

## **Malpractice Policy for Statements of Professional Standing, Certificates of Professional Achievement and Chartered Designations**

### **Summary of Policy**

The London Institute of Banking & Finance issues Statements of Professional Standing (SPS) to financial advisers in accordance with the conditions set by the Financial Conduct Authority FCA. It also issues Certificates of Professional Achievement (CPA) and Chartered Designations to those holding high level financial services qualifications who undertake a programme of annual Continuing Professional Development (CPD) and declare adherence to Our Code of Ethics.

The purpose of the Malpractice Policy for Statements of Professional Standing (SPS), Certificates of Professional Achievement (CPA) and Chartered Designations is to provide these individuals with details of the malpractice 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.

Through the Malpractice Policy for SPS, CPA and Chartered Designations, we ensure that:

- procedures are in place to address concerns that an individual provided with our SPS, 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 or Guernsey Financial Service Commission (GFSC)<sup>1</sup>.
- procedures are in place to address concerns that an individual holding a CPA or Chartered Designation may have failed to meet our requirements in order to retain this certificate.
- suspected malpractice cases are treated fairly, consistently, transparently and in a timely manner.

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<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.

## Section A - Definition of malpractice

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 individuals claim that they have satisfied the FCA's requirements for the issue / retention of an SPS.*

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 individuals claim that they have satisfied our requirements for the issue / retention of a CPA.*

1.3 We define malpractice related to Chartered status as:

*Any act/ failure to act/ falsification or omission, whether deliberate or not, which results in us being unable to substantiate an individuals claim that they have satisfied our CPD requirements for the awarding / retention of Chartered Status.*

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  
or
- v. failing to act upon our request for information required to substantiate an individuals CPD, APER or Ethics declaration.

1.5 We will limit investigations of malpractice related to the granting of Chartered Designations to the following types of malpractice (which may be in combination):

- i. submission of a false claim regarding the holding of an appropriate Level 6 qualification
  - ii. submission of a false claim regarding the completion of CPD activities;
  - iii. failing to act upon our request for information required to substantiate an individual's CPD 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 an SPS / CPA or Chartered Designation.
- 1.7 For individuals who hold an SPS, 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.
- 1.8 Complaints against those holding Chartered Designations relating to other matters (such as a breach of the Our Code of Ethics) will be investigated under the [Our's Member Disciplinary procedures](#) as opposed to this Malpractice policy.

## Section B - Reporting suspected cases of malpractice

- 2.1 An allegation of malpractice regarding the issue of Statements of Professional Standing / Certificates of Professional Achievement or Chartered Designation may be made by:
  - i. a customer / client of the individual;
  - ii. an employer, colleague or other professional contact;
  - iii. the FCA / FSC;
  - iv. an awarding 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  
United Kingdom

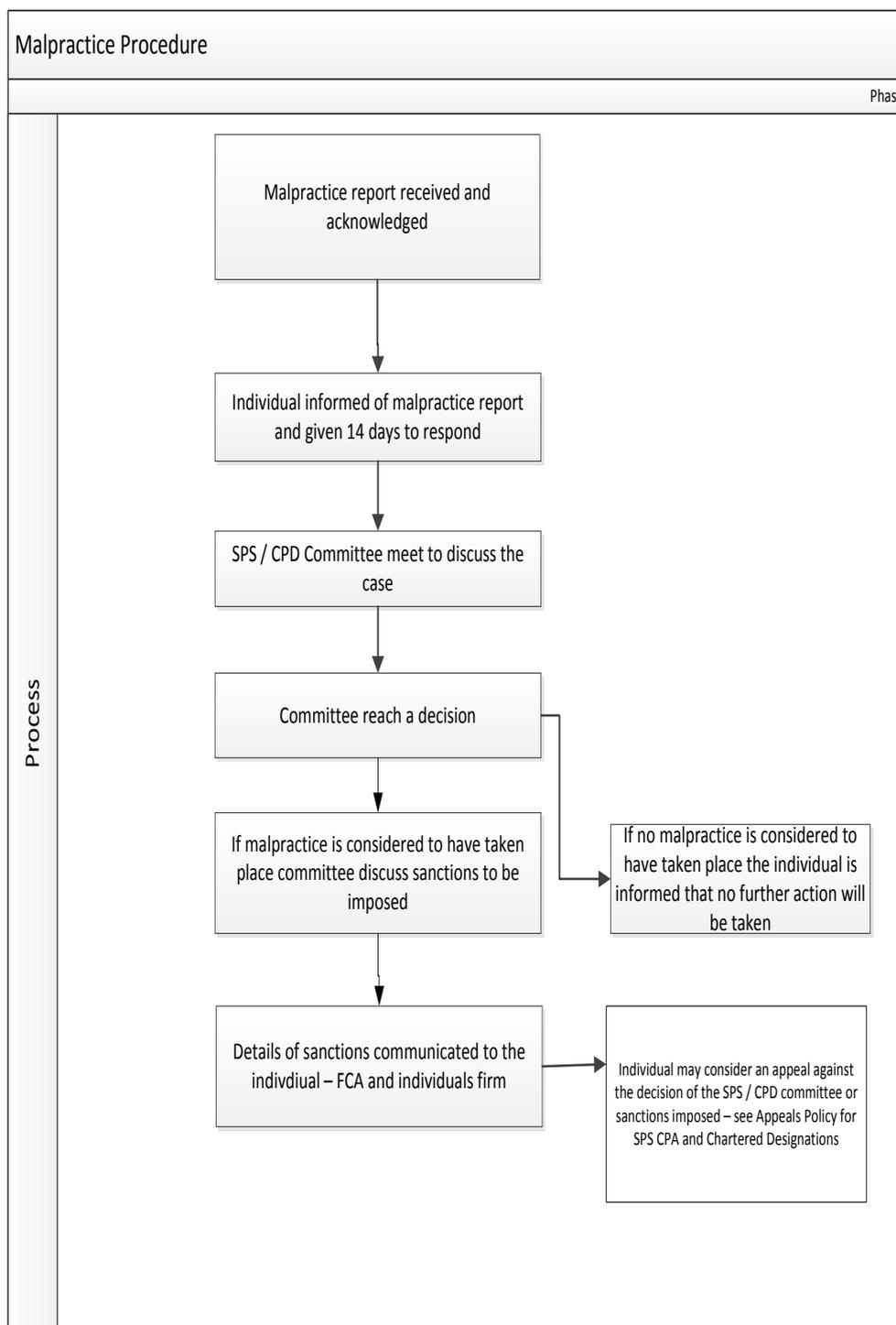
- 2.3 Thereafter, a detailed account should be made in writing at the earliest opportunity, either by email to [customerservices@libf.ac.uk](mailto:customerservices@libf.ac.uk) or via post, to the Customer and Student Services team at the address above in 2.2.
- 2.4 Suspected malpractice should be reported to us as soon as possible. For individuals who give retail investment advice allegations / complaints of non-compliance with the APER / COCON should be referred in the first instance to the firm where the individual is employed or the FCA.
- 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 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 an SPS / CPA. We will notify the individual / firm and the FCA that their SPS / CPA

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 against this decision to us.
  - 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. We will notify the individual / firm and the FCA that their SPS / CPA has been withdrawn with immediate effect. No appeal can be made against this decision to us.
- 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.**

- 3.1 We will investigate all cases following the process shown in **Figure 2** below, where it deems there are reasonable grounds for investigation to establish whether malpractice has occurred. It will promptly take all reasonable steps to address any malpractice, or to mitigate any adverse effect as far as possible, and to 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 reasonable 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 the **The London Institute of Banking & Finance is a registered charity, incorporated by Royal Charter.**

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. that 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 the Our 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 for employees of The London Institute of Banking & Finance, 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 **Professional Services** 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

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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 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 individuals firm and the FCA would also be notified of the Committee's findings.
- 4.3 Cases of malpractice where the individual concerned is also our member will also be referred internally for consideration under the our [Disciplinary Process for Members](#).
- 4.4 If, in the view of the Committee, there is no malpractice case to answer, the individual(s), their firm and the FCA 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 outcome reached by us if they believe that the policy or procedure has not been followed properly or has been implemented unfairly – for more detail see the [Appeals policy for SPS / CPA and Chartered Membership](#)
- 4.6 The Our SPS / CPD Committee is empowered to impose one or more sanctions upon individual(s) where it is considered malpractice 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. 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. Referral of the case to the firm (SPS holders only).
  - ii. Referral of the case to the FCA (SPS holders only).
  - iii. Referral of the case to the firm and FCA (SPS holders only).

- iv. Withdrawal of the SPS / CPA
- v. Withdrawal of Chartered or Member designation
- vi. Disqualification from reapplying for that designation or registering for any future London Institute of Banking & Finance service or qualification, either for a stated period of time or indefinitely.

- 4.8 If an SPS, CPA or Chartered Designation is withdrawn, individuals must destroy all copies of the related Certificate. Access to any electronic version through MyLIBF will no longer be available.

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

- 5.1 Records of all reported or suspected malpractice cases and their outcomes are maintained for a period of at least five years, and are subject to regular monitoring and review. When appropriate, detail regarding such cases may be submitted to the FCA / FSC.
- 5.2 This policy has been developed to comply with all relevant legislation and regulation.
- 5.3 The policy is formally approved by our SPS / CPD Committee, a standing committee of The London Institute of Banking & Finance Board of Governors. It exercises powers delegated to it in respect of quality assurance standards and compliance with regulatory regimes. The policy, and procedures outlined within it, are subject to regular monitoring and review by to ensure they remain appropriate and up to date.

### About The London Institute of Banking & Finance

We support and promotes professionalism in the regulated advice sector and the wider financial services industry through the provision of qualifications, continuing professional development services and the dissemination of best practice. We are a registered charity incorporated by Royal Charter, and recognised as an awarding organisation by Ofqual.

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