

### **Governing rules**

1. The IPA's disciplinary role is governed by the Articles, the Conduct Rules (formerly the Investigation Committee Rules) and the Disciplinary Rules, all of which are available here: <https://insolvency-practitioners.org.uk/about/ipa-articles-of-association-and-regulation-rules/>.
2. Pursuant to Conduct Rules 4.5.1, 5.8 (and 6.1 - 6.3), the Regulation and Conduct Committee may refer Formal Complaints to a Disciplinary Tribunal. The members of Disciplinary Tribunals are appointed by the Disciplinary Chair from the members of the Disciplinary and Appeals Committee. (Conduct rule 1.3, Disciplinary Rule 4)

### **Disciplinary and Appeals Committee (aka "D&AC")**

3. The Disciplinary and Appeals Committee consists of at least 12 persons comprising:
  - a. A Disciplinary Chair,
  - b. An Appeals Chair,
  - c. At least five Individual Members or Honorary Members; and
  - d. At least five Lay Members.

### **The Role of the Disciplinary Chair**

4. The Disciplinary Chair's role is concerned with the appointment of Disciplinary Tribunals to hear Formal Complaints. In particular, the Disciplinary Chair will:
  - (i) Appoint members of the Disciplinary and Appeals Committee to sit as members of a Disciplinary Tribunal,
  - (ii) Appoint replacement tribunals where it is impracticable for the original tribunal to continue,
  - (iii) Appoint a Legal Assessor to assist the Disciplinary Tribunal.

### **The role of the IPA Secretariat's Disciplinary Co-ordinator**

5. The IPA Secretariat will provide administrative support to the Disciplinary Chair. The Disciplinary Chair's point of contact for the IPA Secretariat will be a member of the IPA Secretariat acting in the role of the Disciplinary Coordinator, with whom the Disciplinary Chair will communicate, and, where appropriate, from whom the Disciplinary Chair may seek assistance.
6. The role of the Disciplinary Co-ordinator is separate to and independent of any members of the IPA Secretariat involved in representing the Regulation and Conduct Committee or prosecuting the Formal Complaint.
7. In practice, if there is any requirement for the parties to a Formal Complaint to communicate with the Disciplinary Chair, such communication would be conducted through the appointed Disciplinary Coordinator.

### **Appointment of members of Disciplinary Tribunals**

8. If a Formal Complaint is referred by the Regulation and Conduct Committee to the Disciplinary and Appeals Committee, the Disciplinary Chair (or in their absence the Vice-Chair) must appoint a Disciplinary Tribunal to hear the Formal Complaint. (Disciplinary Rule 4).
9. In practice, the IPA Secretariat (acting through an appointed Disciplinary Co-ordinator) will inform the Disciplinary Chair when a Formal Complaint is referred by the Regulation and Conduct Committee.

10. On receipt of the referral, the Disciplinary Chair must appoint three members of the Disciplinary and Appeals Committee to sit on the Disciplinary Tribunal. The Disciplinary Tribunal must consist of one Lay Member and two Individual Members of the IPA (Individual Members are defined in the Articles as an individual admitted as an Ordinary Member or as a Fellow of the Association, or who becomes a Retired Member). On appointment, Disciplinary Tribunals will therefore consist of at least three persons. (Disciplinary Rules definition of “Tribunal” and Disciplinary Rule 4)
11. A member of the IPA who previously sat in any committee hearing, which made any decision on the case which is the subject of the Formal Complaint, is ineligible for appointment to the Disciplinary Tribunal. (Disciplinary Rule 4)
12. In practice, prior to appointing members of the Disciplinary and Appeals Committee to sit on the Disciplinary Tribunal, the Disciplinary Chair will identify potential appointees from and require the IPA Secretariat (acting through the Disciplinary Coordinator) to ask the potential appointees (a) to conduct conflict checks in relation to the parties concerned in the case which is the subject of the Formal Complaint, and (b) to give an indication of their own availability.
13. To assist in the appointment of the Disciplinary Tribunal, the chair may ask the IPA Secretariat (acting through the Disciplinary Coordinator) for information relating to the areas of expertise of the members of the Disciplinary and Appeals Committee.

#### **Appointment of replacement Disciplinary Tribunals**

14. If the Disciplinary Chair (or Vice-Chair) of the Disciplinary and Appeals Committee is of the opinion that, for any reason, it is impracticable for the original Tribunal to complete the hearing of a Formal Complaint, they must direct that the Formal Complaint be heard by a new Disciplinary Tribunal and appoint a replacement tribunal under the process described above. (Disciplinary Rule 7).

#### **Appointment of Legal Assessor**

15. The Disciplinary Chair will appoint a solicitor or barrister to act as Legal Assessor at the Hearing of a Formal Complaint, and at any pre-hearing review. (Disciplinary Rule 26)
16. To assist in the appointment of the Legal Assessor, the chair may ask the IPA Secretariat (acting through the DC Coordinator) to obtain and provide information relating to the suitability and availability of potential legal assessors.

#### **Appeals of decisions of the Disciplinary Tribunal**

17. Pursuant to Disciplinary Rules 49-54 a member of the IPA may appeal a finding made by a Disciplinary Tribunal. Such appeals do not fall within the remit of the Disciplinary Chair, rather they fall within the remit of the Appeals Chair and are governed by the Appeal Rules. It is not expected that the Disciplinary Chair would have any involvement in appeals against decisions of the Disciplinary Tribunal, although it should be noted that an Appeal Panel has the power to direct that a Formal Complaint be re-heard by a new Disciplinary Tribunal, which would require the Disciplinary Chair to appoint a fresh Disciplinary Tribunal. (Appeal rule 39).

#### **Point of contact**

18. If the Disciplinary Chair needs to contact the IPA Secretariat, s/he should in the first instance contact the appointed DC Coordinator, or Jennifer Hills at [jenniferh@ipa.uk.com](mailto:jenniferh@ipa.uk.com).