



Institute  
and Faculty  
of Actuaries

# Disciplinary Order Regulations

Disciplinary Committee

1 August 2023

# Disciplinary 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. 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 .



Term	Meaning
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.



# Institute and Faculty of Actuaries

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