



## Disciplinary Committee

26 April 2023, 09:15 – 12:15 via MS Teams

<b>Attending:</b> Nicola Williams, Chair Robert Garvin Rosalyn Hayles Velia Soames	<b>Executive Staff:</b> Sarah Borthwick, Secretary to the Disciplinary Committee Jenny Higgins, Head of Disciplinary Investigations Julia Wanless Catherine Mouat, Disciplinary Investigation Coordinator (note taker) Alison Simpson, Case Manager (Items 10 – 12) Karen Nicol, Disciplinary Lawyer (Items 7, 10 and 11) Hinna Alim, Judicial Committees Deputy Clerk
<b>Apologies:</b> Kevin Doerr	

Item	Title
1.	<b>Welcome and apologies</b> It was noted that Kevin Doerr had sent his apologies. NW welcomed Hinna Alim, Judicial Committees Deputy Clerk, to the meeting.
2.	<b>Declaration of Conflicts of interests</b> None declared.
3.	<b>Chair's update</b> The Committee noted NW's update, in particular that she had attended the February 2023 Regulatory Board meeting and a Diversity, Equity and Inclusivity (DEI) workshop for Regulatory Board members.
4.	<b>Executive's Update</b> SB introduced the paper and highlighted that both the Disciplinary Investigation Team and the Judicial Committees Team were operating at full complement. SB also highlighted that two consultations on the Actuaries' Code had closed on 15 April 2023 – one concerning DEI and one concerning changes required as a result of the new Disciplinary Scheme (in particular, the provisions on reporting convictions and adverse findings). JH provided further detail about the FRC's oversight activities. She clarified that one action concerning indicative sanctions was still open. The FRC were keeping this action open until they had seen the new Indicative Sanctions Guidance which would be published in August 2023 in support of the new Disciplinary Scheme. JH further advised that the FRC were planning an audit for later in 2023, possibly with a focus on new Disciplinary Scheme and to observe a Disciplinary Committee meeting. JH also updated the Committee on the introduction of the IFoA's new Contact Management System (CMS) which would include a case management element for disciplinary cases.
5.	<b>Minutes and Actions</b> The Committee approved the minutes of the 19 January 2023 meeting and agreed with the suggested redaction. The Committee noted the action sheet. <b>Action: SB to arrange publication of redacted minutes.</b>



Item	Title
6.	<p><b>Scheme Implementation</b></p> <p>JH presented the paper and highlighted;</p> <ul style="list-style-type: none"><li>• The implementation date for the new Disciplinary Scheme was now August 2023, due to previously advised work on the CMS.</li><li>• Any Regulations which required minor amendment would be brought to the Committee at their June meeting</li><li>• Discussions were underway with the IFoA's Communications Team and further information would be brought to the June meeting</li><li>• The Regulatory Board's consultation on the Actuaries' Code and reporting convictions etc was now closed and discussion were taking place regarding the next steps and timescales.</li></ul> <p>VS and RG asked whether there would be training on the new Scheme for the Committee members and SB advised that they would be invited to the sessions scheduled for Disciplinary Pools and Investigation Actuaries.</p>
7.	<p><b>Guidance for approval</b></p> <p>JH introduced the paper which provided a status update on each of the Guidance documents being drafted and approved by the Committee to support the new Scheme. JH thanked KD and RH for reviewing the Guidance and providing helpful feedback. The following Guidance was presented to the Committee for approval;</p> <ul style="list-style-type: none"><li>• Virtual and in person hearings</li><li>• Timeframes for investigations and proceedings</li><li>• Costs</li><li>• DEI</li></ul> <p><b><i>Virtual and in person hearings Guidance</i></b></p> <p>RG made some minor drafting comments on the Virtual and In Person Hearings Guidance, which JH said she would amend. VS also suggested that under matters to be considered there should be consideration of the costs for all parties involved of holding a hearing virtually and online. After discussion it was agreed that JH would amend the Guidance to reflect this point.</p> <p>RH suggested that the interests of justice should be explicitly referred to in the Guidance.</p> <p><b><i>Timeframes for investigations and proceedings Guidance</i></b></p> <p>JH noted that this Guidance had been updated last year and this new draft retained most of the timeframes that had already been agreed by the Committee. She noted that the new Disciplinary Scheme may be faster and therefore suggested that the Committee review the timeframes after 6 to 12 months of the new Scheme being in force. VS commented that this Guidance showed transparency from the IFoA that they were willing to publish timelines and noted that many other regulators do not.</p> <p>NW noted that the Guidance provided examples of the types of cases that may be classified as simple, but did not give examples for intermediate and complex cases. It was agreed that examples or features of intermediate and complex cases should be included in the Guidance.</p> <p><b><i>Costs Guidance</i></b></p> <p>It was noted that this Guidance reflected the new policy relevant to the new Disciplinary Scheme, in particular that a fixed amount of costs would be awarded against the Respondent where there was a finding of prima facie misconduct at the Adjudication Panel stage. VS highlighted that it would be vital the IFoA highlighted the possibility of costs to the Respondent in communications. JH advised that all relevant templates and information notes would be updated to ensure this was clear.</p>



Item	Title
	<p><b>DEI Guidance</b></p> <p>It was noted that this was a new topic of Guidance and the Executive had received assistance from an external DEI consultant in the preparation of it. JH explained that the DEI Guidance focussed on decision making under the new Disciplinary Scheme. JH and JW clarified that it did not cover the appointment of the Disciplinary Pool as this was not something that Committee had oversight of and appointments to the Disciplinary Pool were made by the Regulatory Appointments Committee (RAC). JW explained that, when recruiting, the RAC applied the overarching IFoA DEI guidance and the RAC had received DEI training.</p> <p>The Committee approved the three pieces of Guidance, in principle, subject to any further amendments to be made following the meeting. The Guidance would then be approved by KD and RH.</p> <p><b>Actions: JH to incorporate changes to Guidance and pass to KD and RH for approval.</b></p>
8.	<p><b>Publication Guidance</b></p> <p>JH introduced the paper which had been brought to the Committee following the January 2023 meeting at which a number of policy issues were raised in relation to publication. It was felt that this was an opportune time to review the policy issues as new Publication Guidance would be published in August to support the new Disciplinary Scheme.</p> <p>JH took the Committee through the paper and after discussion the Committee agreed that with regard to length of publication the new Publication Guidance should provide that published determinations be published for 3 years or the length of time the sanction is effective for, whichever is longer. For cases where the Respondent was excluded or expelled, the determination should be published for the period of exclusion or expulsion plus 10 years or until the member successfully applied for readmission.</p> <p>The Committee further agreed that the Guidance should maintain the same approach as currently to naming Respondents in determinations, to naming third parties in determinations and to where determinations are published. The Committee agreed that a caveat should be included in relation to search engines and The Actuary magazine etc.</p> <p>JH agreed to update the draft Guidance and would pass it to RH and KD for approval on behalf of the Committee. NW thanks JH for all her work on this issue.</p> <p><b>Action: JH to update draft Publication Guidance and pass to KD and RH for approval.</b></p>
9.	<p><b>Training</b></p> <p>SB introduced the paper which provided an update on the training plan which the Committee had approved at their January 2023 meeting. It was noted that the training dates in the plan had been adjusted as following its approval, the new Scheme implementation had been moved to August 2023. The Committee noted that the initial session for the Conveners, Legal Advisers and some Disciplinary Pool members had been arranged for 12 June 2023 and arrangements were underway for the remainder of the sessions. SB reminded the Committee that they would be invited to attend the remainder of the training sessions.</p>
10.	<p><b>Case Update Report</b></p> <p>JH and JW presented this paper which covered the period 12 December 2022 to 31 March 2023.</p> <p>JH firstly provided an overview of the cases that had been investigated over that period. The Committee noted that six allegations had been received and there were eight live cases. It was also noted that 13 cases were being prepared for Tribunal. The Committee were pleased to note that, with the exception of one case which had been raised with the Committee before, all investigations were being progressed well within the required timescales.</p> <p>JW provided a summary of the Panels and outcomes over the relevant period. The Committee noted that five cases had been considered by Adjudication Panels.</p>



Item	Title
	<p>The Committee also noted that the Independent Examiner had reviewed the outcome of an Adjudication Panel determination and affirmed the outcome of that Panel.</p> <p>JW further advised that of the 13 live cases at the Disciplinary Tribunal Stage, three had been passed to the Clerking Team and had either been scheduled or were in the process of being scheduled.</p> <p>The Committee thanked the Executive for all their work on progressing cases.</p>
11.	<b>Feedback</b> <p>SB introduced the paper which provided the Committee with the feedback received from Panel members, Legal Advisers, and a referrer of a complaint. The Committee noted that feedback remains generally positive.</p>
12.	<b>Determinations Review Sub Committee</b> <p>VS presented the paper and commented that the Sub-Committee continue to be impressed by the overall quality of the determinations. The Committee noted that the Sub-Committee had had a follow up discussion about the Sub-Committee obtaining any comments the Conveners may wish to make in response to the Sub-Committee's feedback and it had been agreed that when the feedback is sent to the Conveners, they will be invited to provide comments in response to the Sub-Committee.</p> <p>The rest of the paper was noted by the Committee.</p>
13.	<b>Objectives update</b> <p>SB presented the paper setting out the progress of the Committee's objectives for 2022/23 and all the business as usual work that had been undertaken in support of their Terms of Reference. SB explained that progression of the objective relating to DEI had not progressed as much as desired and noted that this action would be picked up with the IFoA's new DEI Business Partner and the Committee were keen that they be invited to attend the June Committee meeting.</p> <p>SB highlighted that the Committee should start considering what their objectives for 2023/24 should be and whether they wished to only set annual objectives or some longer terms objectives too. It was agreed this would be discussed at the June meeting.</p> <p><b>Action: SB to contact DEI Business Partner</b></p>
14.	<b>Risk Register</b> <p>The Committee noted the risk register and the chart which tracked the movement of residual risks. SB noted that the Committee was keen to carry out additional work on the Risk Register. It was agreed that an in-depth review of the Risk Register should be carried out once the new Disciplinary Scheme was in place. This had already been added to the forward work plan.</p>
15.	<b>Matters to raise with Regulatory Board</b> <p>There were no suggested matters to escalate to Regulatory Board. NW noted that the next Regulatory Board meeting was on 17 May 2023, which she would be attending.</p>
16.	<b>Schedule of Guidance</b> <p>This was noted.</p>
17.	<b>Schedule of term times</b> <p>This was noted.</p>
18.	<b>AOB</b> <p>None.</p>

**Dates of Next Meetings:**

- Tues 20 June 2023, Wed 11 October 2023 and Tues 16 Jan 2024