



# Disciplinary Rules

## 1. About these rules

- 1.1 These rules may be reviewed and updated from time to time by the Board. Please make sure that you refer at all times to the current version of this Code [<https://www.hfma.org.uk/about-hfma>]
- 1.2 For the purposes of these disciplinary rules:
  - 1.2.1 a reference to the "articles" is to the articles of association of the Association;
  - 1.2.2 a reference to the "chief investigator" is to the person or persons appointed by the chief executive to investigate on behalf of the Board any complaints or allegations against a member or members;
  - 1.2.3 a reference to a "complaint" is to a written complaint to the Association from any person in which it is alleged that grounds for investigation exist;
  - 1.2.4 a reference to "grounds for investigation" is to any one or more of the grounds for investigation set out in paragraph 2;
  - 1.2.5 a reference to a "member" includes all persons and bodies corporate to whom these rules apply and the word "membership" shall be construed accordingly.
  - 1.2.6 a reference to "these rules" is to these disciplinary rules.
- 1.3 Although these rules do not form part of the articles, words and expressions defined in the articles have the same meaning when used in these rules.
- 1.4 These rules apply to all members of the Association, unless the articles or the board otherwise exempt a class of members from them.

## 2. Liability for disciplinary investigation

A member is liable to disciplinary investigation if "grounds for investigation" exist, namely:

- 2.1 it is alleged that the member is guilty of a breach of the Association's ethical code;
- 2.2 the member is convicted by any competent court on a criminal charge involving dishonesty, violence or indecency or is found by a competent court in any civil action to have acted fraudulently or dishonestly;
- 2.3 the member is adjudicated bankrupt or becomes unable to meet his business commitments;
- 2.4 or the member fails to comply with these rules.

## 3. Penalties

Under these rules a member may be:

- 3.1 excluded from membership
- 3.2 suspended from exercising rights of membership for a period of up to two years; and/or
- 3.3 reprimanded.

## 4. Receipt of complaint and consideration of complaint by chief investigator

- 4.1 Within 14 days of the Association receiving a complaint, the Association shall acknowledge receipt of the complaint and pass the complaint to the chief investigator.
- 4.2 The chief investigator shall be charged with investigating the complaint, forming a view as to whether a prima facie case has been made out against the member and making a decision whether in all the circumstances and in his discretion the case ought to go to the board.
- 4.3 The chief investigator shall conduct his investigations in the strictest confidence.
- 4.4 The chief investigator shall have the power to call for, and every member shall have a duty to furnish such information, documents, records or other evidence as the chief investigator deems necessary for his investigations, subject to any legal restrictions, including on matters of confidentiality or legal privilege. If the consent of any other person or party is required for the production of evidence, all persons - including the member against whom the complaint has been made - shall use their best endeavours to obtain such consent.

- 4.5 The member concerned shall be advised of the complaint made against him in writing by the chief investigator within 28 days of the complaint being received by the Association. Such notification to the member concerned shall include details of:
- 4.5.1 the nature of the complaint made against him, including, where known, a short summary of the alleged facts upon which the complaint is based; and
  - 4.5.2 the relevant grounds for investigation.
- 4.6 The chief investigator may, in his discretion, disclose the identity of the complainant. However, the member concerned shall have no right to require disclosure of the identity of the complainant.
- 4.7 The member concerned shall be entitled to make representations in writing and submit relevant documents and/or written witness evidence to the chief investigator, in reply to the complaint made against him.
- 4.8 In deciding whether to refer a complaint to the board, the chief investigator shall be entitled to take into account the result of investigations into any previous complaints received by the Association concerning the member. If the chief investigator intends to take account of such matters in reaching his decision, the member concerned shall be notified of the relevant prior complaint(s) and shall be given an opportunity to make any representations he may choose in relation to the prior complaint(s).
- 4.9 The chief investigator shall inform the board, by notice in writing to the president and the chief executive, of his decision whether to refer the complaint to the board. If the chief investigator is satisfied that a prima facie case has been made out, and considers that in the light of all the circumstances the matter should be referred to the board, the notice shall be accompanied by:
- 4.9.1 a summary of the facts upon which the complaint is based;
  - 4.9.2 copies of any relevant written representations, documents or witness evidence in relation to the complaint; and
  - 4.9.3 a summary of any relevant oral representations or evidence in relation to the complaint.
- 4.10 The chief investigator shall inform the member concerned of his decision whether to refer the complaint to the board. Where the chief investigator has decided to refer the complaint to the board, he shall give his reasons for that decision to the member concerned subject to any legal restrictions, including on matters of confidentiality or legal privilege.
- 4.11 Subject to any legal restrictions, including on matters of confidentiality or legal privilege, the chief investigator shall also inform the complainant of his decision whether to refer the complaint to the board and where the chief investigator has decided not to refer the complaint to the board, he shall give its reasons for that decision to the complainant.

## 5. Consideration of complaint by the board

- 5.1 If the chief investigator has decided to refer the complaint to the board, the board shall meet to consider the complaint within 21 days of the date of the referral notice from the chief investigator.
- 5.2 If the board decides, by a simple majority, that the complaint has been proved wholly or in part it shall make an order to that effect. Such an order may, in the board's discretion, include such of the penalties set out in paragraph 3 (penalties) as it considers appropriate, having regard to the member's status and the board's views as to the nature and seriousness of the complaint and such other circumstances as the board may consider relevant. If the board is of the opinion that the complaint is wholly unfounded, it shall make an order to that effect. In the case of an equality of votes, the president or (if the president is unable or unwilling to chair the meeting) some other trustee chosen by the trustees present and presiding as chair at the meeting shall have a second or casting vote.
- 5.3 Any order of the board shall be notified to the member concerned by the chief investigator, in accordance with paragraph 9 (notices), within 7 days of the date of the order.
- 5.4 An order of the board shall take effect from the date 21 days after the date of service on the member of the order of the board or such longer period as the board may have stipulated in its order, save in the event that prior to such date the member lodges a valid notice to review.
- 5.5 Once the order of the board has taken effect, but subject to any legal restrictions, including on matters of confidentiality or legal privilege, the chief investigator shall also inform the complainant of the board's decision. The complainant shall not be informed of the board's decision in the event that prior to the date on which the order would take effect the member lodges a valid notice to review.

## 6. Review process

- 6.1 The member may request a review of an order of the board by serving a valid notice to review on the chief investigator, in accordance with paragraph 6.2 and paragraph 9 (notices) within 21 days of service of the order on the member concerned or such longer period as the board may have stipulated in its original order.
- 6.2 The notice to review must:
- 6.2.1 state the specific order to be reviewed;
  - 6.2.2 state the order being sought from the board acting on the review;

- 6.2.3 set out the ground(s) for review and the substantive injustice of allowing the order to be reviewed to stand. The grounds so stated shall not thereafter be amended except with the permission of the board;
  - 6.2.4 set out the facts upon which the request for review is based;
  - 6.2.5 attach a copy of every document and witness statement that was placed before the board in connection with the order to be reviewed;
  - 6.2.6 where appropriate, apply for permission to present any new evidence that was not placed before the board in accordance with paragraph 6.6 below;
  - 6.2.7 be accompanied by a review fee of £500. The fee shall not be repaid to the member concerned unless the board allows the review.
- 6.3 The review shall be heard by the board or a committee of the board. For these purposes, the board shall not include any board member who was concerned with the complaint which is the subject of the review or any other person who has been so concerned.
- 6.4 The board may, upon the application of the member concerned or otherwise, make any order, give any direction or instruction considered necessary for the proper conduct of the review proceedings, including but not limited to the following:
- 6.4.1 lengthening or shortening any time limit;
  - 6.4.2 adapting or dispensing with any procedural steps set out in these rules;
  - 6.4.3 requiring a record to be made of the proceedings or any part of them;
  - 6.4.4 requesting any person to attend a hearing;
  - 6.4.5 holding a preliminary hearing; and
  - 6.4.6 adjourning any hearing for such period and upon such terms as he considers appropriate.
- 6.5 The decision of the president in respect of the matters set out above shall be final.
- 6.6 On any request for a review, the board shall hear new evidence that was not previously placed before the board only where it has given permission for that new evidence to be presented. An application for permission to present new evidence must be made in writing in the notice to review, setting out the nature and the relevance of the new evidence and the reason(s) why it was not previously presented to the board. The board's decision as to whether permission shall be granted to present the new evidence shall be final.

- 6.7 On any review, the board may, by a simple majority, affirm, vary or rescind any order of the board originally made or may substitute any other order or orders, on such terms and conditions if any as it thinks appropriate.
- 6.8 Any order of the board following the review shall be notified to the member concerned by the chief investigator, in accordance with paragraph 9 (notices), within 7 days of the date of the order.
- 6.9 An order of the board shall take effect from the date 14 days after the date of service on the member of the order of the board.
- 6.10 Once the order of the board has taken effect, but subject to any legal restrictions, including on matters of confidentiality or legal privilege, the chief investigator shall also inform the complainant of the board's decision.
- 6.11 There shall be no appeal to any court of law or otherwise from an order or other decision of the board, except where the member would be entitled to do so under the general law.

## 7. Costs

- 7.1 Any order made by the board under 5.2 or paragraph 6.7 above, including an order that no further action be taken, may direct that the member pay a sum to be specified by way of costs to the Association. In the event that the board shall find that the complaint is unfounded, it may direct that the Association pay a sum to be specified by way of costs to the member.
- 7.2 The board (acting on review pursuant to paragraph 6 (review process) may in its order cancel, reduce or increase any costs order originally made, and may direct that the member pay to the Association or the Association pay to the member, as the case may be, a sum to be specified by way of costs of the review.
- 7.3 Any costs payable by the member shall be paid within 21 days of the date of the service of the order save that, if valid notice to review is given (in accordance with paragraph 6.2 and paragraph 9 (notices), such costs shall not be payable until determination of the review and shall then be subject to any order made by the board acting on that review. Any costs payable by the Association shall be paid within 21 days of the date of the order of the board.

## 8. Publication

- 8.1 Subject to paragraph 8.2 and to legal restrictions, including on matters of confidentiality or legal privilege;

- 8.1.1 whenever the board makes an order under paragraph 5.2 or paragraph 6.7, it shall in its absolute discretion cause its order to be published in such manner as it thinks fit;
  - 8.1.2 unless the board in its absolute discretion otherwise directs, any publication shall state the name of the member and the order or orders made against him, but need not include the name of any other person concerned in the complaint;
  - 8.1.3 if the board has ordered that no further action be taken on the complaint and/or that the complaint is unfounded, the order shall not be published unless the member so requests, but the chief investigator shall inform the complainant of the reasons for the board's decision.
- 8.2 No publication under paragraph 8.1 shall be made until after the expiry of the review period referred to in paragraph 6 (review process).

## 9. Notices

Any notice or order required or authorised to be given or served under these rules shall be given or served by pre-paid letter sent in the case of the Association to the chief investigator at the registered office for the time being of the Association and in the case of a member to his last known address. Any notice or order so given or served shall be deemed to have been given or served 48 hours after it has been posted.

## 10. Resigning / former members

- 10.1 The board is not obliged to accept the resignation of a member in respect of whom a complaint has been referred to the board or any committee appointed by it under these rules until the complaint has been finally resolved in accordance with these rules.
- 10.2 Former members of the Association remain liable to disciplinary action in accordance with these rules (notwithstanding the cessation of their membership), to the extent that the relevant matters complained of occurred at a time when they were a member of the Association.