

35th India Fellowship Seminar July 2021

IAI Disciplinary Process

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Presiding Officer of Disciplinary Committee



Disciplinary Framework

Agenda:

1. Profession and Legislation
2. Disciplinary Committee (“DC”)
3. Powers of Council
4. Appellate Authority
5. Miscellaneous
6. Q & A

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What is a Profession?

A Profession is a disciplined group of individuals who adhere to ethical standards and who hold themselves out as, and are accepted by the public as possessing special knowledge and skills in a widely recognised body of learning derived from research, education and training at a high level, and who are prepared to apply this knowledge and exercise these skills in the interest of others.

What is a Profession?

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It is inherent in the definition of a Profession that a code of ethics governs the activities of each Profession. Such codes require behaviour and practice beyond the personal moral obligations of an individual. They define and demand high standards of behaviour in respect to the services provided to the public and in dealing with professional colleagues. Further, these codes are enforced by the Profession and are acknowledged and accepted by the community.

Legislation - IAI

Members need to know thoroughly, and comply with:

1. Provisions of the Actuaries Act, 2006*
2. Professional Conduct Standard
3. Actuarial Practice Standards
4. Guidance Notes
5. Rules and Regulations and Directions



* In particular, read Section 31 and the Schedule

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Disciplinary Process - Example

https://www.youtube.com/watch?v=CEhcFJ10Jhk&feature=emb_title

Disciplinary Committee

- Formed under Section 26 of the Actuaries Act 2006
- Actuaries (Procedure of Enquiry of Professional and Other Misconduct) Rules, 2008 lays down detailed procedure for dealing with complaints/information
- Disciplinary Committee, Prosecution Director and Appellate Authority have powers of Civil Court (Section 28 of the Actuaries Act 2006)
- Key aspects
 - Prima facie opinion of Prosecution Director
 - Possible hearing calling upon defendant, complainant, witnesses and PD
 - Arrives at a finding (guilty or not)
 - Sends report to the Council

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Council

- If satisfied with the DC report and finds member guilty
 - Give the member a reasonable opportunity of being heard
 - If found guilty - reprimand / remove temporarily / remove permanently / penalty not exceeding Rs 5 lacs
- Send it back to the DC if not satisfied with the report
- If disagrees with the findings of the DC - appeal to the Appellate Authority itself or direct the PD to do so

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Appellate Authority

- Any member of the Institute aggrieved by any order of the Council imposing on him any of the penalties referred to in section 30, may, within 90 days of the date on which the order is communicated to him, prefer an appeal to the Authority:
- Provided that the Authority may entertain any such appeal after the expiry of the said period of 90 days, if it is satisfied that there was sufficient cause for not filing the appeal in time.

Appellate Authority

The Authority may, after calling for the records of any case, revise any order made by the Council under Section 30 and may-

- (a) confirm, modify or set aside the order;
- (b) impose any penalty or set aside, reduce or enhance the penalty imposed by the order;
- (c) remit the case to the DC for such further inquiry as the Authority considers proper in the circumstances of the case; or
- (d) pass such other order as the Authority thinks fit: provided that the Authority shall give an opportunity of being heard to the parties concerned before passing any order.

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Miscellaneous

- The Council publishes the disciplinary cases in its website, and/or the Actuary India Magazine, being member of the International Actuarial Association. The purpose includes educating the members on how to act professionally and not to commit such mistakes.
- Anonymous complaints are not entertained.
- Members can be charged in relation to matters other than professional misconduct.

Conclusion

- The process is in existence to protect the public and the integrity of the actuarial profession.
- The process is documented in the legislation and must be followed.
- Every member is a brand ambassador of the profession. There is thus a huge responsibility on every member to follow the standards in letter and spirit.
- When in doubt consult another member with relevant experience before it is too late.
- It is worth reading past cases of IAI and other actuarial bodies.

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