



# **DISCIPLINARY & SANCTIONS PROCEDURE**

## **1. INTRODUCTION**

If a complaint has been identified as unsuitable to be addressed informally or if at the informal stage a resolution had not been successful, the procedures outlined herein will be initiated and conducted as specified in this document.

## **2. THE DISCIPLINARY AND COMPLAINTS COMMITTEE**

The Disciplinary and Complaints Committee shall split responsibility for the various stages of a complaint amongst its number.

- a) There are separate elements of the process; the finding of impairment is undertaken by the Investigation Panel who may or may not refer it to a Disciplinary Hearing Panel and sanctions imposed by the Adjudication Panel. Appeals and restoration submissions will be reviewed by the Appeals and Restoration Panel.
- b) The Investigation Panel or Disciplinary Hearing Panel will provide a report of their findings to the Adjudication Panel who will determine what and if a sanction is to be applied.
- c) Each individual panel member will not have been appointed to more than one panel or been involved in more than one stage of the complaint.
- d) At its own discretion the Disciplinary and Complaints Committee may co-opt individuals from other IFA committees or choose to recruit additional independent persons if necessary and appropriate. This will be judged on a case by case basis. Registrants or complainants may not, however, request for specific individuals to review or hear their case.
- e) No member of any panel shall be involved in investigating a complaint/applying a sanction or have any involvement in proceedings if that individual has or had a previous relationship with the Registrant or complainant. Equally, should a Registrant choose to appeal a decision, no member appointed to review the case will have been involved in the original decision. Committee members must declare any conflicts of interests before such appointment.

## **3. INVESTIGATION PANEL**

- 3.1 The Disciplinary and Complaints Committee shall appoint an Investigation Panel from amongst its members to investigate complaints comprising of a minimum of three (3) members with a maximum of five (5) members.
- 3.2 The Investigation Panel shall comprise of individuals who have the necessary experience and/or knowledge and will be selected dependent on the nature and scope of the case.
- 3.3 The quorum of the Investigation Panel is three (3) and must contain at least two (2) lay members (non-IFA Registrant).
- 3.4 The Disciplinary and Complaints Committee shall appoint a Chair of the Investigation Panel based on the nature of the complaint.

- 3.5 Decisions will be made by a simple majority.
- 3.6 In the event of a tied vote the Chair of the Investigation Panel will have the casting vote.

#### **4. WHAT HAPPENS NEXT?**

- 4.1 The Chair of the Investigation Panel will set out in writing the details of the alleged breach with clear reference to its rules and request that the Registrant provide a 'statement of truth'.
- 4.2 Notification will be sent by email and a copy sent via recorded delivery to the Registrant's address or last known address recorded on file. Where any notice is sent in the UK it shall be treated as having been served the day after it was posted. Where such notice is sent outside of the UK it shall be treated as having been served five (5) days after it was posted.
- 4.3 The Registrant will then have thirty-one (31) days to respond with a 'statement of truth' (limited to 4 sides of A4). The statement should include:
- a) A timeline of events;
  - b) Any third-party involvement i.e. police, social services;
  - c) Witness statements attached as appendices (these must also include their contact details);
  - d) Any mitigating factors;
  - e) How they have tried to resolve the problem;
  - f) Statements which rely on documentary evidence should be attached as appendices to the statement and referred to in their statement where appropriate, for example "I wrote to the complainant with the attached letter see appendix 1".

NB. Although this may seem a duplication of the complaint's procedure, it provides a valuable opportunity for the Registrant to summarise their case. By this point in proceedings the Registrant will have had ample opportunity to view and respond to the complainant's further comments to their original response. Additional information/evidence is not generally accepted after the complaint has been referred to this stage and you will be required to demonstrate why it was not available at the time.

- 4.4 Registrant's statements of truth will be promptly circulated to the Investigation Panel for review.

#### **5. TIMESCALES**

- 5.1 We intend to resolve complaints as soon as possible and ask that all parties involved be cooperative. We anticipate the process in determining and delivering its decision should take no longer than sixty (60) days from the date the statement of truth was received. However, if a disciplinary hearing is required, we anticipate it may take up to ninety (90) days.
- 5.2 The Investigation Panel may at any time extend any time limit in these proceedings either by consent of all parties involved or if they believe it fair and reasonable to do so. The Panel will consider any representations made by the parties involved before extending the time limit.

- 5.3 If the Registrant is on holiday when they receive the disciplinary notice and is unable to respond within the thirty-one (31) days, they must contact the IFA immediately in order to obtain a revised timescale. If the reasons provided for delay in response are not considered adequate or evidenced then the Registrant may have an interim suspension order applied until they are able to address the complaint and will not be able to renew their membership within this period if it is due for renewal.
- 5.4 For Registrants whose first language is not English we ask that they either have their 'statement of truth' translated into English for expediency or the IFA can make arrangements to have this translated, but please be aware this will add additional time to resolving the complaint.

## 6. INTERIM ORDERS

- 6.1 Interim orders are emergency measures to impose restrictions upon a Registrant pending a final determination. The purpose of an interim order is to consider whether a Registrant should be restricted, either by interim suspension or apply an interim condition of practice. These are implemented where applicable to ensure sufficient safeguards are in place for the protection of the public whilst a thorough investigation is undertaken. Any such restrictions are only imposed in the most serious of cases, and are proportionate and appropriate to the seriousness of the circumstances.
- 6.2 The Investigation Panel may consider implementing an interim order on the following grounds when:
- a) It is a serious or complex case of suspected non-compliance; or
  - b) When it appears, there could be an immediate risk to the public; or
  - c) If it is in the public interest to do so to maintain confidence and uphold appropriate standards of ethical conduct and behaviour; or
  - d) It is in the Registrant's interests to do so
- 6.3 If the Investigations Panel does deem it appropriate to impose an interim order it will decide whether to impose an interim Condition of Practice Order or interim Suspension Order. Suspension can be imposed but in the case of public interest and the Registrant's rights, conditions of practice orders may be more desirable to help maintain public confidence.
- 6.4 When considering whether an interim order is necessary and proportionate, this will depend upon the circumstances in each case, but the Panel should consider imposing such an order in cases where:
- there is a serious and on-going risk to service users or the public from the Registrant's lack of professional knowledge or skills; conduct or unmanaged health problems; or
  - the allegation is so serious that public confidence in the profession or the regulatory process would be seriously harmed if the Registrant was allowed to remain in practice on an unrestricted basis whilst the allegation is being investigated.
- 6.5 If a Registrant is suspended intermittently this will not exceed a period of three (3) months before a final determination is made by the Adjudication Panel. This

time is necessary to enable the Investigation Panel to discuss and evaluate the evidence of the allegation, refer the matter to a Disciplinary Hearing if appropriate and submit their findings to the Adjudication Panel.

- 6.6 On the register it will appear next to the Registrant's name 'temporarily suspended whilst under investigation' with a link to the sanctions page where it will outline the Codes they are alleged to have breached. If an interim condition of practice order is imposed it will state 'condition of practice order temporarily imposed' with a link to the sanctions page outlining the conditions.
- 6.7 The Investigation Panel may decide to issue an interim order with the notice of disciplinary proceedings or during the course of the investigation.
- 6.8 The Registrant involved will have the opportunity to submit written representations on why the interim order may not be appropriate, which will be given due consideration, however the final decision ultimately lies with the Investigation Panel.

## **7. CONSENSUAL DISPOSAL**

- 7.1 A Registrant may simply choose to admit a breach and suggest a suitable sanction. This allows complaints to be resolved in a quicker timeframe and avoids the anxiety and inconvenience of attending a hearing and/or further proceedings. If the Registrant breaches the terms of the Consensual Disposal Agreement, this may result in the termination of their registration.
- 7.2 A Consensual Disposal Agreement is still a disciplinary decision, even though it is a mutual decision between the IFA and the Registrant and will be published in accordance with any other sanction.
- 7.3 It may also be appropriate for the Investigation Panel to offer a Registrant to consider consensual disposal. For consensual disposal to be available, the Registrant must make admissions of misconduct but also show remorse, insight and learning from the incident.
- 7.4 The complainant will be informed if the complaint is to be addressed through consensual disposal. The complainant will not be involved in negotiating the agreement, however may communicate their view, which may be taken into consideration by the Investigation Panel.
- 7.5 The procedure for consensual disposal:
  - a) The Registrant will either make a request or will be invited to resolve the complaint by Consensual Disposal.
  - b) The Registrant will correspond with the Investigation Panel to set out their admissions with any other comments for consideration and formally make their request.
  - c) The Adjudication Panel will decide whether to accept the request.
  - d) Consensual Disposal will only be permitted if the proposal is agreed by the Investigation Panel and accepted by the Adjudication Panel.
  - e) In deciding whether to dispose of a case consensually, consideration must be given, on the balance of probability, if a full investigation were undertaken it would come to the same conclusion.

- f) The Adjudication Panel cannot simply agree to resolve a case by this method without considering its wider obligations.

7.6 If the Adjudication Panel agrees to the Registrant's suggestion:

- a) it will confirm in writing the Consensual Disposal Agreement and sanction it will apply.
- b) The Registrant will have 28 days to review and sign the Consensual Disposal Agreement and return to the IFA.
- c) The sanction will be applied and no further steps need be taken.
- d) The decision to resolve a matter by Consensual Disposal, and the terms of that disposal is final and there is no right of appeal for either the complainant or Registrant.
- e) The Sanctions Imposed page will be duly be updated.
- f) The Registrant and complainant will be informed that the complaint has been resolved.

7.7 If the Adjudication Panel does not agree to dispose of the case, then the proceedings outlined herein shall continue until conclusion.

## **8. SPENT & UNSPENT CONVICTIONS**

8.1 Similar to Consensual Disposal requests, spent and unspent conviction declarations will be addressed by the Investigation Panel.

8.2 The Investigation Panel will consider declarations in relation to spent and unspent convictions by reviewing;

- a) Fitness to Practice Declaration Form (e.g. criminal conviction or fitness to practise proceedings with other regulatory bodies issued against the Registrant etc. which you have not previously advised us of) and/or;
- b) Health Declaration Form, if declaring a health-related matter (including information provided by their Doctor).

8.3 A declared conviction or caution should only lead to further action being taken against a Registrant by the Adjudication Panel if, as a consequence of that conviction or caution, the Registrant's fitness to practise is impaired. The Panel's role is not to punish the Registrant twice for the same offence, but to protect the public and maintain high standards among Registrants and public confidence in the profession.

8.4 Dependent on the nature of the conviction the Adjudication Panel may either determine that it would not impact the Registrant's ability to practice, apply a sanction e.g. condition of practice or simply refuse the application and/or renewal and provide its reasons for doing so.

8.5 The IFA Disciplinary & Complaints Committee reserve the right to ratify the decision of another body that meets or has similar professional standards to that of the IFA and duplicate the sanction imposed by that body without any further reference to the IFA's complaints process. This decision cannot be appealed but is subject to annual review.

## 9. FALSE DECLARATIONS

If it is discovered that a Registrant has made a false declaration they will be cross examined. Particularly in regards to CPD, if for example it was a clerical error, they will be provided with the opportunity to explain and meet the standards. If the Registrant has purposefully and knowingly attempted to circumnavigate IFA rules, they will either:

- a) Be removed from the register immediately and suspended;
- b) Have an interim order imposed;
- c) Offered consensual disposal; and
- d) May not have their membership renewed the following year.

Dishonesty will not be tolerated.

## 10. INVESTIGATION

Investigations will be conducted in a fair and reasonable manner ensuring that all documentation and evidence submitted is considered without bias or prejudice. In broad terms the IFA will:

- a) Establish the facts and identify irregularities
- b) Confirm the facts of the case (and any mitigating factors if relevant)
- c) Identify the risk to individuals and the profession
- d) Ask for supporting evidence where appropriate
- e) Ask for any additional information they may require
- f) Establish if/how the Registrant has tried to resolve the problem and all relevant documentation
- g) Assess if remedial action is required
- h) If applicable, request that the Registrant undergo an examination by a medical practitioner who will report on whether the Registrant is medically fit to practice, at the Registrant's expense.
- i) Consider the impact of the incident on the Registrant's fitness to practice
- j) Obtain clear evidence to support any sanction to be applied to the Registrant.

## 10. DATA PROTECTION

During the investigation process the IFA may require the complainant and/or Registrant to provide confidential information or we may request it. All information will be treated in accordance with the IFA's [Data Protection Policy](#). All information will be treated as confidential and will only be used for the sole purpose for which it was obtained.

## 11. DISCIPLINARY HEARING

11.1 A Disciplinary Hearing would only be initiated in exceptional circumstances if a case is particularly complex due to the evidence which supports it and would be beneficial to invite both parties to attend. For example, if the evidence relates to one person's word against another and it would be beneficial for the panel to cross examine both parties. Typically, a Disciplinary Hearing would not be necessary and the Investigation Committee would make its determination based on the evidence provided in writing, documentation, recordings, audio etc. relevant to the case.

- 11.2 The Investigation Panel will inform both parties at the investigation stage if a Disciplinary Hearing is necessary.
- 11.3 The Disciplinary and Complaints Committee shall appoint a Disciplinary Hearing Panel from amongst its members comprising of a minimum of three (3) members and a maximum of five (5) and a clerk (minute taker). This will be determined dependent on the nature and scope of the case.
- 11.4 The Disciplinary Hearing Panel shall comprise two-thirds lay members and the outstanding number, members; to provide a balance of independent and peer review.
- 11.5 The Disciplinary Hearing Panel shall appoint a Chair from amongst its number.
- 11.6 The Disciplinary Hearing Chair shall inform the clerk of the Committee that a hearing is required and the clerk shall fix a date and time for the hearing and will write to all parties separately. Such notice shall contain:
- i. Their right to attend the hearing
  - ii. Their right to request witnesses (the IFA will also send the notice to any named witnesses in the 'statement of truth')
  - iii. Time and Venue
  - iv. Notification that a Disciplinary Hearing shall not take place sooner than twenty-one (21) days of receiving the notice to allow participants to make the necessary arrangements except with the agreement of both parties.
  - v. Their right to bring another person for support or chaperone. Please note however this person may not be a witness in the case; may not speak on behalf of the Registrant or complainant or address any member of the Disciplinary Hearing Panel and is only there either in the capacity of emotional support/carer.
  - vi. Information regarding the IFA's right to exclude any person from the hearing in whole or part whose conduct, in the opinion of the Panel is likely to disrupt the hearing.
  - vii. Request confirmation they will be attending the hearing.
- 11.7 Disciplinary hearings will take place in private typically at the IFA Head Office in London or may be held at another location as specified within London.
- 11.8 Where it is not practically possible due to location constraints to hold a Disciplinary Hearing in London this would be facilitated through Skype or Facetime.
- 11.9 For Registrants whose first language is not English, they will be expected to provide their own translator. The IFA will appoint a translator to ask questions on the Panel's behalf.
- 11.10 During the hearing the Panel will listen to all responses and take notes.
- 11.11 Subject to the requirements of a fair hearing, the Panel may decide its own procedures and directions for the hearing, typically these would be:
- I. Introduction: Introducing the members of the Disciplinary Hearing Panel and Parties.
  - II. The Disciplinary Hearing Chair will outline the facts of the case and evidence which support it.

- III. The Disciplinary Hearing Chair will ask the Registrant if they admit any of the allegations and whether there is an agreement with the outline of facts.
- IV. The Disciplinary Hearing Chair will ask the Registrant questions.
- V. Members of the Disciplinary Hearing Panel may question the Registrant
- VI. The Disciplinary Hearing Chair may ask the complainant questions
- VII. Members of the Disciplinary Hearing panel may question the complainant
- VIII. A short interval will take place
- IX. Witnesses on behalf of both parties will be asked questions by members of the Disciplinary Hearing Panel
- X. Members of the Disciplinary Hearing Panel may request to question either the Registrant or complainant again.
- XI. The hearing will conclude and the Disciplinary Panel Hearing will deliberate in the absence of all parties to discuss their findings.

11.12 Evidence provided by each party and any witnesses at the hearing will be given in private.

11.13 The Disciplinary Hearing Chair may adjourn the hearing at any time and give directions on when the hearing will be resumed. For expediency this will be agreed with both parties on the day of the initial hearing.

11.14 Upon request, the clerk of the Panel shall send the Registrant and Complainant, a verbatim transcript of the notes taken at the hearing, of any part of the proceedings at which the Registrant or the Complainant gave evidence. Disciplinary Hearings may be recorded.

11.15 The Disciplinary Hearing Chair will be responsible for compiling a report of the findings to be provided to the Adjudication Panel.

## **12. SUPPORT AVAILABLE**

The IFA supports complainants and witnesses with restrictive conditions. For example, those with an auditory impairment may have communicators in sign language, oral rephrasing or lip reading; those with concentration difficulties a prompter during Disciplinary Hearings and permitted the appropriate chaperone. The same principles that apply to learners during an examination will apply during a Disciplinary Hearing or when providing evidence as per the IFA's [Reasonable Adjustment and Special Consideration Policy](#).

## **13. CONDUCT AND COMPETENCE**

13.1 The Investigation Panel and/or Disciplinary Hearing Panel will submit its findings in a report, which may include recommendations, to the Adjudication Panel.

13.2 Reports will typically detail:

- a) If the facts have been proven or disproven on the balance of probabilities
- b) If the facts have been proven that the Registrant:
  - i. has committed misconduct;
  - ii. is unfit to practice;
  - iii. has been negligent due to lack of competence;

- iv. has made a false declaration;
- v. if it is due to personal behaviour or if there is a pattern of behaviour and consider the likelihood of it recurring;
- vi. is physically or mentally unwell and their fitness to practice is impaired by their mental health; and may recommend which sanction it feels may be appropriate.

## 14. SANCTIONS

14.1 The Disciplinary and Complaints Committee shall appoint an Adjudication Panel from amongst its members comprising of three (3) members. No member of the Adjudication Panel will have been part of the Investigation Panel or Disciplinary Hearing Panel.

14.2 The quorum of the Adjudication Panel is three (3) and must contain at least two (2) lay members (non-IFA Registrant).

14.3 The Adjudication Panel will assess which sanction it will apply following the Indicative Sanctions Policy; based on proportionality. When considering what sanction to impose, the Committee will ensure its decision will protect the public, the public interest, and the Registrant's own interest.

14.4 Decisions will be made by a simple majority.

14.5 If the Registrant has proved their case:

- a) no further action required.
- b) If the Registrant had an interim order applied during the course of the investigation this will be removed from their public profile immediately.

14.6 If it is deemed that a sanction is necessary, there are four possible sanctions that can be applied:

- a) **Caution the Registrant.** A caution can be imposed between one (1) and three (3) years. Cautions will not appear next to the Registrant's name on the register as they do not restrict a Registrant's ability to practise. These will be kept on file and may be taken into account if a further allegation is made against the Registrant concerned.
- b) **Condition of Practice Applied.** A Condition of Practice can be imposed up to a maximum of three (3) years and will be remedial or rehabilitative in nature. The Registrant will have a marker against their name on the register with a link to the 'Sanctions Imposed page' which will outline the Conditions of Practice. Condition of Practice Orders are generally applied when the Registrant has breached IFA standards but is not serious enough to warrant suspension. If the Registrant had an interim Condition or Practice order imposed during the investigation this will be extended.
- c) **Suspended up to a maximum of one (1) year.** The Registrant will be removed from the register until the Registrant has undertaken the specified action. If the Registrant had an interim Suspension Order imposed during the investigation

this will be extended to cover the reasonable time needed to undertake further training/assessment/remedy the breach to ensure they are fit to practice and eligible to apply to have their registration restored. During suspension the Registrant may not apply for registration renewal. Those who are suspended will be listed on the Sanctions Imposed page with details of why they were suspended.

- d) **Registration terminated.** Those whose registration/membership is terminated will be removed from the register and listed on the Sanctions Imposed page for up to five (5) years.

## 15. OUTCOME

15.1 The Registrant and Complainant will receive written confirmation of the outcome of the investigation and any applied sanction.

- a) The IFA will explain its reasons for coming to its decision with clear reference to its rules;
- b) Inform the Registrant that any sanction imposed is effective from the date it was made;
- c) Inform the Registrant of their right of appeal or when they can submit a restoration application and provide a copy of its Appeals Policy or Restoration Policy.

15.2 If a sanction is imposed, the Panel's findings will be published on the 'Sanctions Imposed' page on the IFA's website and provided to any other statutory or regulatory bodies or interested third parties.

## 16. RESTORATION

This Restoration Policy applies to those who have been suspended or had a Condition of Practice Order applied and have completed the sanction. Please note this is different from appeals as a specified timeframe will have been issued with the sanction in order to apply. The period specified will be based on the realistic prospect of achievement during that time and where, either it is clear from the evidence that earlier review is unlikely to be of value or where the nature of the conditions imposed make early review inappropriate.

- 16.1 The Disciplinary and Complaints Committee shall appoint an Appeals and Restoration Panel from amongst its members to investigate appeals and restoration requests comprising of three (3) members and must contain at least two (2) lay members (non-IFA Registrant).
- 16.2 When a Registrant is suspended or had a condition imposed, they will have been provided with specified details of actions they must undertake and the evidence required in order to have the sanction revoked and once again meet the standards. Once fulfilled they can apply to have their registration restored by providing evidence of having completed the action.

- 16.3 The Panel will not review restoration applications unless there has been a material change of circumstances since the sanction was imposed.
- 16.4 The Appeals and Restoration Panel aim to evaluate restoration applications as soon as possible and relay its decision within thirty (30) days of receipt of the application.
- 16.5 The Appeals and Restoration Panel will evaluate the evidence and may ask the Registrant additional questions. In the rare event it would benefit the Panel to request the Registrant to attend a Hearing, this will be initiated following the procedures outlined under point 11. In this event, it will be heard by the Appeal and Restoration Panel rather than the Disciplinary Hearing Panel who will have already heard the complaint.
- 16.6 In the event of a successful restoration outcome, if the Registrant was suspended mid-registration then this will effectively be removed and the Registrant readmitted to the register. If their registration has lapsed during suspension then they would simply be invited to renew their registration. The Sanctions Imposed page will duly be updated and mark against the Registrant removed.
- 16.7 If the evidence provided by the Registrant for restoration is insufficient, the Panel may either;
  - a) Inform the Registrant to apply again before the suspension time elapse of one (1) year with guidance of the additional action required to be restored;
  - b) Inform the Registrant they can be restored but with a 'Condition of Practice'. In this circumstance if a 'Condition of Practice' is applied it will be applied for up to a maximum of three (3) years;
  - c) May moderate/vary the sanction imposed.