respondent do not agree to the Capacity for Membership Panel's proposed variations, the Allegation shall continue to be considered by a Capacity for Membership Panel under Rule 16.9.



22. If the Capacity for Membership Panel rejects the proposed Consent Order under Rule 16.7(c), the Allegation shall continue to be considered by a Capacity for Membership Panel under Rule 16.9.
23. The IFoA shall publicise the details of the Consent Order as soon as is reasonable, subject to any conditions on publication imposed by the Capacity for Membership Panel in its approval of the Consent Order. This shall be in accordance with any relevant guidance issued by the Disciplinary Committee.

### **General Procedure for all Capacity for Membership Panels**

24. A Capacity for Membership Panel may, at any stage, appoint an individual from the Pool of Legal Advisers to 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.
25. A Capacity for Membership Panel has the power to determine its own conduct and procedure in holding hearings. It has the discretion to give any directions, change any time limits, suspend any hearings, and/or accept any written undertakings from the Respondent and it may depart from these Regulations in matters of procedure if it considers that there are good reasons to do so.
26. A Capacity for Membership Panel may direct, at any time, that the IFoA and/or the Respondent obtain any evidence, including expert medical evidence, that it considers to be relevant in the proceedings.
27. A Capacity for Membership Panel shall consider all documents placed before it to be authentic unless the authenticity of a document is challenged by the Respondent or the IFoA. If there is a challenge about whether a document is authentic, the Capacity for Membership Panel shall consider representations from both parties. The Capacity for Membership Panel may then give whatever weight it thinks appropriate to the contents of the document.
28. At any stage during a hearing the Capacity for Membership Panel may:
  - (a) question the parties or invite further submissions from the parties;
  - (b) direct a party to obtain further evidence or information in order to assist their consideration of the case;
  - (c) question any witnesses called by the parties;
  - (d) admit any new evidence if it is reasonable and in the interests of justice to do so. The Capacity for Membership Panel shall determine the appropriate weight to place on such evidence.
29. Where the facts relating to any matter are in dispute, the IFoA shall bear the burden of proving the facts on the Balance of Probabilities.

### **Proceeding in Absence**

30. If a Respondent fails to attend or be represented at a hearing, the Capacity for Membership Panel shall decide whether it is in the interests of justice to proceed in the Respondent's absence.

31. It is in the interests of justice to proceed in the Respondent's absence if the Capacity for Membership Panel is satisfied that:
  - (a) all reasonable steps have been taken to serve notice of the time and date of the hearing on the Respondent, in accordance with Regulation 36 or Regulations 52-53; and
  - (b) it is fair to do so, taking into account the circumstances of the case.
32. The Capacity for Membership Panel may suspend hearings if there is good reason to do so. Examples of a good reason may include the Respondent's ill health or a serious injury.
33. Where the Capacity for Membership Panel has decided that a hearing should take place in the Respondent's absence, this must be clearly recorded in the Capacity for Membership Panel's written reasons.
34. If the Capacity for Membership Panel decides not to proceed without the Respondent, the Capacity for Membership Panel shall suspend the hearing and set a later date for the hearing. In setting the later date, the Capacity for Membership Panel shall have regard to:
  - (a) the reason why the Respondent did not attend (if known);
  - (b) the length of time required before the Respondent is available to attend in future; and
  - (c) the public interest in proceedings being concluded as soon as possible.

### Hearing of the Capacity for Membership Panel

**Rule 16.9** A Capacity for Membership Panel shall consider any case transferred by an Adjudication Panel or Disciplinary Tribunal Panel under Rule 9.4 or Rule 9.6.

### Notice of Hearing

35. The Secretary shall arrange for a Capacity for Membership Panel to be appointed to hear a case as soon as is reasonably possible after the case has been transferred under Rule 9.4 or Rule 9.6. The Capacity for Membership Panel shall be arranged in accordance with the Appointments Regulations.
36. The Secretary shall serve the notice of hearing on the Respondent and IFoA. Both parties shall be given a minimum of 28 days' notice of the hearing.
37. After notice of the hearing has been served on the parties:
  - (a) the Respondent shall advise the Secretary and the IFoA, within 14 days of the date of service, whether they wish to attend the hearing in person; and
  - (b) the IFoA and the Respondent shall serve on the Secretary, no later than seven days before the date of the hearing, any written submission or documents they will be relying on during the hearing.

## Order of Proceedings

**Rule 16.10** In considering a case under Rule 16.9 the Capacity for Membership Panel shall first determine whether the factual matters in the Allegation are established, in whole or in part.

**Rule 16.11** If the Capacity for Membership Panel does not find that the factual matters in the Allegation are established in whole or in part, it shall dismiss the case.

38. Unless the Capacity for Membership Panel determines otherwise, the hearing shall be in private.
39. The IFoA and the Respondent may be legally represented at a Capacity for Membership Panel hearing. The Respondent may also be represented by a Member or any other person.
40. Unless the Capacity for Membership Panel determines otherwise, the order of proceedings at a Capacity for Membership hearing shall be as follows:
  - (a) The IFoA shall inform the Capacity for Membership Panel of the background to the case;
  - (b) The IFoA may present evidence, including calling witnesses, in relation to the factual matters in the Allegation;
  - (c) The Respondent may then present evidence, including calling witnesses in relation to the factual matters in the Allegation;
  - (d) Either party may question the other party's witnesses.
41. If the factual matters in the Allegation are not established in whole or in part, the Capacity for Membership Panel shall dismiss the case under Rule 16.11.

**Rule 16.12** If the Capacity for Membership Panel finds that the factual matters in the Allegation are established in whole or in part, the Capacity for Membership Panel shall consider:

- (a) whether the Respondent's current capacity to hold membership of the IFoA is significantly impaired by reason of illness or other relevant health or medical condition; and
  - (b) whether the Respondent's impairment is directly relevant to the Allegation.
42. If the necessary factual matters in the Allegation are established under Rule 16.12 the order of proceedings then followed will be:
    - (a) The IFoA may present evidence, including calling witnesses, in relation to the matters in Rule 16.12(a) and (b);
    - (b) The Respondent may present evidence, including calling witnesses, in relation to the matters in Rule 16.12(a) and (b);
    - (c) Either party may question the other party's witnesses.

**Rule 16.13** If the Capacity for Membership Panel considers that one or more of the conditions in Rule 16.12 do not apply they shall order that the case be continued in accordance with this Scheme as if a transfer to the Capacity for Membership Panel had not been made under Rule 9.4 or 9.6.

**Rule 16.14** If the Capacity for Membership Panel considers that:

- (a) the Respondent's capacity to hold membership is significantly impaired by reason of illness or other relevant health or medical condition; and
- (b) the Respondent's impairment is directly relevant to the Allegation,

the Capacity for Membership Panel shall order one or more of the outcomes in Rule 16.15.

**Rule 16.15** Under Rule 16.14 the Capacity for Membership Panel shall make an order containing one or more of the following outcomes:

- (a) ending proceedings with no further action;
- (b) suspending the Respondent's membership of the IFoA for a specified period, up to a maximum of two years;
- (c) imposing conditions on the Respondent's membership for a specified period, up to a maximum of two years; and/or
- (d) referring the case, in whole or in part, back to continue in accordance with this Scheme as if a transfer to a Capacity for Membership Panel had not been made under Rule 9.4 or 9.6.

**Rule 16.16** Where the Capacity for Membership Panel makes an order under Rule 16.15, the Capacity for Membership Panel shall also set a date for a review hearing of the order imposed.

**Rule 16.17** The Capacity for Membership Panel shall not make an order for costs to be paid by any party to a Capacity for Membership hearing.

- 43. Before making an order under rule 16.15 the Capacity for Membership Panel will invite the Respondent and the IFoA to make submissions on what outcome(s) might be appropriate.
- 44. When considering which of the outcome(s) should be contained in an order made under Rule 16.15 the Capacity for Membership Panel shall consider:
  - (a) the need to protect members of the public, taking into consideration the nature of the Allegation; and
  - (b) the effect of the outcome(s) on the Respondent.

### **Order of the Capacity for Membership Panel**

- 45. The Capacity for Membership Panel shall give written reasons for the order made. The Capacity for Membership Panel's written order under Rule 16.15 shall be served, as soon as is reasonable, on:
  - (a) the Respondent; and
  - (b) the Case Manager.

46. An order of the Capacity for Membership Panel, including any outcomes imposed, shall be effective on the day the order is made.
47. Where the Capacity for Membership Panel makes an order under Rule 16.15, it shall also set a date for a review hearing of the order. The review date must be no later than the date on which any specified periods under Rules 16.15(b) or (c) expire.
48. At a review hearing, the order shall be reviewed in accordance Rules 16.18 -16.25.
49. The IFoA shall publicise the details of the order and/or outcomes imposed by the Capacity for Membership Panel as soon as is reasonable, subject to any conditions on publication imposed by the Capacity for Membership Panel in the order and/or outcomes imposed. This shall be in accordance with any relevant guidance issued by the Disciplinary Committee.

### Review of an Order

**Rule 16.18** Before any review date set under Rule 16.8 or 16.16, or on application from the IFoA or the Respondent under Rule 16.19, a Capacity for Membership Panel shall conduct a review of:

- (a) any Consent Order approved by a Capacity for Membership Panel under Rule 16.7; or
- (b) any order imposed on a Respondent under Rule 16.15; or
- (c) any Consent Order or order imposed which has been the subject of a previous review under Rules 16.18 to 16.25.

**Rule 16.19** The IFoA or the Respondent may apply to a Capacity for Membership Panel to review any Consent Order approved under Rule 16.7, any order imposed under Rule 16.15, or any Consent Order or order imposed which has been the subject of a previous review under Rules 16.18 to 16.25, if satisfied that the criteria set out in the Regulations apply.

50. Under Rule 16.19, the IFoA or the Respondent may make a written request to the Secretary for a Capacity for Membership Panel to review any Consent Order or order imposed by a Capacity for Membership Panel if:
  - (a) there is new information available that is relevant to the Consent Order or order imposed; or
  - (b) there has been a substantial change in circumstances which justifies an early review of the Consent Order or order imposed; or
  - (c) there is evidence that the Respondent has failed to comply with the Consent Order or order imposed.
51. The Secretary shall arrange for a Capacity for Membership Panel to be appointed as soon as possible to conduct a review hearing in accordance with the Appointments Regulations.

52. Where the Capacity for Membership Panel is reviewing;
- (a) a Consent Order approved under Rule 16.7; or
  - (b) an order imposed on a Respondent under Rule 16.15; or
  - (c) an application by the IFoA or the Respondent under Rule 16.19; or
  - (d) a Consent Order or order imposed that has been the subject of a previous review under Rules 16.18 to 16.25,

the Secretary shall serve notice of the review hearing on the Respondent and IFoA before the review date specified by the Capacity for Membership Panel under Rule 16.8 or 16.16.

53. Both parties shall be given a minimum of 28 days' notice of the hearing. The IFoA and the Respondent may serve on the Secretary, no later than seven days before the date of the review hearing, any written submissions or relevant documents they wish the Capacity for Membership Panel to consider at the review hearing.
54. A review hearing shall be conducted following the procedures under Regulations 24-34 and, as appropriate to the circumstances of the review, Regulations 38-44.
55. A review hearing may take place after the date set for review under Rule 16.8, 16.16, 16.22 or 16.25 as long as the Respondent was notified of the date of the review hearing before the date set for review.
56. At a review hearing, the Capacity for Membership Panel shall first determine whether the Respondent's capacity for membership remains impaired.
57. In considering whether the Respondent's capacity for membership remains impaired, the Capacity for Membership Panel may have regard to:
- (a) any submissions or relevant documents submitted by the IFoA and/or the Respondent;
  - (b) any information obtained as a result of the Panel's own inquiries; and/or
  - (c) any other relevant information.

### Capacity for membership no longer impaired

**Rule 16.20** When carrying out a review under Rule 16.18, where the Respondent's capacity for membership is no longer impaired the Capacity for Membership Panel may:

- (a) confirm the existing Consent Order or order imposed by a Capacity for Membership Panel;
- (b) vary the terms of the existing Consent Order or order imposed; or
- (c) cancel the existing Consent Order or order imposed, in whole or in part, with either immediate effect or to take effect at any time up to the expiry date of the existing Consent Order or order imposed.

**Rule 16.21** In addition to Rule 16.20, where the Respondent's capacity for membership is no longer impaired and they have not complied with the Consent Order or order imposed by a Capacity for Membership Panel, the Capacity for Membership Panel must also refer the Respondent's non-compliance to the IFoA.

**Rule 16.22** Where under Rule 16.20(a) or (b) the Capacity for Membership Panel confirms or varies an existing Consent Order or order imposed by a Capacity for Membership Panel, the Capacity for Membership Panel shall set a date for a further review hearing of the Consent Order or order.

58. Where the Capacity for Membership Panel sets a date for a further review hearing under Rule 16.22 the review date must be no later than the date that any suspension or special conditions specified in the confirmed or varied Consent Order or order expires.
59. At a further review hearing, the Consent Order or order shall be reviewed in accordance with Rules 16.18-16.25
60. Where non-compliance is referred to the IFoA under Rule 16.21 the IFoA will consider whether a Complaint should be brought under Rule 5.

### Capacity for membership remains impaired

**Rule 16.23** When carrying out a review under Rule 16.18 where the Respondent's capacity for membership remains impaired and they have complied with the Consent Order or order imposed by a Capacity for Membership Panel, the Capacity for Membership Panel may:

- (a) confirm the existing Consent Order or order imposed;
- (b) vary the terms of the existing Consent Order or order imposed;
- (c) cancel the existing Consent Order or order imposed, in whole or in part, with either immediate effect or to take effect at any time up to the expiry date of the existing Consent Order or order imposed; or
- (d) replace the Consent Order or order imposed with a new order imposing any outcome or outcomes provided for under Rule 16.15.

**Rule 16.24** In addition to Rule 16.23, where the Respondent's capacity for membership remains impaired and they have not complied with the Consent Order or order imposed by a Capacity for Membership Panel, the Capacity for Membership Panel shall refer the Respondent's non-compliance to the IFoA if it is in the public interest to do so.

**Rule 16.25** Where under Rule 16.23(a) or (b) the Capacity for Membership Panel confirms or varies an existing Consent Order or order imposed by a Capacity for Membership Panel or, under Rule 16.23(d), replaces the Consent Order or order imposed with a new order, the Capacity for Membership Panel shall also set a date for a further review hearing of the Consent Order or order.

61. Where the Capacity for Membership Panel sets a date for a further review hearing under Rule 16.25 the review date must be no later than the date that any suspension or special conditions specified in the confirmed, varied or replacement Consent Order or order expires.
62. At a further review hearing, the Consent Order or order shall be reviewed in accordance with Rules 16.18 - 16.25
63. The Capacity for Membership Panel shall provide written reasons for any decision made at a review hearing under Rule 16.20, 16.23 or 16.24.

64. Where non-compliance is referred to the IFoA under Rule 16.21 or 16.24 the IFoA will consider whether a Complaint should be brought under Rule 5.
65. The IFoA shall publicise the details of the Consent Order or order and/or outcomes imposed by the Capacity for Membership Panel following a review hearing as soon as is reasonable, subject to any conditions on publication imposed by the Capacity for Membership Panel in their determination This shall be in accordance with any relevant guidance issued by the Disciplinary Committee.

### Minor amendments to a Consent Order or order

66. If both the Case Manager and the Respondent agree, they may apply to the Secretary to make minor amendments to an existing Consent Order or order imposed by a Capacity for Membership Panel. The Secretary may make such minor amendments, subject to the approval of the Head of Legal Services. Minor amendments mean administrative changes to a Consent Order or order imposed, which would not have a material impact on its intended effect.

### Undertakings

**Rule 16.26** A Capacity for Membership Panel may accept any written undertaking from the Respondent at any time following referral of a case under Rule 9.4 or Rule 9.6.

### Appeal against a Capacity for Membership Panel Order

**Rule 16.27** The IFoA or the Respondent may appeal the determination/outcome of a Capacity for Membership Panel by giving notice to the Appeals Assessor under Rule 18.1

67. If the Respondent or the IFoA appeals the order of a Capacity for Membership Panel under Rule 17, the notice of appeal must be served on the Secretary and the other party within 28 days of the order being served.
68. The appeal shall proceed in accordance with Rule 18 and the Appeals Regulations.
69. Where the Capacity for Membership Panel's order is appealed, the order continues to be in force until the appeal is decided.



## Definitions

| Term                          | Meaning  |
|-------------------------------|--|
| 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.  |
| Appeals Assessor              | An assessor referred to in Rule 18 of this Scheme.   |
| Applicant                     | A former Member who has been expelled or excluded from membership of the IFoA and is applying for readmission to membership.   |
| Appointments Regulations      | Regulations issued by the Disciplinary Committee setting out the process for making appointments under this Scheme.  |
| Balance of Probabilities      | It is more likely than not to be the case based on the available evidence.   |
| Bye-laws                      | The Bye-laws of the IFoA from time to time.  |
| 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. |
| 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.  |
| Consent Order                 | An order as defined by Rule 16 of this Scheme.   |
| Disciplinary Committee        | The Disciplinary Committee of the IFoA or its successor.   |
| Head of Legal Services        | The person appointed as Head of the Legal Services of the IFoA, and any person nominated by the Head of Legal Services   |
| IFoA                          | The Institute and Faculty of Actuaries.  |
| 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   |
|-----------------------------------|---|
| 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.  |

## Document control

| Version | Date of publication | Overview   |
|---------|---------------------|--|
| 1.0     | 1 August 2023       | To support Disciplinary Scheme effective 1 August 2023.                                  |
| 1.1     | 1 November 2023     | To clarify the version of the Regulations that will apply to a Complaint or application. |



# Institute and Faculty of Actuaries

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# Readmission to Membership Regulations

Disciplinary Committee

Version 1.1

1 November 2023

# Readmission to Membership 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. With regard to the applicability of these Regulations:
  - (a) Any Complaint or application for readmission to membership received by the IFoA shall be considered under the version of these Regulations in force at the time the Complaint or application for readmission to membership is received by the IFoA.
  - (b) In the event these Regulations are amended after a Complaint or application for readmission to membership has been received by the IFoA:
    - (i) the Respondent or Applicant may provide written consent to the IFoA for the Complaint/application for readmission to membership to be considered in accordance with the most recent version of these Regulations, otherwise
    - (ii) the version of the Regulations in force at the time the Complaint or application is received shall be applied to the extent that it is possible to do so, having regard to the need to ensure the fair and just determination of the case, otherwise the most recent version of the Regulations shall apply.
- E. These Regulations shall be interpreted and applied in accordance with the principles of natural justice, procedural fairness, and any applicable human rights law.
- F. The Rules contained in these Regulations are inserted for convenience of reference only. They shall not be considered a part of the Regulations.

## Application for Readmission

**Rule 17.1** A former Member (the Applicant) who has been expelled or excluded from membership of the IFoA under this Scheme, or any earlier version of it, or the FRC Scheme may apply to the IFoA to be readmitted to membership in accordance with the Regulations.

**Rule 17.2** Once an application under Rule 17.1 has been received, the IFoA shall assign a Case Manager to make necessary inquiries in relation to the application for readmission.

1. For the purposes of these Regulations, a former Member making an application for readmission under Rule 17.1 shall be referred to as the “Applicant”.
2. Any application for readmission made under Rule 17.1 shall be in writing using the application form provided by the IFoA and shall contain any documentation in support of the application.
3. No application for readmission shall be made until three months before the expiry of the expulsion or exclusion period.
4. The Case Manager may carry out any investigation and obtain any information as they consider appropriate. Where an Applicant was excluded or expelled under the FRC Scheme, the Case Manager may invite comments from the Conduct Committee regarding the application.
5. The Case Manager shall prepare a Readmission Application Report. The Report shall include:
  - (a) a copy of the Applicant’s application for readmission;
  - (b) the determinations of any Adjudication Panel, Disciplinary Tribunal Panel or Appeals Tribunal Panel relevant to the exclusion or expulsion;
  - (c) information obtained by the Case Manager as a result of their investigation under Regulation 4; and
  - (d) any other relevant documentary evidence or information.

**Rule 17.3** The Case Manger shall serve a Readmission Application Report, in accordance with the Regulations, on:

- (a) the Applicant; and
- (b) the Readmission Panel.

**Rule 17.4** The Applicant may submit representations to the Readmission Panel.

6. The Applicant shall serve any comments on the Readmission Application Report and any supporting documentation in respect of their application for readmission no later than 21 days from the date of service of the Readmission Application Report. The Applicant’s comments and supporting documentation shall be served on:
  - (a) the Case Manager; and
  - (b) the Secretary.

### **Notice of Hearing of the Readmission Panel**

7. Once a Readmission Application Report has been received by the Secretary, the Secretary shall arrange for a Readmission Panel to consider the application for readmission. This shall be done in accordance with the Appointments Regulations.
8. The Secretary shall serve the notice of the hearing of the Readmission Panel on the Applicant and the Case Manager. They shall be given a minimum of 28 days' notice of the hearing.
9. After notice of the hearing has been served on the parties:
  - (a) the Applicant shall advise the Secretary and the Case Manager, within 14 days of service of the notice of hearing, whether they wish to attend the hearing in person; and
  - (b) the Case Manager and the Applicant shall provide to the Secretary and the other party, no later than 14 days before the date of the hearing, any written submissions or documents they will be relying on during the hearing. This will include details of any witnesses that may be called.

### **General Procedure of the Readmission Panel**

10. The Readmission Panel may appoint an individual from the Pool of Legal Advisers to 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 and included in the record of the hearing.
11. Under Rule 22.2, the Readmission Panel has the power to determine its own conduct and procedure in holding hearings. The Readmission Panel has the discretion to give any directions, change any time limits, suspend any hearings, and/or accept any written undertakings from the Applicant. The Readmission Panel may depart from these Regulations in matters of procedure if it considers that there are good reasons to do so.
12. The Readmission Panel shall consider all documents placed before it to be authentic unless the authenticity of a document is challenged by the Applicant or the Case Manager. If there is a challenge about whether a document is authentic, the Readmission Panel shall consider representations from both parties. The Readmission Panel may then give whatever weight it thinks appropriate to the contents of the document.
13. The IFoA and the Applicant may be legally represented at a Readmission Panel hearing. The Applicant may also be represented by a Member or any other person.

### **Hearing of the Readmission Panel**

14. As a general principle, the Readmission Panel hearing will be held in public. The chair of the Readmission Panel may exclude any person from the hearing if they are disrupting the proceedings.
15. The Applicant or the Case Manager may apply to the Readmission Panel for the application, in full or in part, to be heard in private. The Readmission Panel may also, on its own motion, hear the application in private if there is good reason to do so.

16. If:
- (a) an Applicant advises the Secretary under Regulation 9(a) that they do not wish to attend the Readmission Panel hearing; and
  - (b) the Applicant and Case Manager agree that a Readmission Panel hearing may take place in private and on the papers,
- the Readmission Panel hearing shall take place in private and on the papers.
17. Where the Applicant is not present at the hearing, the Readmission Panel may take the Applicant's absence into account when considering the application for readmission. If they do, the Readmission Panel shall provide reasons in its written determination.
18. Unless the Readmission Panel determines otherwise, the order of proceedings at a Readmission Panel hearing shall be as follows:
- (a) The IFoA shall inform the Readmission Panel of the background to the case and the circumstances in which the Applicant was expelled or excluded from membership;
  - (b) The IFoA shall present the Readmission Application Report and any relevant evidence in relation to the Applicant's suitability for readmission to membership, including calling witnesses or presenting expert evidence;
  - (c) The Applicant may make any representations and/or present any relevant evidence in support of their application for readmission, including calling witnesses or presenting expert evidence; and
  - (d) Either party may cross examine the other party's witnesses.
19. As set out in Rule 1.12, the Applicant shall bear the burden of demonstrating that they are a suitable candidate for readmission to membership of the IFoA.
20. At any stage during the Readmission Panel hearing, the Panel may:
- (a) question the parties or invite further submissions from the parties;
  - (b) direct a party to provide further evidence or information in order to assist them in their determination of the case;
  - (c) question any witnesses called by the parties;
  - (d) admit any new evidence if it is reasonable and in the interests of justice to do so. The Readmission Panel shall determine the appropriate weight to place on such evidence.
21. If either party obtains additional relevant information more than 14 days after the notice of hearing has been served but before the Readmission Panel has made its determination, they may serve this additional information on the Readmission Panel and the other party. The Readmission Panel may admit the additional relevant information if it is reasonable and in the interests of justice to do so and shall give a reasonable opportunity to the other party to comment on the additional information.

*Proceeding in absence following an indication to attend*

22. If an Applicant fails to attend a hearing after indicating their intention to attend under Regulation 9(a), the Readmission Panel shall decide whether it is in the interests of justice to proceed in the Applicant's absence.



23. It is in the interests of justice to proceed in the Applicant's absence if the Readmission Panel is satisfied that:
  - (a) all reasonable steps have been taken to serve notice of the time and date of the hearing on the Applicant, in accordance with Regulation 8; and
  - (b) it is fair to do so, taking into account the circumstances of the case.
24. The Readmission Panel may suspend hearings if there is a good reason to do so. Examples of a good reason may include the Applicant's ill health or a serious injury.
25. Where the Readmission Panel has decided under Regulation 22 that a hearing should take place in the Applicant's absence, this must be clearly recorded in the Readmission Panel's determination. The determination must contain a full explanation as to why the Readmission Panel proceeded in the Applicant's absence.
26. If the Readmission Panel decides not to proceed without the Applicant, the Readmission Panel shall suspend the hearing and set a later date for the hearing. In setting the later date, the Readmission Panel shall have regard to:
  - (a) the reason why the Applicant failed to attend (if any);
  - (b) the length of time required before the Applicant is available to attend in future.

#### **Determination of the Readmission Panel**

**Rule 17.5** In considering the application for readmission, the Readmission Panel can:

- (a) grant the application for readmission;
- (b) grant the application for readmission, but impose conditions on membership for a specified period; or
- (c) reject the application for readmission.

27. In reaching its determination, the Readmission Panel may consider the following factors:
  - (a) the personal circumstances of the Applicant;
  - (b) the Applicant's behaviour since expulsion or exclusion from membership;
  - (c) the steps taken by the Applicant to keep up-to-date with professional standards and practice;
  - (d) the nature of any professional opportunities open to the Applicant;
  - (e) whether, if readmitted, the Applicant could be expected to maintain proper professional standards;
  - (f) the protection of the public;
  - (g) the reputation of the actuarial profession; and
  - (h) any other factors it considers relevant.

28. The Readmission Panel's written determination shall be served, as soon as is reasonable, on:
- (a) the Applicant; and
  - (b) the Case Manager.
29. The IFoA shall publicise the details of the Readmission Panel's determination as soon as is reasonable, subject to any conditions on publication imposed by the Readmission Panel in its determination. This shall be in accordance with any relevant guidance issued by the Disciplinary Committee.

**Rule 17.6** Where the application for readmission is granted under Rule 17.5(a) or (b), the Applicant shall be readmitted to membership of the IFoA.

30. Where the Readmission Panel has granted the application for readmission the Applicant shall be readmitted to membership after submitting the appropriate forms and fee to the IFoA, subject to any conditions imposed by the Readmission Panel.

**Rule 17.7** Where the application for readmission is rejected under Rule 17.5(c), the Applicant may not make any further application for readmission within:

- (a) one year from the date of the Readmission Panel's determination under Rule 17.5; or
- (b) any other period specified by the Readmission Panel.

## Costs

**Rule 17.8** The Readmission Panel shall not make an order for costs to be paid by any party to an application for readmission.

## Failure to comply with Readmission Panel's Determination

31. Where readmission is granted under Rule 17.5(b), failure or partial failure by the Member to comply with any conditions on membership shall be referred to the IFoA. The IFoA will consider whether a Complaint should be brought under Rule 5.

## Appeal against a Determination of a Readmission Panel

**Rule 17.9** The Applicant or the IFoA may appeal a determination of the Readmission Panel in accordance with Rule 18 and the Regulations.

32. If the Applicant or the IFoA appeals the determination of a Readmission Panel the notice of appeal must be served on the Secretary and the other party within 28 days of the determination being served.
33. The appeal shall proceed in accordance with Rule 18 and the Appeals Regulations.
34. The determination of the Readmission Panel remains in force until the appeal is decided.

## Definitions

| Term  | Meaning   |
|---|---|
| Adjudication Panel                            | A panel referred to in Rule 13 of this Scheme.  |
| Appeals Assessor                              | An assessor referred to in Rule 18 of this Scheme.  |
| Appeals Tribunal Panel                        | A panel referred to in Rule 18 of this Scheme.  |
| Bye-laws                                      | The Bye-laws of the IFoA from time to time.   |
| 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.  |
| Certificate                                   | Any practising certificate issued by the IFoA.  |
| 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.   |
| Conduct Committee                             | The Conduct Committee of the FRC, established under the FRC's Articles of Association or any successor entity.  |
| Disciplinary Committee                        | The Disciplinary Committee of the IFoA or its successor.  |
| Disciplinary Tribunal Panel                   | A panel referred to in Rule 15 of this Scheme.  |
| FRC (the Financial Reporting Council Limited) | The Financial Reporting Council Limited, a company limited by guarantee incorporated in England and Wales, number 2486368 and any other body which takes over the functions of the FRC.   |
| FRC Scheme                                    | <p>The Actuarial Scheme of the FRC dated 1 January 2021 as amended from time to time by the FRC, or any actuarial scheme issued by any other body which takes over the functions of the FRC.</p> <p>The FRC Scheme was originally adopted by the Accountancy and Actuarial Disciplinary Board (AADB) on 13 September 2007. It was amended with effect from 13 October 2011 and 18 October 2012. It was amended by the FRC on 1 July 2013 and 1 June 2014.</p> |
| IFoA  | The Institute and Faculty of Actuaries.   |
| Member  | A member of the IFoA of any class other than an Honorary Fellow or an Affiliate.  |
| 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  |
|--------------------------------|--|
| Readmission Application Report | The report prepared by the Case Manager under Rule 17.3 of this Scheme setting out the results of the Case Manager's inquiries into the Applicant's application for readmission under Rule 17. |
| Readmission Panel              | A panel referred to in Rule 17 of this Scheme.   |
| Regulations                    | Any regulations issued by the Disciplinary Committee.  |
| 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.   |

### Document control

| Version | Date of publication | Overview   |
|---------|---------------------|--|
| 1.0     | 1 August 2023       | To support Disciplinary Scheme effective 1 August 2023.                                  |
| 1.1     | 1 November 2023     | To clarify the version of the Regulations that will apply to a Complaint or application. |



# Institute and Faculty of Actuaries

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# Appeals Regulations

Disciplinary Committee

Version 1.1

1 November 2023

# Appeals 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. With regard to the applicability of these Regulations:
  - (a) Any Complaint or application for readmission to membership received by the IFoA shall be considered under the version of these Regulations in force at the time the Complaint or application for readmission to membership is received by the IFoA.
  - (b) In the event these Regulations are amended after a Complaint or application for readmission to membership has been received by the IFoA:
    - (i) the Respondent or Applicant may provide written consent to the IFoA for the Complaint/application for readmission to membership to be considered in accordance with the most recent version of these Regulations, otherwise
    - (ii) the version of the Regulations in force at the time the Complaint or application is received shall be applied to the extent that it is possible to do so, having regard to the need to ensure the fair and just determination of the case, otherwise the most recent version of the Regulations shall apply.
- E. These Regulations shall be interpreted and applied in accordance with the principles of natural justice, procedural fairness, and any applicable human rights law.
- F. The Rules contained in these Regulations are inserted for convenience of reference only. They shall not be considered a part of the Regulations.

## Leave to Appeal – General Appeal

**Rule 18.1** The Respondent or the IFoA, and for the purposes of 18.1(d) the Applicant, may seek to appeal:

- (a) a final determination of an Interim Orders Panel;
- (b) a final determination of a Disciplinary Tribunal Panel;
- (c) an order of a Capacity for Membership Panel; and/or
- (d) a final determination of a Readmission Panel.

**Rule 18.2** The Respondent, the IFoA or the Applicant shall apply to an Appeals Assessor for leave to appeal a determination/order under Rule 18.1.

1. The Respondent, the Applicant or the IFoA shall apply to an Appeals Assessor for leave to appeal under Rule 18.2 by serving a Notice of Appeal on:
  - (a) the Secretary; and
  - (b) the other party.
2. On receipt of a Notice of Appeal under Rule 18.2 or Rule 18.6 the Secretary shall appoint an Appeals Assessor in accordance with the Appointments Regulations.

**Rule 18.3** The Respondent, the IFoA, or the Applicant may apply for leave to appeal on one or more grounds set out in the Regulations.

3. The Notice of Appeal shall set out the ground(s) on which leave to appeal is sought:
  - (a) where the Respondent or Applicant is applying for leave to appeal, the ground(s) under Regulation 5; or
  - (b) where the IFoA is applying for leave to appeal, the ground(s) under Regulation 6.
4. The Notice of Appeal may be accompanied by any relevant documentation in support of the ground(s) of appeal.

### Grounds of Appeal – General Appeal

5. The Respondent or Applicant may apply for leave to appeal on one or more of the following grounds:
  - (a) that the determination/order of the relevant panel was manifestly unreasonable, or wrong in law; and/or
  - (b) that there was injustice because of a serious procedural or other irregularity in the proceedings before the relevant panel; and/or
  - (c) that significant and relevant new evidence has come to light which was not previously available to the Respondent or Applicant and could not reasonably have been made available prior to the panel's determination/order; and/or
  - (d) that the sanction or outcome imposed was manifestly unreasonable.



6. The IFoA may apply for leave to appeal on the following grounds:
- (a) that it is in the public interest for the relevant panel's determination/order to be appealed; and
  - (b) that one or more of the following grounds of appeal apply:
    - (i) that the determination/order of the relevant panel was manifestly unreasonable, or wrong in law; and/or
    - (ii) that there was injustice because of a serious procedural or other irregularity in the proceedings before the relevant panel; and/or
    - (iii) that significant and relevant new evidence has come to light which was not previously available to the IFoA and could not reasonably have been made available prior to the panel's determination/order; and/or
    - (iv) that the sanction or outcome imposed was manifestly unreasonable.

### **Service of Notice of Appeal**

7. Where the appeal is about a determination of an Interim Orders Panel, the Notice of Appeal shall be served on the Secretary and the other party within 14 days of the Interim Orders Panel determination being served.
8. Where the appeal is about a determination/order of:
- (a) a Disciplinary Tribunal Panel;
  - (b) a Capacity for Membership Panel; or
  - (c) a Readmission Panel;
- the Notice of Appeal shall be served on the Secretary and the other party within 28 days of the relevant panel determination being served.
9. Where a Notice of Appeal has been served under Regulation 7 or 8 the other party shall have a period of 14 days in which to serve any written submissions in response to the Notice of Appeal on the Secretary and the party who served the Notice of Appeal.

**Rule 18.4** Any determination/order by a panel under appeal shall continue to be in force until the appeal is determined, subject to Rule 18.5.

10. Exceptions to Rule 18.4 are:
- (a) any fine included in a Capacity for Membership Panel order; or
  - (b) any fine and/or award of costs included in a Disciplinary Tribunal Panel determination.
11. A fine or costs award under Regulation 10 shall only be paid:
- (a) within 28 days of the date the Appeals Assessor has refused leave to appeal; or
  - (b) in accordance with the determination of the Appeals Tribunal Panel.

## Appeal against costs order by the Disciplinary Tribunal Panel

- Rule 18.5** The IFoA or the Respondent may seek to appeal:
- (a) the order or refusal of an order for costs by a Disciplinary Tribunal Panel; and/or
  - (b) the amount of any costs order imposed by a Disciplinary Tribunal Panel.
- Rule 18.6** The IFoA or the Respondent may apply for leave to appeal a costs order on the grounds set out in the Regulations.

12. Where only the costs order part of a determination is being appealed, the Respondent or the IFoA shall apply to the Appeals Assessor for leave to appeal under Rule 18.5 by serving a Notice of Appeal on:
- (a) the Secretary; and
  - (b) the other party.
13. The Notice of Appeal shall set out the ground(s) on which leave to appeal is sought:
- (a) where the Respondent is applying for leave to appeal, the ground(s) under Regulation 15; or
  - (b) where the IFoA is applying for leave to appeal, the ground(s) under Regulation 16.
14. The Notice of Appeal may be accompanied by any relevant documentation in support of the ground(s) of appeal.

### Grounds of Appeal – Costs Appeal

15. The Respondent may apply for leave to appeal a costs order on one or more of the following grounds:
- (a) that the decision of the Disciplinary Tribunal Panel to order or refuse to order costs was manifestly unreasonable, or wrong in law; and/or
  - (b) that the amount of costs ordered by the Disciplinary Tribunal Panel was manifestly excessive or inadequate, taking into account all relevant circumstances.
16. The IFoA may apply for leave to appeal a costs order on the following grounds:
- (a) that it is in the public interest for the Disciplinary Tribunal Panel's decision in respect of costs to be appealed; and
  - (b) that one or more of the grounds set out in Regulation 15 apply.

## Service of Notice of Appeal

17. The Notice of Appeal shall be served on the Secretary and the other party within 28 days of the costs order being served.
18. Where a Notice of Appeal has been served in respect of a costs order, the costs ordered shall only be paid within 28 days of the date:
  - (a) the Appeals Assessor has refused leave to appeal; or
  - (b) the appeal has been dismissed by the Appeals Tribunal Panel.

## The Appeals Assessor

### Service of Notice of Appeal on Appeals Assessor

19. If a Notice of Appeal is served on the Appeals Assessor outside of the time limits in Regulations 7, 8 or 17, the Appeals Assessor shall refuse to accept the Notice of Appeal unless there are exceptional circumstances for the late service. The Appeals Assessor shall decide whether there are exceptional circumstances.
20. Once the Notice of Appeal has been served on the Appeals Assessor, the ground(s) of appeal may not be amended unless the Appeals Assessor or the chair of the Appeals Tribunal Panel (if leave to appeal is granted) is satisfied it is fair to do so.

### Determination of Notice of Appeal by Appeals Assessor

**Rule 18.7** The Appeals Assessor shall determine, in accordance with the Regulations, whether there is an arguable basis for the ground(s) of appeal in the Notice of Appeal.

21. In determining under Rule 18.7 whether leave to appeal should be granted, the Appeals Assessor may consider:
  - (a) the determination/order of the relevant panel;
  - (b) the procedures followed by the relevant panel when making its determination or order;
  - (c) any written submissions on the Notice of Appeal made by the other party; and/or
  - (d) any other material the Appeals Assessor considers to be relevant.

**Rule 18.8** If the Appeals Assessor determines there is not an arguable basis for the ground(s) of appeal, they shall refuse leave to appeal.

**Rule 18.9** If the Appeals Assessor determines there is an arguable basis for the ground(s) of appeal, an Appeals Tribunal Panel shall be convened to consider the appeal.

22. The Appeals Assessor shall provide written reasons for their determination and serve their determination on the Secretary.

23. The Secretary shall, as soon as is reasonable:
  - (a) serve the written determination of the Appeals Assessor on the parties; and
  - (b) where relevant, advise the Referrer that leave to appeal has been granted by the Appeals Assessor.
24. Determinations of the Appeals Assessor are final and may not be appealed.

### **Notice of Appeals Tribunal Panel Hearing**

25. Where the Appeals Assessor grants leave to appeal under Rule 18.9, the Appeals Assessor shall notify the Secretary under Regulation 22.
26. The Secretary shall arrange an Appeals Tribunal Panel to consider the appeal, in accordance with the Appointments Regulations.
27. The Secretary shall serve notice of the appeal hearing on the parties. The parties shall be given a minimum of 21 days' notice of the hearing.
28. When serving the notice of the appeal hearing, the Secretary shall request the parties to advise, within 14 days of service of the notice, whether they wish to make submissions at an oral hearing.
29. The parties may provide written submissions to the Secretary in advance of the hearing. Any written submissions shall be served on the Secretary and the other party no later than 14 days before the date of the hearing.
30. Any written representations served under Regulation 29 should include representations about:
  - (a) whether the Appeals Tribunal Panel should grant or refuse the appeal, in whole or in part; and
  - (b) any information relevant to the ground(s) of appeal.
31. The Secretary shall provide to the Appeals Tribunal Panel, as soon as reasonable:
  - (a) the Notice of Appeal and any supporting documentation provided;
  - (b) a copy of the relevant panel's determination/ order under appeal;
  - (c) any record of the proceedings before the relevant panel under appeal; and
  - (d) any documentary evidence or written submissions provided by the parties under Regulation 29.
32. If either party obtains additional relevant information after the notice of hearing has been served but before the Appeals Tribunal Panel has made its determination, they may serve this additional information on the Appeals Tribunal Panel and the other party. The Appeals Tribunal Panel may admit the additional information if it is reasonable and in the interests of justice to do so and shall give a reasonable opportunity to the other party to comment on the additional information before making a determination.

## General Procedure of the Appeals Tribunal Panel

33. The Appeals Tribunal Panel has the power to determine its own conduct and procedure in holding hearings. The Appeals Tribunal Panel has the discretion to give any directions, change any time limits, suspend any hearings, and/or accept any written undertakings from the Respondent or Applicant. The Appeals Tribunal Panel may depart from these Regulations in matters of procedure if it considers that there are good reasons to do so.
34. The Appeals Tribunal Panel may appoint an individual from the Pool of Legal Advisers to assist it in matters of law or procedure. Once appointed, the Legal Adviser may be present at any hearing. Any advice given in private must be made available to the parties and included in the record of the hearing.
35. The Appeals Tribunal Panel shall consider all documents placed before it to be authentic unless the authenticity of a document is challenged by the Respondent, IFoA or Applicant. If there is a challenge about whether a document is authentic, the Appeals Tribunal Panel shall consider representations from both parties. The Appeals Tribunal Panel may then give whatever weight it thinks appropriate to the contents of the document.
36. Any determination, order or direction imposed by the Appeals Tribunal Panel shall be consistent with the powers available to the original panel from which the appeal was made.

## The Appeals Tribunal Panel Hearing

37. As a general principle, the Appeals Tribunal Panel shall consider the appeal in private and without hearing oral submissions, unless Regulation 39 applies.
38. All appeals regarding a Capacity for Membership Panel order shall be considered in private.

### Oral hearing of the Appeals Tribunal Panel

39. An oral hearing of the Appeals Tribunal Panel may take place if:
  - (a) the Respondent, the IFoA or the Applicant has requested that an oral hearing take place under Regulation 28; or
  - (b) the chair of the Appeals Tribunal Panel considers that it is in the interests of justice for an oral hearing to take place.
40. In the event of an oral hearing, the chair of the Appeals Tribunal Panel may decide to hold all or part of the hearing in private if there is good reason to do so. The chair of the Appeals Tribunal Panel may exclude any person from the hearing if they are disrupting the proceedings.
41. The IFoA, the Respondent and the Applicant may be legally represented at an oral hearing of the Appeals Tribunal Panel. The Respondent or Applicant may also be represented by a Member or any other person.

42. Unless the Appeals Tribunal Panel determines otherwise, the order of proceedings at an oral appeal hearing shall be as follows:
- (a) The party which served the Notice of Appeal shall inform the Appeals Tribunal Panel of the background to the appeal, and may, in support of its appeal:
    - (i) make oral submissions to the Appeals Tribunal Panel; and/or
    - (ii) present relevant evidence, including calling any witnesses.
  - (b) The other party may then:
    - (i) make oral submissions to the Appeals Tribunal Panel in reply; and/or
    - (ii) present relevant evidence in reply, including calling any witnesses.
  - (c) Either party may cross examine the other party's witnesses.
43. The Appeals Tribunal Panel shall then make a determination under Rules 18.10 to 18.13.
44. At any stage during the hearing:
- (a) The Appeals Tribunal Panel may question the parties or invite further submissions from the parties.
  - (b) The Appeals Tribunal Panel may direct a party to provide further evidence or information to assist them in their determination of the appeal.
  - (c) The Appeals Tribunal Panel may re-call any witnesses who gave oral evidence before the relevant panel to give evidence before it.
  - (d) The Appeals Tribunal Panel may question any witnesses called by the parties during the appeal hearing.
  - (e) The Appeals Tribunal Panel may admit any new evidence if it is reasonable and in the interests of justice to do so. The Appeals Tribunal Panel shall determine the appropriate weight to place on such evidence.

### **Proceeding in absence**

45. If a Respondent or Applicant:
- (a) fails to respond to the Notice of Hearing served by the Secretary under Regulation 27; or
  - (b) fails to attend or be represented after indicating their intention to make submissions at an oral hearing under Regulation 28,
- the Appeals Tribunal Panel shall decide whether it is in the interests of justice to proceed in their absence.
46. It is in the interests of justice to proceed in the Respondent or Applicant's absence if the Appeals Tribunal Panel is satisfied that:
- (a) all reasonable steps have been taken to serve notice of the time and date of the appeal hearing on the Respondent or Applicant, in accordance with Regulation 27; and
  - (b) it is fair to do so, taking into account the circumstances of the case.

47. The Appeals Tribunal Panel may suspend hearings if there is a good reason to do so. Examples of a good reason may include ill health or a serious injury.
48. Where the Appeals Tribunal Panel has decided that a hearing should take place in the Respondent or Applicant's absence, this must be clearly recorded in the Appeals Tribunal Panel's determination. The determination must contain a full explanation as to why the Appeals Tribunal Panel proceeded in the Respondent or Applicant's absence.
49. If the Appeals Tribunal Panel decides not to proceed without the Respondent or Applicant, the Appeals Tribunal Panel shall suspend the hearing and set a later date for the hearing. In setting the later date, the Appeals Tribunal Panel shall have regard to:
  - (a) the reason why the Respondent or Applicant failed to attend (if known);
  - (b) the length of time required before the Respondent or Applicant is available to attend in future; and
  - (c) the public interest in the proceedings being concluded as soon as possible.

### Determination of the Appeals Tribunal Panel

#### Determination for appeals of an Interim Orders Panel and Disciplinary Tribunal Panel

- Rule 18.10** In determining an appeal against a determination of an Interim Orders Panel or a Disciplinary Tribunal Panel, the Appeals Tribunal Panel shall, by simple majority:
- (a) affirm, vary or revoke any determination of the relevant panel; and/or
  - (b) substitute its own determination for the determination made by the relevant panel; and/or
  - (c) make any other order that it considers appropriate.

#### Determination for appeals of a Capacity for Membership Panel

- Rule 18.11** In determining an appeal against an order of a Capacity for Membership Panel, the Appeals Tribunal Panel shall, by simple majority:
- (a) affirm, vary or revoke any order of the Capacity for Membership Panel; and/or
  - (b) substitute its own order for any order made by the Capacity for Membership Panel; and/or
  - (c) make any other order that it considers appropriate.

#### Determination for appeals of a Readmission Panel

- Rule 18.12** In determining an appeal against a determination of a Readmission Panel, the Appeals Tribunal Panel shall, by simple majority:
- (a) affirm the refusal or granting of the application;
  - (b) allow the appeal and grant or refuse admission; or
  - (c) remit the application to a Readmission Panel for rehearing, if it is in the interest of justice to do so having regard to new evidence provided.

50. If the Appeals Tribunal Panel decides under Rule 18.12(b) to allow an appeal made by the IFoA and refuse admission, the Appeals Tribunal Panel may also determine that any further application for admission from the Respondent shall not be considered within a specified time.
51. If the Appeals Tribunal Panel decides under Rule 18.12(c) to remit the application to a Readmission Panel for rehearing, the Appeals Tribunal Panel may also require that the case be considered by the original Readmission Panel members (so far as is reasonably possible), or by a new Readmission Panel.

### **Determination for appeals against a costs decision of a Disciplinary Tribunal Panel**

**Rule 18.13** In determining an appeal against a decision by a Disciplinary Tribunal Panel in relation to costs, the Appeals Tribunal Panel shall, by simple majority:

- (a) affirm, vary or revoke the Disciplinary Tribunal Panel's decision in relation to costs; and/or
- (b) substitute the amount of costs awarded with its own decision on the amount of costs to be awarded; and/or
- (c) make any other order that it considers appropriate in relation to costs.

### **Withdrawal of an Appeal**

**Rule 18.14** The party who served the Notice of Appeal may, at any time before the Appeals Tribunal Panel has made its decision, withdraw their appeal. This shall be done in accordance with the Regulations.

52. Under Rule 18.14, if an appeal is withdrawn before the Appeals Assessor has made their decision whether to grant leave to appeal or not, the withdrawal shall be made in writing to the Appeals Assessor and served on the other party.
53. Where an appeal is withdrawn after leave to appeal has been granted by the Appeals Assessor, the withdrawal of the appeal shall be submitted in writing to the chair of the Appeals Tribunal Panel and served on the other party.
54. If an appeal is withdrawn, the appeal shall be dismissed. The party who withdrew the appeal may not submit any further Notice of Appeal in respect of the same determination/order.
55. If an appeal is withdrawn, the Appeals Tribunal Panel may, if requested to do so by either party, consider making a costs order under Rule 18.15.

### **General award of costs by Appeals Tribunal Panel**

**Rule 18.15** The Appeals Tribunal Panel may make an award of costs against any party in the appeal under this Rule as it considers appropriate.

56. Any award of costs made by the Appeals Tribunal Panel under Rule 18.15 shall take into account any relevant guidance issued by the Disciplinary Committee.



## **Service of Appeals Tribunal Panel determinations**

57. The Appeals Tribunal Panel shall give written reasons for its determination. The Appeals Tribunal Panel's determination shall be final, and no further appeal of the determination may be made.
58. The Appeals Tribunal Panel's written determination shall be served, as soon as is reasonable, on:
  - (a) the Respondent or Applicant; and
  - (b) the IFoA.
59. The Secretary shall also communicate the Appeals Tribunal Panel's determination:
  - (a) where the appeal is made against a determination of an Interim Orders Panel or Disciplinary Tribunal Panel, to:
    - (i) the relevant panel that made the determination under appeal;
    - (ii) the Case Manager;
    - (iii) the Disciplinary Committee; and
    - (iv) the Referrer (where applicable).
  - (b) where the appeal is made against an order of a Capacity for Membership Panel, to:
    - (i) the Capacity for Membership Panel that made the order under appeal;
    - (ii) the Case Manager; and
    - (iii) the Disciplinary Committee;
  - (c) where the appeal is made against a determination of a Readmission Panel, to:
    - (i) the Readmission Panel that made the determination under appeal; and
    - (ii) the Case Manager; and
    - (iii) the Disciplinary Committee.
60. A determination of the Appeals Tribunal Panel shall be effective on the day it is made.

## **Publication of Appeals Tribunal Panel determinations**

61. The IFoA shall publicise the details of the Appeals Tribunal Panel's determination as soon as is reasonable, subject to any conditions on publication imposed by the Appeals Tribunal Panel in its determination. This shall be in accordance with any relevant guidance issued by the Disciplinary Committee.

## **Failure to comply with the Appeals Tribunal Determination or Order**

62. Any failure or partial failure by the Respondent or Applicant to comply with any order, sanctions or conditions imposed, and/or award of costs shall be referred to the IFoA. The IFoA will consider whether a Complaint should be brought under Rule 5.

## Definitions

| Term                              | Meaning  |
|-----------------------------------|--|
| Appeals Assessor                  | An assessor referred to in Rule 18 of this Scheme.   |
| Appeals Tribunal Panel            | A panel referred to in Rule 18 of this Scheme.   |
| Appointments Regulations          | Regulations issued by the Disciplinary Committee setting out the process for making appointments under this Scheme.  |
| Applicant                         | A former Member who has been expelled or excluded from membership of the IFoA and is applying for readmission to membership.   |
| Bye-laws                          | The Bye-laws of the IFoA from time to time.  |
| 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. |
| 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.  |
| 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.  |
| Interim Orders Panel              | A panel referred to in Rule 10 of this Scheme.   |
| Notice of Appeal                  | The notice served on the Secretary and the other party by a party seeking to appeal a determination/order under Rule 18 of this Scheme.  |
| Member                            | A member of the IFoA of any class other than an Honorary Fellow or an Affiliate.   |
| Pool of Legal Advisers            | A pool of Legal Advisers appointed by the Regulatory Appointments Committee to provide independent legal advisory support to panels.   |
| Readmission Panel                 | A panel referred to in Rule 17 of this Scheme.   |
| 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.   |

| Term              | Meaning   |
|-------------------|---|
| 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.  |

### Document control

| Version | Date of publication | Overview   |
|---------|---------------------|--|
| 1.0     | 1 August 2023       | To support Disciplinary Scheme effective 1 August 2023.                                  |
| 1.1     | 1 November 2023     | To clarify the version of the Regulations that will apply to a Complaint or application. |



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# Appointments Regulations

Disciplinary Committee

Version 1.1

1 November 2023

# Appointments 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. With regard to the applicability of these Regulations:
  - (a) Any Complaint or application for readmission to membership received by the IFoA shall be considered under the version of these Regulations in force at the time the Complaint or application for readmission to membership is received by the IFoA.
  - (b) In the event these Regulations are amended after a Complaint or application for readmission to membership has been received by the IFoA:
    - (i) the Respondent or Applicant may provide written consent to the IFoA for the Complaint/application for readmission to membership to be considered in accordance with the most recent version of these Regulations, otherwise
    - (ii) the version of the Regulations in force at the time the Complaint or application is received shall be applied to the extent that it is possible to do so, having regard to the need to ensure the fair and just determination of the case, otherwise the most recent version of the Regulations shall apply.
- E. These Regulations shall be interpreted and applied in accordance with the principles of natural justice, procedural fairness, and any applicable human rights law.
- F. The Rules contained in these Regulations are inserted for convenience of reference only. They shall not be considered a part of the Regulations.

## Appointments

|            |   |
|------------|---|
| Rule 20.1  | Members of the following panels shall be appointed from the Disciplinary Pool in accordance with the Regulations:<br>(a) an Assessment Panel;<br>(b) an Interim Orders Panel;<br>(c) a Disciplinary Orders Panel;<br>(d) an Adjudication Panel;<br>(e) a Disciplinary Tribunal Panel;<br>(f) a Capacity for Membership Panel; and<br>(g) an Appeals Tribunal Panel. |
| Rule 20.2. | Members of a Readmission Panel shall be appointed in accordance with the Regulations.   |

### Disciplinary Pool

1. The Regulatory Appointments Committee shall appoint members of a Disciplinary Pool.
2. Members of the Disciplinary Pool shall consist of Members and Lay Persons all with an appropriate level of skill and experience to carry out the role.
3. The Regulatory Appointments Committee shall appoint a sub group within the Disciplinary Pool as a chairing pool for members it has identified as having an appropriate level of skill and experience to chair panels appointed under Rules 20.1 and/or 20.2. This is subject to the requirement that any Appeals Tribunal Panel must be chaired by a legally qualified Lay Person from the Disciplinary Pool.
4. The Regulatory Appointments Committee shall appoint the following role holders from within the Disciplinary Pool:
  - (a) a Convener of Disciplinary Tribunal Panels and a Deputy Convener of Disciplinary Tribunal Panels; and
  - (b) a Convener of Adjudication Panels and a Deputy Convener of Adjudication Panels.
5. Conveners will be selected from one of the Lay Persons of the Disciplinary Pool and Deputy Conveners will be selected from one of the members of the Disciplinary Pool who are Members.
6. No member of the Disciplinary Pool can hold more than one role under Regulation 4.
7. The panels set out in Rules 20.1 or 20.2 shall be appointed in accordance with Regulations 27-34 and guidance issued by the Disciplinary Committee.

### Pool of Investigation Actuaries

8. The Regulatory Appointments Committee shall appoint a Pool of Investigation Actuaries which shall be made up of Members with an appropriate level of skill and experience to carry out the role.

9. The Regulatory Appointments Committee shall appoint two members of the Pool of Investigation Actuaries to the roles of the Chair of the Pool of Investigation Actuaries and Deputy Chair of the Pool of Investigation Actuaries.

#### **Pool of Independent Reviewers and Appeals Assessors**

10. The Regulatory Appointments Committee shall appoint a Pool of Independent Reviewers and Appeals Assessors who shall be legally qualified and who are identified as having an appropriate level of skill and experience to carry out the role.

#### **Pool of Legal Advisers**

11. The Regulatory Appointments Committee shall appoint a Pool of Legal Advisers with an appropriate level of skill and experience to provide independent legal advisory support to panels, including the chairs of panels, the Convener of Adjudication Panels and the Convener of Disciplinary Tribunal Panels appointed under Regulation 4.

#### **General provisions relating to Appointments**

12. The Regulatory Appointments Committee, as an independent appointment body, has responsibility for ensuring that appropriately diverse, skilled and experienced individuals are appointed to each of the pools.
13. No individual can hold an appointment in more than one pool at the same time.
14. When formalising appointments the Regulatory Appointments Committee will clearly state the tenure. Appointments will end at the expiry of that tenure, by resignation or where the Regulatory Appointments Committee is satisfied that it is appropriate to do so in the public interest or to maintain the reputation of the IFoA and its regulatory and disciplinary function.
15. In appointing individuals to any pool, the Regulatory Appointments Committee shall have regard to the number of individuals and skills likely to be required to allow for the effective operation of the Scheme.
16. The following individuals cannot be appointed by the Regulatory Appointments Committee to any of the pools:
  - (a) a member of Council;
  - (b) a member of the Disciplinary Committee;
  - (c) a member of the Regulatory Board;
  - (d) a member of the Regulatory Appointments Committee;
  - (e) a senior employee or director of the FRC or someone appointed to a role directly related to the FRC enforcement function;
  - (f) an employee of the IFoA; or
  - (g) unless otherwise agreed by the Regulatory Appointments Committee, a person who has been the subject of a finding of misconduct by the IFoA or FRC.

If any individual appointed by the Regulatory Appointments Committee to any pool is later appointed to any of the roles set out in Regulation 16 (a)-(f) they will be deemed to have resigned from that pool with immediate effect.



17. If a Member who has been selected for any panel under Rule 20.1 or 20.2, or selected to assist in the investigation of any case under Rule 7.2, is the subject of an Allegation under Rule 3 of the Scheme, they will be required to step down from that panel, or from assisting with the investigation, while the investigation of the Allegation made against them is ongoing. Once the investigation of the Allegation has concluded, the Regulatory Appointments Committee will confirm whether or not the Member is able to continue as a member of the pool.
18. If any appointment or nomination of an individual is not made in accordance with the provisions of Rule 20.1 or 20.2 and/or these regulations it will not invalidate any proceedings under the Scheme.

### **Constitution of Panels Appointed under Rule 20.1 or 20.2.**

19. The Secretary will appoint individuals from the Disciplinary Pool to sit on individual panels set up under Rule 20.1 or 20.2 in accordance with Regulations 27-34 and guidance issued by the Disciplinary Committee.
20. For a Readmission Panel there is an additional requirement to appoint an employee member of the IFoA with an appropriate level of skill and experience.
21. When making appointments under Regulation 19 or 20, the Secretary will conduct the necessary checks to ensure that any individual they appoint will not give rise to any conflict of interest which makes them unsuitable for appointment.
22. For cases related to potential breaches of the FRC's Technical Actuarial Standards, the IFoA's Actuarial Profession Standards, or any related Guidance Notes for both standards, the Secretary will consult with the Deputy Convener of Adjudication Panels or the Deputy Convener of Disciplinary Tribunal Panels on the type of actuarial expertise required.
23. Except for Assessment Panels and Disciplinary Orders Panels, the Secretary will appoint a chair to the panel. This will be an individual from the chairing pool as referred to in Regulation 3.
24. The Secretary will appoint a Legal Adviser from the Pool of Legal Advisers to advise any panel set up under Rule 20.1 or 20.2.
25. All panel appointments will be overseen by the Head of Legal Services.
26. No individual will be appointed to a panel if they have been a member of any panel which has previously considered the same case. This does not apply:
  - (a) to panels carrying out capacity for membership review hearings under Rule 16, and
  - (b) where an Appeals Tribunal Panel determines under Rule 18.12(c) that a Readmission Panel is to rehear an application for readmission to the IFoA and that the Readmission Panel should be made up (so far as is reasonably possible) of the members of the Readmission Panel which first heard the case.

### **Assessment Panel (Rule 3)**

27. An Assessment Panel shall be made up of one Member and one Lay Person, both appointed from the Disciplinary Pool.

### **Interim Orders Panel (Rule 10)**

28. An Interim Orders Panel shall be made up of:
- (a) three individuals, all appointed from the Disciplinary Pool;
  - (b) at least one will be a Lay Person and at least one will be a Member; and
  - (c) one of the panel members will be appointed as the chair of the Interim Orders Panel, in accordance with Regulation 23.

### **Disciplinary Orders Panel (Rule 11)**

29. A Disciplinary Orders Panel shall be made up of one Member and one Lay Person, both appointed from the Disciplinary Pool.

### **Adjudication Panel (Rule 13)**

30. An Adjudication Panel shall be made up of:
- (a) three individuals, all appointed from the Disciplinary Pool;
  - (b) at least one will be a Lay Person and at least one will be a Member; and
  - (c) one of the panel members will be appointed as the chair of the Adjudication Panel, in accordance with Regulation 23.

### **Disciplinary Tribunal Panel (Rule 15)**

31. A Disciplinary Tribunal Panel shall be made up of:
- (a) either three or five individuals, all appointed from the Disciplinary Pool;
  - (b) where a panel has three members at least one will be a Lay Person and at least one will be a Member, and where a panel has five members at least two will be Lay Persons and at least two will be Members; and
  - (c) one of the panel members will be appointed as the chair of the Disciplinary Tribunal Panel, in accordance with Regulation 23.

### **Capacity for Membership Panel (Rule 16)**

32. A Capacity for Membership Panel shall be made up of:
- (a) three individuals, all appointed from the Disciplinary Pool;
  - (b) at least one will be a Lay Person and at least one will be a Member; and
  - (c) one of the panel members will be appointed as the chair of the Capacity for Membership Panel, in accordance with Regulation 23.

### **Appeals Tribunal Panel (Rule 18)**

33. An Appeals Tribunal Panel shall be made up of:
- (a) either three or five individuals, all appointed from the Disciplinary Pool;
  - (b) the majority of the panel will be Lay Persons;

- (c) where a panel has three members at least one member will be a Member and where a panel has five members at least two members will be Members;
- (d) at least one of the Lay Persons will be legally qualified; and
- (e) one of the panel members will be appointed as the chair of the Appeals Tribunal Panel, in accordance with Regulation 23. The chair must be a legally qualified Lay Person.

**Readmission Panel (Rule 17).**

34. A Readmission Panel will be made up of:
- (a) one Member and one Lay Person, both appointed from the Disciplinary Pool;
  - (b) one employee member of the IFoA; and
  - (c) one of the panel members in (a) above will be appointed as the chair of the Readmission Panel in accordance with Regulation 23.

**Appointment of Independent Reviewer (Rule 14) or Appeals Assessor (Rule 18).**

35. Where required under Rule 14 or 18, the Secretary shall appoint an Independent Reviewer or Appeals Assessor from the Pool of Independent Reviewers and Appeals Assessors in accordance with Regulations 36-38 and guidance issued by the Disciplinary Committee.
36. When making appointments under Regulation 35, the Secretary will conduct the necessary checks to ensure that any individual they appoint will not give rise to any conflict of interest which makes them unsuitable for appointment.
37. All appointments under Regulation 35 will be overseen by the Head of Legal Services.
38. Where an individual appointed as Independent Reviewer has considered an application for review of the same case under Rule 14, they cannot be appointed as an Appeals Assessor for the same case under Rule 18.

## 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. |
| Appeals Tribunal Panel                              | A panel referred to in Rule 18 of this Scheme.  |
| Appeals Assessor                                    | An assessor referred to in Rule 18 of this Scheme.  |
| Appointments Regulations                            | Regulations issued by the Disciplinary Committee setting out the process for making appointments under this Scheme.   |
| Assessment Panel                                    | A panel referred to in Rule 3 of this Scheme.   |
| Bye-laws  | The Bye-laws of the IFoA from time to time.   |
| Capacity for Membership Panel                       | A panel referred to in Rule 16 of this Scheme.  |
| Chair of the Pool of Investigation Actuaries        | The person appointed to chair the Pool of Investigation Actuaries in accordance with the Appointments Regulations.  |
| Convener of Adjudication Panels                     | The person appointed to that role in accordance with the Appointments Regulations.  |
| Convener of Disciplinary Tribunal Panels            | The person appointed to that role in accordance with the Appointments Regulations.  |
| Council   | The Council of the IFoA.  |
| Deputy Chair of the Pool of Investigation Actuaries | The person appointed to that role in accordance with the Appointment Regulations  |
| Deputy Convener of Adjudication Panels              | The person appointed to that role in accordance with the Appointments Regulations.  |
| Deputy of Disciplinary Tribunal Panels              | The person appointed to that role in accordance with the Appointments Regulations.  |
| Disciplinary Committee                              | The Disciplinary Committee of the IFoA or its successor.  |
| Disciplinary Orders Panel                           | A panel referred to in Rule 11 of this Scheme.  |
| Disciplinary Pool                                   | The pool from which panels are appointed as referred to in the Appointments Regulations.  |

| Term  | Meaning   |
|---|---|
| Disciplinary Tribunal Panel                         | A panel referred to in Rule 15 of this Scheme.  |
| FRC   | The Financial Reporting Council Limited, a company limited by guarantee incorporated in England and Wales, number 2486368 and any other body which takes over the functions of the FRC.   |
| FRC Scheme  | <p>The Actuarial Scheme of the FRC dated 1 January 2021 as amended from time to time by the FRC, or any actuarial scheme issued by any other body which takes over the functions of the FRC.</p> <p>The FRC Scheme was originally adopted by the Accountancy and Actuarial Disciplinary Board (AADB) on 13 September 2007. It was amended with effect from 13 October 2011 and 18 October 2012. It was amended by the FRC on 1 July 2013 and 1 June 2014.</p> |
| Head of Legal Services                              | The person appointed as Head of the Legal Services of the IFoA, and any person nominated by the Head of Legal Services.   |
| IFoA  | The Institute and Faculty of Actuaries.   |
| Independent Reviewer                                | The person referred to in Rule 14 of this Scheme.   |
| Interim Orders Panel                                | A panel referred to in Rule 10 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.  |
| Lay Person  | A person who is not and has never been a Member of the IFoA or any other actuarial body.  |
| 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 Independent Reviewers and Appeals Assessors | A pool of Independent Reviewers and Appeals Assessors appointed by the Regulatory Appointments Committee from which an Independent Reviewer or an Appeals Assessor shall be appointed, where required under Rule 14 or Rule 18 of this Scheme.  |
| Pool of Investigation Actuaries                     | A pool of Investigation Actuaries appointed by the Regulatory Appointments Committee to assist and support the Case Manager.  |
| Pool of Legal Advisers                              | A pool of Legal Advisers appointed by the Regulatory Appointments Committee to provide independent legal advisory support to panels.  |
| Readmission Panel                                   | A panel referred to in Rule 17.   |
| Regulations   | Any regulations issued by the Disciplinary Committee.   |

| Term                              | Meaning  |
|-----------------------------------|--|
| Regulatory Appointments Committee | The Regulatory Appointments Committee of the IFoA or any successor body.                 |
| Regulatory Board                  | The Regulatory Board of the IFoA or any successor body.                                  |
| 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.   |

### Document control

| Version | Date of publication | Overview   |
|---------|---------------------|--|
| 1.0     | 1 August 2023       | To support Disciplinary Scheme effective 1 August 2023.                                  |
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