



Institute
and Faculty
of Actuaries

Publication

Guidance

By the Disciplinary Committee of
the Institute and Faculty of Actuaries

Publication

1. Introduction

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

2. Aim

- 2.1 This Guidance:
 - (a) explains why the IFoA publishes information about disciplinary hearings and decisions;
 - (b) sets out the principles to be followed in considering whether to publish information;
 - (c) sets out what information should and should not be published before and after a hearing takes place or an order is made under the Scheme;

- (d) sets out where published information is located; and
- (e) sets out how long information should be published for.

3. Why does the IFoA publish information about disciplinary hearings and decisions?

- (a) For transparency of how decisions under the Scheme are reached.
- (b) To maintain public confidence in the IFoA's disciplinary process and the profession as a whole.
- (c) To demonstrate how the IFoA acts in the public interest.
- (d) To allow persons with an interest to attend Panel hearings, where permitted.
- (e) To educate Members and their employers about behaviour which may amount to Misconduct.

4. Principles to be applied to a publication decision

4.1 This Guidance note sets out what information should normally be published. The relevant Panel or Chair must consider the issue of publication, taking into account any representations from the parties, and will decide what information should be published and what form publication should take. They may decide that the whole, or part, of those matters should not be published. The Panel or Chair has full discretion over decisions relating to publication, but if the Panel or Chair does not follow the standard approach to publication, full reasons should be provided.

4.2 Panels or Chairs should consider, and record their decision, in relation to

- (a) whether the determination/decision/order/outcome should be published;
- (b) the content of the publication to be made (e.g. if there should be any redactions);
- (c) whether there should be additional publication (e.g. in a trade magazine); and
- (d) the duration of the publication on the IFoA website.

4.3 The following should be taken into consideration when determining what information should be published:

(a) The public interest

The most important consideration for all publication decisions must be the public interest. It will normally be in the public interest for details of public hearings and the determinations/ outcomes of those hearings to be published.

(b) Interests of the Respondent/ Appellant/ Applicant

The need to keep the public informed should be balanced against the consequences of publication for the Respondent/ Applicant. Where the consequences of publication on the Respondent / Applicant outweigh the duty to keep the public informed, the matter being published may be anonymised, redacted, or not published at all. Non-publication should only happen in exceptional circumstances. The onus will be on the party requesting anonymisation, redaction or non-publication to persuade the Panel or Chair that this is required.

(c) Confidentiality

If there is any information being published which may identify a third party or should remain confidential for other reasons such as the commercial interests of third parties, the Panel or Chair should consider whether it is appropriate for parts of the matter being published to be redacted or for names to be anonymised (or, in exceptional circumstances, not to publish the determination). Details of any medical conditions should be kept confidential.

(d) Case by case basis

Each decision on publication is taken on its own merits, considering the circumstances of the case.

5. Information available prior to a hearing

5.1 Notice of the following hearings should be published on the IFoA website at least seven days before the hearing is due to take place:

- (a) oral hearing of the Interim Orders Panel;
- (b) Disciplinary Tribunal Panel hearing;
- (c) Appeal Tribunal Panel hearing;
- (d) Capacity for Membership hearing;
- (e) Readmissions application hearing.

5.2 The notice should contain the following information:

- (a) name of the Respondent/ Applicant, as appropriate;
- (b) category of Membership;
- (c) date(s) of Membership;
- (d) date, time and place of hearing;
- (e) whether the hearing will be held in public or private;
- (f) type of hearing;
- (g) where there is an allegation of Misconduct, a summary of the allegations.

6. Information published after a Panel hearing or order being made

6.1 The IFoA should normally publish the following matters:

- (a) the making, cancellation, or amendment of an Interim Order;
- (b) the making of a Disciplinary Order;
- (c) the final determination of an Adjudication Panel following the Respondent's acceptance of an Adjudication Panel invitation under Rule 13.4;
- (d) any final determination of a Disciplinary Tribunal Panel;

- (e) any final determination of an Appeals Tribunal Panel, subject to the considerations in 6.3 below if the appeal relates to a decision made by a Capacity for Membership Panel;
- (f) any final determination of a Readmission Panel;
- (g) any final order, Consent Order or non-health related outcomes of a Capacity for Membership Panel, subject to the considerations in 6.2 below.
- (h) notice of any subsequent hearings to be held under this Scheme (except for Adjudication Panel hearings).

6.2 Where a Disciplinary Tribunal Panel or an Appeals Tribunal Panel does not make a finding of Misconduct, the Panel may decide that publication of the final determination is not necessary.

6.3 Capacity for Membership Panels are normally held in private. The Capacity for Membership Panel has discretion to decide whether or not their decision should be published. It is normally appropriate to publish: the Respondent's name; date of any hearing; and any non-health related outcomes. The findings of fact, health-related outcomes and the Capacity for Membership Panel's reasons for its decision should not normally be published. Details of the Respondent's medical condition must be kept confidential (unless the Respondent requests that a summary of the condition is included, and the Panel agrees to its inclusion).

6.4 Determinations and orders should be published as soon as is reasonable after a Panel hearing takes place or an order is made and in accordance with any Guidance on timeframes issued by the Disciplinary Committee. Publication is subject to any decision on publication made by the relevant Panel or Chair.

6.5 Where a determination or order is subject to a right of appeal or review, any published determination or order should state that clearly. The determination or order should then be supplemented by note(s) of the progress and outcome of any appeal or review, or a statement to the effect that no appeal was lodged, and when no further appeal or review is possible the publication should make it clear that it is the final decision.

7. Information that should not be published

7.1 Published determinations should not name any third party, including the Referrer, the Investigation Actuary or any witnesses.

7.2 If an Adjudication Panel determines there is not a Prima Facie case of Misconduct, that determination should not be published. The Case Manager, the Respondent and the Referrer will be provided with a confidential copy of the determination. This is because it is in the public interest for them to understand the outcome of the hearing. Providing this determination to the Case Manager, Respondent and the Referrer does not amount to publication.

7.3 If:

- (a) an Adjudication Panel determines there should be a referral to a Disciplinary Tribunal Panel; or
- (b) the Respondent does not accept the determination and the matter is referred to a Disciplinary Tribunal Panel;

that determination of the Adjudication Panel should not be published.

- 7.4 Written decisions of an Assessment Panel should not be published. Where an Assessment Panel decides that a Complaint should not be investigated, their decision will be shared with the Head of Disciplinary Investigations, the Referrer and the Member or former Member the complaint is about.
- 7.5 Notice of a hearing to consider an application to transfer to a Capacity for Membership Panel and the resulting decision should not be published.
- 7.6 Details of a Respondent's medical condition and any health-related outcomes must not be published in any notice of the hearing and in any published order or outcome following the hearing (subject to the exception noted in paragraph 6.2 above).
- 7.7 Determinations and orders that are not published may be shared on a confidential basis with the Investigation Actuary, if one is appointed, and the Disciplinary Committee.

8. Where is information published?

- 8.1 Notice of forthcoming hearings is normally published on the IFoA's website:
<https://actuaries.org.uk/standards/independent-disciplinary-process/forthcoming-hearings/>
- 8.2 Determinations and orders are normally published on the IFoA's website:
<https://actuaries.org.uk/standards/independent-disciplinary-process/determinations/>
- 8.3 Sanctions and outcomes are normally recorded in the IFoA's Actuarial Member Directory:
<https://www.actuaries.org.uk/actuarial-directory/public-search>
- 8.4 A summary of determinations and orders is normally published in The Actuary Magazine:
<https://www.theactuary.com/>
- 8.5 Where it is considered appropriate, the relevant Panel or Chair may decide that there should be additional publication (for example in a local newspaper, a trade magazine or an IFoA press release). The Panel or Chair should explain why additional publication is appropriate.
- 8.6 The IFoA may issue a press release if it considers that the wider public should be informed about a case of particular public interest.

9. How long is published information available for?

- 9.1 Notice of forthcoming hearings should be removed from the IFoA website within two working days of the end of the hearing.
- 9.2 All published determinations will have a publication date. At the time of making a determination, the Panel will state how long the determination should be published for.
- 9.3 Interim Orders should normally remain on the IFoA's website for the period the Interim Order is in force.
- 9.4 Misconduct determinations should normally remain on the IFoA's website for a period of three years from the date of publication, or the period that any exclusion or expulsion is in force for, whichever is longer.
- 9.5 If a Respondent is excluded or expelled for five years and either does not reapply for membership or the readmission application is refused, the determination should normally remain on the IFoA's website for a period of 10 years after the end of the period of exclusion or expulsion.

- 9.6 Capacity for Membership determinations should normally remain on the IFoA’s website until the written decision of any review hearing has been communicated to the parties.
- 9.7 Sanctions and outcomes will be removed from the IFoA’s Actuarial Member Directory at the same time that the relevant determination or order is removed from the website.
- 9.8 Determinations relating to readmissions should normally remain on the IFoA’s website for one year from the date of publication.
- 9.9 A disciplinary finding will remain on a Respondent’s IFoA record indefinitely but will not be publicly available on the IFoA’s website after the period of publication has ended. The determination may be referred to in future disciplinary proceedings against the Respondent but cannot be provided to third parties outside the IFoA after the end of the publication period. The IFoA cannot comment on disciplinary findings once the period of publication has ended.
- 9.10 Information will be removed from the IFoA’s website in line with this policy. However, many internet search engines manage information by “caching”. The IFoA has no control over the time it may take search engines to update their records. Any availability of information after it has been removed from the IFoA’s website is beyond the IFoA’s control.

Document control

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1.0	1 August 2023	Guidance for Disciplinary Scheme effective 1 August 2023



Institute and Faculty of Actuaries

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Beijing

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

Edinburgh

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

London (registered office)

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

Malaysia

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

Oxford

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

Singapore

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

www.actuaries.org.uk

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