

## Professional Services Malpractice (Misconduct) and Appeals Policy

This policy covers our **Professional Services** mentioned below:

- Statements of Professional Standing (SPS) - issued to financial advisers in accordance with the conditions set by the Financial Conduct Authority FCA.
- Certificates of Professional Achievement (CPA) – issued to holders of RDR compliant qualifications but not currently delivering regulated financial advice.
- CeMAP® Professional and CeMAP® Advanced Professional (CeMAP® Pro)– available to those holding our CeMAP®, Advanced CeMAP®, DipMAP® and CeMAP® Diploma

The purpose of this Policy is to provide those using our Professional Services with details of our malpractice (misconduct) and decision Appeals process. It sets out examples of malpractice; the procedure to follow to report cases of suspected malpractice; the role of the SPS / CPD Committee; possible sanctions that we may impose where malpractice has occurred; the external reporting requirements in cases of malpractice; and our monitoring and evaluation procedures. We also include when an Appeal may be made (different categories and criteria); the procedures to which we will adhere; the stages of the appeals process (and timescales) and how the appeals procedure is monitored and reported.

Through this Policy we ensure that:

- Procedures are in place to address concerns that an individual using our Professional Services may have failed to meet the required standards as set out by us. We do this under our obligation to the Financial Conduct Authority (FCA), Financial Supervision Commission (FSC) for those on the Isle of Man; Guernsey Financial Service Commission (GFSC)<sup>1</sup> ; to uphold the public's trust in the financial services sector.
- Procedures are in place to address concerns that an individual holding CeMAP® Pro may have failed to meet our requirements.
- Suspected malpractice (misconduct) cases are treated fairly, consistently, transparently and in a timely manner.

<sup>1</sup>All further references to SPS also includes the Isle of Man Statement of Professional Standing (IOMSPS) and the Bailiwick of Guernsey Statement of Professional Standing (GsySPS) . References to the FCA in this document are also generally applicable to the Isle of Man Financial Supervision Commission (FSC) and the Guernsey Financial Services Commission (GFSC). However, whilst very similar, FSC and GFSC requirements vary in some areas. Advisers operating on the Isle of Man or Bailiwick of Guernsey are advised to familiarise themselves with the FSC GFSC requirements in detail rather than relying solely on the information contained within this document.

Our appeals policy sets out:

- Clearly stated conditions when an individual can appeal a decision made by the SPS / CPD Committee;
- Procedures for dealing with appeals in a fair, consistent and transparent manner;
- Appropriate actions with regard to the individual and other individuals where appeals reveal any failure on our part.

## Section A - Definition of malpractice (misconduct)

1.1 We define malpractice related to SPSs as:

*Any act/ failure to act/ falsification or omission, whether deliberate or not, which results in us being unable to substantiate an individual's claim that they have satisfied the FCA's requirements for the issue / retention of an SPS or not adhered to our terms and conditions.*

1.2 We define malpractice related to CPAs as:

*Any act/ failure to act/ falsification or omission, whether deliberate or not, which results in us being unable to substantiate an individual's claim that they have satisfied our requirements for the issue / retention of a CPA or not adhered to our terms and conditions.*

1.3 We define malpractice related to CeMAP® Pro status as:

*Any act/ failure to act/ falsification or omission, whether deliberate or not, which results in us being unable to substantiate an individual's claim that they have satisfied our CPD requirements for the awarding / retention of CeMAP® Pro Status or acted against our Code of Ethics.*

**FOR ALL PROFESSIONAL SERVICES** – we also define malpractice as:

*Any act / failure to act / falsification or omission, whether deliberate or not, which indicates they have not conducted themselves with honesty or integrity or upheld the dignity and reputation of their profession. This will include not notifying us of any convictions; impending law or professional body investigations which could be considered relevant to their SPS, CPA or CeMAP® Pro status with us.*

- 1.4 We will investigate malpractice related to the issue of **Statements of Professional Standing / Certificates of Professional Achievement** in the following situations (which may be in combination) - this list is not exhaustive.
- i. submission of a false claim regarding the holding of an approved Level 4 qualification including any gap-fill;
  - ii. submission of a false claim regarding the completion of CPD activities;
  - iii. submission of a false claim regarding adherence to APER / Code of Conduct (COCON)
  - iv. acting in breach of Our Code of Ethics / Guiding Principles for Professional Conduct / terms and conditions or failing to act with honesty and integrity.
  - v. failing to act upon our request for information required to substantiate an individuals CPD, APER or Ethics declaration.
- 1.6 In addition, we will consider cases of malpractice that do not strictly adhere to the types listed above, but are deemed an attempt to gain an unfair advantage over other individuals in the acquisition of or retention of an SPS / CPA or CeMAP® Pro.
- 1.7 We will investigate suspected malpractice (misconduct) related to the granting of **CeMAP® Pro** status in the following circumstances (which may be in combination):
- i. submission of a false claim regarding the holding of an appropriate CeMAP® qualification.
  - ii. acting in breach of Our Code of Ethics; terms and conditions or failing to act with honesty and integrity.
  - iii. submission of a false claim regarding the completion of CPD activities;
  - iv. failing to act upon our request for information required to substantiate an individuals CPD declaration.

For individuals who hold an SPS or other regulatory responsibility, reported or suspected cases of malpractice for failure to behave in an ethical manner, misconduct, illegal activity or a breach of FCA / FSC regulations will be referred, without prejudice, directly to the FCA / FSC / GFSC.

**Section B - Reporting suspected cases of malpractice (misconduct)**

2.1 An allegation of malpractice (misconduct) may be made by:

- i. a customer / client of the individual;
- ii. an employer, colleague or other professional contact;
- iii. the Regulator;
- iv. an awarding body; professional body or training organisation;
- v. an FCA accredited body;
- vi. us; or
- vii. an individual who wishes to remain anonymous.

2.2 Any case of suspected malpractice should be reported in writing in the first instance to:

The London Institute of Banking & Finance  
Administrative Centre  
4–9 Burgate Lane  
**Canterbury**  
Kent CT1 2XJ

2.3 A detailed account should be made in writing at the earliest opportunity, either by email to [customerservices@libf.ac.uk](mailto:customerservices@libf.ac.uk) or via post, to the Customer and Student Services team at the address above in 2.2.

2.4 Suspected malpractice should be reported to us as soon as possible. For individuals who give retail investment advice or mortgage advice, allegations / complaints of non-compliance with the APER / COCON should be referred in the first instance to the firm where the individual is employed.

2.5 In cases of suspected malpractice the full written report with any relevant supporting evidence should include, but is not limited to:

- i. the individual's name, FCA individual reference number / firms reference number and member or SPS number if known;
- ii. the firm where the individual works;
- iii. the name of any other individuals concerned;
- iv. statements from other individuals involved;
- v. a description of the suspected malpractice;
- vi. any available supporting evidence.

2.6 In cases of suspected malpractice reported by a third party, or an individual who wishes to remain anonymous, we will take all reasonable steps to authenticate the reported information and to investigate the alleged malpractice, provided that the reported information provides reasonable grounds for undertaking the malpractice procedure as outlined in this policy. We will, upon request, take all reasonable precautions to ensure the anonymity of those reporting suspected malpractice.

2.7 We reserve the right not to investigate cases where reported information does not provide reasonable grounds or sufficient evidence on which to base further investigation.

2.8 We reserve the right not to follow the processes in this document and to withdraw an SPS / CPA / CeMAP Pro status immediately, in the following instances:

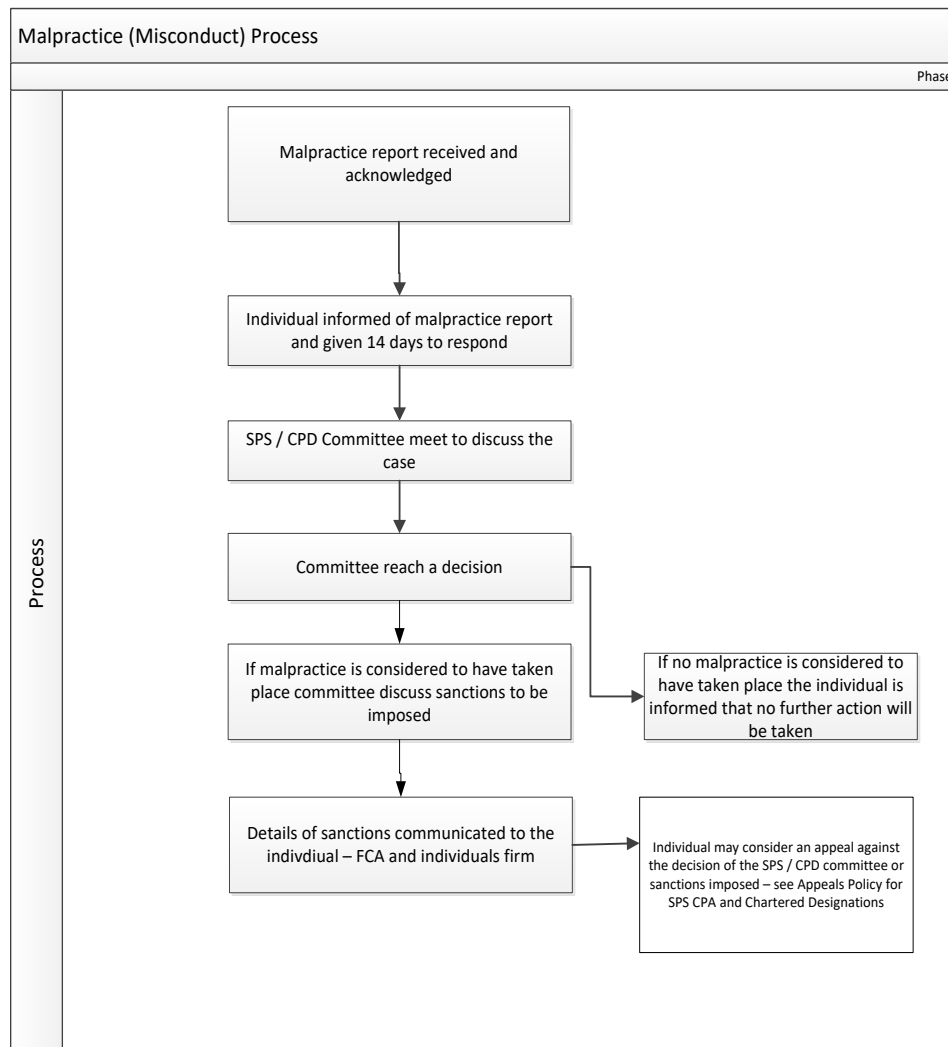
- i. Notification received directly from an individual's employer / network, provided this contains sufficient information to satisfy us that the individual should no longer hold Professional Services with us. We will notify the individual / firm and the FCA when an SPS has been withdrawn with immediate effect. The right to appeal against this decision is available through the Appeals process contained in this policy.
- ii. Notification received directly from a Relevant Authorised Person(s) firm. No appeal can be made to us about this decision.
- iii. Cases of malpractice reported to us directly by the FCA will be acted upon immediately. These may result in the immediate withdrawal of an individual's SPS /

CPA / CeMAP® Pro. We will confirm to the individual / firm and the FCA that an SPS / CPA has been withdrawn with immediate effect. No appeal can be made to us about this decision.

- 2.9 We will also investigate cases of potential or suspected malpractice when these have been discovered via internal administration, audit or quality assurance procedures.

## Section C - Our procedures for dealing with suspected cases of malpractice (misconduct).

- 3.1 We will investigate all cases following the process shown below, where it deems there are reasonable grounds for investigation to establish whether malpractice has occurred. We will promptly take all reasonable steps to address any malpractice, or to mitigate any adverse effect as far as possible, and correct it.



- 3.2 We will acknowledge the person reporting the suspected case of malpractice within five working days of the initial communication. Where there are grounds for an investigation, a full report containing the detail of the suspected malpractice will then be completed within an agreed time frame. All parties involved in the case, including the individual / organisation suspected of committing malpractice, will then be contacted by us within ten working days of the completion of the full report. We may also contact other individuals who may be able to provide evidence relevant to the case.
- 3.3 The individual suspected of malpractice will be informed, by email, of the following:
- i. the grounds for an investigation;
  - ii. details of all relevant information and dates, where known, and timescales for the investigation;
  - iii. that if malpractice is considered proven by the SPS / CPD Committee, then sanctions may be imposed reflecting the seriousness of the case;
  - iv. grounds for a right to appeal; and
  - v. we have a duty to inform the relevant authorities / regulators.
- 3.4 Individuals have a right to provide a personal written / email response with any supporting documentation to help substantiate the response, if applicable, relating to the suspected malpractice. This must be received by us within 14 calendar days of the date of the letter advising that a malpractice hearing will take place. We will not accept information which could reasonably have been made available to us prior to commencement of the malpractice process.
- 3.5 Where more than one individual is contacted regarding a case of suspected malpractice, we will contact each individual separately.
- 3.6 Individual(s) under investigation and those making the allegation, except our employees, are not entitled to be present at meetings of the SPS / CPD Committee.
- 3.7 The SPS / CPD Committee will comprise a minimum of five members, at least one of whom will not be a member of our Business Development directorate / team.

- 3.8 The Committee reserves the right to request further information relating to the case. This may include referring the matter to our Malpractice Committee; the individuals' employer and / or the FCA.
- 3.9 The Committee has 25 working days from receipt of the report pertaining to the incident to determine the outcome of the case. However, if a delay is expected the parties concerned will be informed as early as possible of the reason for the delay. The Committee will determine the outcome based upon all the evidence available to it at the time, including any personal written response that has been received.

## Section D - Outcomes and resolution

- 4.1 Once the SPS / CPD Committee have determined the outcome, it will inform the individual(s) concerned within two working days of the decision.
- 4.2 If, in the view of the Committee, malpractice (misconduct) has taken place, the individual(s) concerned will be informed of the outcome, with details of the committee's findings and what sanctions, if any, are to be applied. In the case of SPS holders - the individual's firm and the FCA would also be notified of the Committee's findings.
- 4.3 If, in the view of the Committee, there is no malpractice case to answer, the individual(s), their firm or the informant will be informed in writing and no sanction will be applied.
- 4.5 The individual has a right to appeal, except in certain circumstances, against a malpractice (misconduct) outcome reached by us if they believe that the policy or procedure has not been followed properly or has been implemented unfairly – See page 10 onwards.
- 4.6 The Our SPS / CPD Committee is empowered to impose one or more sanctions upon individual(s) where it is considered malpractice (misconduct) has taken place. The Committee will make sure that any sanctions imposed reflect the seriousness of the act and that all similar cases are treated in an equitable, fair and unbiased manner.
- 4.7 Listed below are examples of sanctions, one or more of which may be applied to an individual who it has been considered has committed malpractice (misconduct). This list is not exhaustive and other sanctions may be applied on a case-by-case basis, as recommended by the SPS / CPD Committee. No refunds will be made for fees paid for a service / product which is withdrawn as a result of sanctions approved by the Committee.



- i. Reprimand
- ii. Expulsion from CeMAP® Pro Status
- iii. Referral of the case to the individuals firm
- iv. Referral of the case to the FCA (SPS holders only).
- v. Withdrawal of the SPS / CPA
- vi. Disqualification from reapplying for; Membership or registering for any future London Institute of Banking & Finance service or qualification, for a stated period of time OR indefinitely.

Any or all of the sanctions deemed necessary by the SPS CPD Committee may be applied immediately or in retrospect where deemed appropriate. This means they can be put in place prior to any Appeal decision. Upon successful Appeal, services would be reinstated and all parties informed.

- 4.8 If an SPS, CPA or CeMAP Pro® is withdrawn, you must destroy all copies of any related Certificate / logo design and cease to use any designation letters you used after your name for these services. Access to any electronic versions through MyLIBF will no longer be available.

## Appeals

### Section E – Criteria for Appeals

- 5.1 Appeals can only be made against final decisions made by the SPS / CPD Committee. The criteria under which an appeal may be submitted to us are as follows:
- i) The policy or procedure for the decision reached was not followed correctly or applied fairly by us.
  - ii) New and relevant information or evidence that could not have been brought to our attention at the time the decision was made, has become available.
- 5.2 An appeal cannot be made against the requirements set by the FCA for the issuing and retention of an SPS or where the FCA or Relevant Authorised Person (RAP) firm has instructed us that an individual is no longer eligible for an SPS.

## Section F - Making an appeal

6.1 An appeal application must be submitted to us within 15 working days of our communication advising the outcome of the malpractice (misconduct) decision made by the SPS / CPD Committee.

6.2 The appeals application form, available on request from our customer services team, supporting evidence and fee should be submitted to us at:

The London Institute of Banking & Finance

Administrative Centre

4–9 Burgate Lane

Canterbury

Kent CT1 2XJ

T: +44 (0)1227 818609

E: [customerservices@libf.ac.uk](mailto:customerservices@libf.ac.uk)

6.3 The appeal must clearly state the criteria that constitute the grounds for the appeal being made.

6.4 There are two stages to our appeal process:

i. Stage one – the Complaints and Appeals Review Group will investigate the appeal. Should you be unhappy with the outcome of the stage one appeal, a second appeal stage is available.

ii. Stage two – the case will be reviewed by the Operating Committee.

6.5 The stage one appeal process must be completed before the stage two appeal.

6.6 Each appeal stage has an associated fee. (See "Appeals" under the Regulatory section - page 2 - of [our additional fees policy](#) for current rates).

- 6.7 To make sure we deal with the appeal as quickly and smoothly as possible, the following points must be noted; if these requirements are not followed we reserve the right not to process the application:
- i. An appeals application form must be submitted within the timescales set out in Section 6.1. No applications will be accepted after this deadline.
  - ii. The appropriate fee must accompany the application form.
  - iii. We will not take responsibility for seeking evidence beyond that supplied by the individual making an application for an appeal. All supporting evidence must be supplied with the application form.
  - iv. We will not accept evidence that could reasonably have been made available to us prior to commencement of the malpractice and appeals process.
- 6.8 Following the completion of the appeals process one of the following outcomes will apply:
- An appeal is upheld (in part or in full). Where appropriate, some form of action is taken.
  - An appeal is not upheld. Reasons for this decision will be clearly given. You may either choose to take no further action or to take the complaint for external referral.
- 6.9 Upon appeal and throughout the appeals process you cannot have legal representation. You are able to take legal advice should you deem this necessary. You will need to meet all costs associated with such an instruction, irrespective of the result of any appeal.
- 6.10 You may be invited by us to appear in person at any stage of the appeal process and you may also request to do so; however, we are under no obligation to accede to such a request.
- 6.11 All the information submitted during the appeals process is treated as confidential.

## **Section G – Stage one appeal**

- 7.1 If the appeal does not meet the criteria then it will be rejected and will not enter the appeals process. If an appeal application is rejected by us, the appeals application form and fee will be returned to the applicant, and the applicant will be given the reason for the rejection of the appeal.
- 7.2 We will acknowledge receipt of an accepted appeals application form within five working days. You will be informed of the time period within which the appeal will be considered.
- 7.3 Accepted appeal applications will be considered by our Complaints and Appeals Review Group, which will be compiled of members with no previous involvement in the decision being appealed.
- 7.4 The Complaint and Appeals Review Group will investigate the appeal, including the policy and procedures followed in reaching the original decision being appealed, and the facts upon which the decision was based. A written response will be provided outlining the issues that have been considered, the findings and the outcome of the investigation. We will keep you fully informed of progress.
- 7.5 If the stage one appeal is upheld, we will refund the fee. If the appeal is rejected but you disagree with the outcome of the stage one appeal, you are able to submit a stage two appeal but no refund for the stage one appeal will be made.

## **Section H - Stage two Appeal**

- 8.1 If, after the first appeals process, the dispute is still unresolved, you may request our Operating Committee undertake a review of the appeal. The Operating Committee will appoint an appeal panel, comprising at least three members of the Operating Committee with no previous involvement in the decision being appealed and who have had no input in the first appeal.
- 8.2 A stage two appeal review must be requested and received by us, within ten working days of the date of the letter / email advising the outcome of the first appeal. You should formally

request the final review, in writing, clearly setting out how our appeals process has failed to address your concerns. The written request must be sent to the Customer Student Support Services team at the address in section 6.2 with the appropriate fee. (See "Appeals" under the Regulatory section - page 2 - of the our [additional fees policy](#) for current rates).

- 8.3 Evidence regarding the original decision or outcome being appealed will be accepted for the final review. Additionally, evidence that was not available for the stage one appeal but that materially supports the stage two appeal will also be reviewed.
- 8.4 We will acknowledge receipt of the stage two appeal request within five working days and inform you of the time period for the review. The timescale will be dependent on the convening of the review panel set up by the Operating Committee.
- 8.5 If the final review undertaken by the appeal panel finds in your favour, we will act to address the original matter of the appeal. All appeal fees will be refunded. Regardless of the final stage review outcome, the appeal panel may instruct us to investigate and review our policy and procedure.
- 8.6 If the stage two appeal upholds the outcomes of the stage one appeal, then the appeals process is deemed to have been exhausted by us.

## **Section I - Quality assurance, monitoring and review**

- 9.1 Records of all malpractice; appeal cases and their outcomes are maintained by us for a period of at least two years. When appropriate, details regarding such cases may be submitted to the FCA. Appeals are monitored quarterly by the Complaints and Appeals Review Group in line with its terms of reference. Malpractice (misconduct) cases are monitored by our SPS / CPD Committee.
- 9.2 This policy has been developed to comply with all relevant legislation and regulation. We continually review our policies to maintain the highest possible standards of consistency and quality.
- 9.4 The policy is formally approved by the Complaints and Appeals Review Group and SPS / CPD Committee. They exercise the powers delegated to the Group and Committee it in respect of quality assurance standards and compliance with regulatory regimes.