



Institute
and Faculty
of Actuaries

Appeals Regulations

Disciplinary Committee

1 August 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. 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.



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