



COMPLAINTS APPEALS POLICY

1. INTRODUCTION

This policy applies to registrants and the public who wish to appeal a decision made by the IFA as a result of a complaint and sets out the procedure of how to raise an appeal. Please note appeals can only be made if the appellant believes the IFA has not applied its rules consistently, properly or fairly or when material new evidence has come to light.

2. SCOPE

Appeals against a decision that has been communicated as a result of:

- a) a decision following the Complaints Policy; or
- b) a decision as of a result of the Disciplinary and Sanctions Policy; or
- c) a decision relating to an interim order restricting or suspending the Registrants practice,

3. GROUNDS FOR APPEAL

The following are considered valid grounds for appeal by a registrant or complainant.

- a) The IFA has not applied its rules consistently, properly or fairly
- b) The sanction imposed is considered to be disproportionate
- c) Further information has come to light after the decision was made which may have a bearing on the outcome.

No appeal will be considered which does not fall into one or more of the above three categories of valid grounds for appeals. Please note the onus is on the applicant to demonstrate why they believe that one of the above grounds for appeal applies.

Appeals made simply because you are unhappy with the decision is not sufficient grounds for appeal.

4. NOTIFICATION OF APPEAL

- a) The appellant must submit their appeal to the IFA in writing within thirty (30) days of the date of being informed of the decision.
- b) To raise an appeal you must complete the enclosed appeals application form and send to office@ifaroma.org headed 'Appeal against an IFA decision' so it can be addressed expediently.

5. APPEAL SUBMISSION

- a) All sections of the enclosed form must be completed in ENGLISH and accompanied by the relevant supporting documentary evidence; incomplete applications will be returned and as such may delay the process. The form includes:
 - i. name and address of the appellant;
 - ii. the appellant's registration number (if applicable);

- iii. the date and nature of the decision against which the appeal is brought;
 - iv. grounds of appeal statement; and
 - v. signed by or on behalf of the appellant.
- b) The appeal statement should specify the reasons for seeking a review of the decision, together with a detailed account of the alleged error, oversight, omission or misjudgement in the decision-making process.
 - c) Any new information or documents presented need to be accompanied with reasons as to why it was previously unavailable and why the IFA should therefore re-consider its decision.
 - d) Once received it will be forwarded to the Chair of the Disciplinary and Complaints Committee.

6. ACKNOWLEDGEMENT

The IFA will acknowledge receipt of having received an appeal application within five (5) working days.

7. PRELIMINARY REVIEW

- a) When an appeal is received, we will first assess the grounds of appeal to ensure it is valid. Initially, the Case Examiners, which consist of the head of the Membership Committee and Operations Manager, will review all the information and evidence relating to the appeal and decide whether or not it has sufficient grounds to proceed.
- b) If the grounds of appeal are deemed invalid the appellant will be informed within fourteen (14) days of receipt of the appeal. This decision will be ratified by the Chair of the Disciplinary and Complaints Committee.
- c) If the grounds for appeal are deemed valid the appellant will be informed within fourteen (14) days of receipt of the appeal.
- d) The Appellee will be sent a copy of the Appeal and asked for a response in writing. The Appellant will be sent a copy of the Appellee reply for any further comment;
- e) Equally, if it is identified that it might be useful to the case to obtain any other evidence that was not supplied by either the Appellant or Appellee this will be requested;
- f) It will then fix a date and time for the review meeting of the appeal, which shall not be more than sixty (60) days following the receipt of an appeal.

8. APPEALS PANEL

- a) The Disciplinary and Complaints Committee shall appoint an Appeals Panel from amongst its members to investigate appeals and restoration requests comprising of at least three (3) members and must contain at least two (2) lay members (non-IFA registrant).
- b) 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.
- c) The IFA will ensure that all appeals:
 - Are undertaken without bias or prejudice.
 - Are undertaken by persons who have no personal interest in the decision being appealed.
 - Are reviewed by those who have not been involved in investigating the original complaint or served on the Adjudication Panel pertaining to the complaint.
- d) The Appeals Panel shall appoint a Chair from amongst its number.
- e) Decisions by the panel shall be made by a majority vote of those present and, in the event of a tie, the Chair shall have the residing vote.
- f) The panel shall be assisted by the Disciplinary and Complaints Committee clerk who shall be responsible for the administrative arrangements for the meeting and/or hearing if required.
- g) The clerk shall not participate in the decision making of the panel and shall not have a vote.

9. APPEALS PROCEDURE

- a) The Appeals Panel will examine all paperwork relating to procedures being carried out fairly and consistently or any submissions that provide new material information.
- b) The panel may receive oral, documentary or other evidence of any fact or matter which appears to be relevant to the case.
- c) If it is just and reasonable to do so, the Appeals Panel may permit a party to present any evidence not previously relied upon (fresh evidence), if the party seeking to rely on the material can satisfy the panel that:
 - i. the fresh evidence was not reasonably available at the time the decision being appealed against was made; and

- ii. the fresh evidence is relevant to an issue that is being considered by the Appeals Panel and was provided during disclosure for the other parties comment.
- d) The Chair of the Appeals Panel may request a statement of response from the Adjudication Panel who made the original decision. This response will either justify its previous recommendation or acknowledge the grounds of appeal and will be available to the Appeals Panel and the appellant.
- e) Typically appeals will be based on the papers provided and or any recordings provided.
- f) In exceptional circumstances, especially if the decision is not unanimous, or the reviewers have unanswered questions and would benefit from cross examining the parties, the Appeals Panel may invite the appellant to attend an Appeals Hearing to answer questions. The hearing may be held in person or teleconference. They will be asked to attend, at their own expense, to enable the appeals panel to seek clarification. The appellant will be informed if this is necessary. If attendance at a hearing should be required, the Appellant will not be present for the panel's discussion and decision.
- g) The Appeals Panel will consider the appeal and aim to communicate its decision within sixty (60) days of receipt of a fully completed form, subject to 7(f) and all supporting documentation. Please note this time is necessary to make the appropriate arrangements and for the relevant persons to meet, discuss and review the paperwork. **The appellant is reminded not to contact the IFA within this time frame** and will be contacted in due course. If for any reason this time scale cannot be achieved the appellant will be informed of the revised anticipated timescale.

10. NOTICE OF HEARING

- a) If an Appeals Hearing is required the Appeals Panel shall inform the clerk of the Disciplinary and Complaints Committee who will send an attendance notification request to the Appellant and Appellee. The notice will be sent within thirty (30) days of confirmation that the appeal is being upheld by email and shall inform them of:
 - i. their right to attend the hearing;
 - ii. the date, and time of the hearing;
 - iii. the nature of the appeal hearing, namely that it is by way of review, rather than re-hearing;
 - iv. their right to give evidence in person;
 - v. their right to call witnesses if the nature of the appeal precipitates;
 - vi. 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 Appellant or Appellee or address any member of the Appeal Panel and is only there either in the capacity of emotional support/carer.

- vii. 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 if the nature of the appeal precipitates;
 - viii. the right to make oral submissions to the panel in person or to be represented by another person (such as a solicitor, professional body or trade union representative). If at any stage during the complaint the complainant wishes to be legally represented, they must inform the IFA of this. The IFA reserves the right to be legally represented and to act upon legal advice;
 - i. that if they do not attend, the appeal may proceed in their absence; and
 - ii. Request confirmation they will be attending the hearing.
- b) Appeals hearings will take place in private typically at the IFA Head Office in London or may be held at another location if required.

11. NOTICE OF ATTENDANCE AT HEARING

Within fourteen (14) days of the notice of the request to attend an Appeals Hearing being sent, both parties must confirm by reply to the clerk whether or not they intend to attend the hearing or be represented at the hearing and whether or not they intend to call any witnesses and, if so, shall provide the names and addresses of the witnesses or chaperones named.

12. ABSENCE FROM A HEARING

Where the panel is satisfied all reasonable steps have been taken to give notice; and the appellant or appellee either:

- i. does not respond to the request to attend an appeal hearing within the specified timescale; or
- ii. replies that they do not wish to attend or be presented at the hearing and consents to the appeal being determined without a hearing; or
- iii. does not consent to the appeal being determined without a hearing but the Panel considers it in the public interest to do so.

the Appeal Panel may nevertheless proceed in their absence based on papers including any written representations and responses provided by the parties and the Adjudication Panel.

13. POSTPONEMENT OR ADJOURNMENT OF A HEARING

- a) Appeals Hearings may be postponed by the Appeals Panel or at the request of the appellant no later than fourteen (14) days in advance of a hearing.
- b) Where a hearing is postponed the Committee Clerk shall send the parties notice of the date on which the panel is to hold the postponed hearing.

- c) Unless the parties agrees otherwise, the date for a postponed hearing shall be at least fourteen (14) days after the date of the postponed hearing notice.
- d) The Appeal Panel 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 hearing.

14. CONDUCT OF HEARING

- a) Appeals Hearings will be convened in Private.
- b) At the beginning of the hearing the Appeals Panel Chair shall explain to the parties the order of proceedings which the panel proposes to adopt.
- c) Subject to the requirements of a fair hearing, the Panel may decide its own procedures and directions for the hearing it considers most suitable to the clarification of the issues and the parties shall be heard in such order as the panel shall determine.
- d) During the hearing the Panel will listen to all responses and take notes. The hearing may be recorded.
- e) Evidence provided by each party and any witnesses at the hearing shall be examined by the Panel and cross examined. The panel may ask further questions after cross-examination.

15. OUTCOME

- a) The Appeals Panel may:
 - uphold the appeal in full and decision overturned.
 - uphold the appeal in part and modify any sanction previously applied. The Appeals Panel can make any decision regarding the complaint that could have been made by the Adjudication Panel, in accordance with the Indicative Sanctions Policy.
 - The appeal is rejected in full and the decision is in place for the indefinite future as specified by the Adjudication Panel.

16. NOTIFICATION OF DECISION

- a) The Appellant will be informed of the outcome of the Appeals Panel decision and the reasons for reaching that decision within sixty (60) days of receipt of a fully completed form and all supporting documentation or if an Appeals Hearing is required within ninety (90) days. If for any reason this time scale cannot be achieved the appellant will be informed of the revised anticipated timescale.
- b) This decision will be final and there shall be no further right of appeal.

- c) The decision of the Appeal Panel, including any details of any sanctions or amendments to sanctions imposed, will be published on the IFA's website in accordance with the Disciplinary and Sanctions Guidance within one (1) working day of the decision.
- d) The IFA will update all related records and sanction publications and if appropriate will review its policies to prevent reoccurrence of the circumstances of the appeal from happening again.

17. CONFIDENTIALITY

Throughout the process of the appeal, confidentiality will be kept by the Appeals and Restoration Panel, unless external disclosure is necessary to progress the appeal. In such a case, the appellant will be notified in advance of the disclosure. All information shared between the parties involved, must be treated strictly private and confidential.

APPEAL AGAINST AN IFA DECISION APPLICATION FORM

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| Appeler Full Name | | Member No | |
| Address | | | |
| Date of decision | | | |
| Please provide the following information accompanied by the relevant evidence | | | |
| Nature of the appeal | | | |
| Grounds for appeal | | | |
| Do you wish to be represented or wish to present yourself? | If you wish to be presented please provide contact details of representative including your relationship to representative. | | |
| Evidence to support the appeal | <input type="checkbox"/> Please attach any information, recordings you feel was overlooked or was not available during the investigation before the sanction was applied | | |
| Declaration I confirm the following information I have provided to be accurate and true to the best of my knowledge. | | | |
| Name | | | |
| Signature | | Dated | |