

## Institute and Faculty of Actuaries, **Regulatory Board**

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| <b>Subject</b>                          | Annual Report of the Disciplinary Committee  |
| <b>Meeting date</b>                     | 25 July 2023   |
| <b>Previous Board Steer/Approval</b>    | Last annual report provided in July 2022   |
| <b>International Issues Considered?</b> | N/A  |
| <b>Author</b>                           | Sarah Borthwick, Disciplinary Policy Manager,<br>Nicola Williams, Disciplinary Committee Chair |
| <b>Reviewer</b>                         | Fiona Goddard, Interim Head of Regulatory Policy   |
| <b>Purpose</b>                          | Noting   |

### **A: Introduction**

1. This is the second annual report of the Disciplinary Committee ('the Committee') to the Regulatory Board ('the Board') as the Committee's oversight body<sup>1</sup>. As part of its remit, the Board has the responsibility of overseeing the delivery of the IFoA's disciplinary and enforcement functions and monitoring the work of the Committee.
2. The Committee oversees the management and operation of the Disciplinary and Capacity for Membership Schemes, including overseeing the Executive's delivery of the disciplinary elements of the regulatory strategy. The Committee has a Determinations Review Sub-committee which reports to it on a quarterly basis.
3. The Board is asked to note this report which covers the period between 1 June 2022 to 31 May 2023.

### **B: Administration and Membership**

4. The Committee's terms of reference can be found at **Appendix 1** to this paper.
5. The Committee is Chaired by Nicola Williams, who also sits on the Regulatory Board. The member composition of the Committee, including member tenures, can be found at Appendix 2. Sarah Borthwick, Disciplinary Policy Manager, provides Secretariat support to the Committee.
6. The Committee met four times with meetings on 16 June 2021, 22 September 2022, 17 January 2023 and 26 April 2023. The minutes of Committee meetings are published on the IFoA website and shared directly with the FRC.
7. In May 2023 Kevin Doerr, an actuary member of the Committee, temporarily stepped down from the Committee for personal reasons. During Summer 2023 recruitment will begin for an additional actuarial member of the Committee to ensure there are sufficient actuarial members available to attend meetings. This additional member is not intended to replace Kevin Doerr on the Committee, as his role will be kept open for him if he wishes to step back up. His appointment term is due to end in June 2024. The Committee's Terms of Reference enable the Committee to have more than

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<sup>1</sup> In previous years, before the current regulatory governance structure, an annual public report of the Disciplinary Board would be presented to the IFoA Council, before being approved for publication.

two actuarial members and there is value in having an additional actuarial member in place before Kevin Doerr's term ends. It is intended that the additional member will be appointed in advance of the October 2023 meeting.

### **C: Work of the Committee**

8. One of the Committee's main areas of work is the operational oversight of the disciplinary process.
9. At each meeting the Committee was provided with a report setting out information about the current caseload, types of cases, the progress being made, timescales and outcomes. The report provides the Committee with key facts and information about current cases within the disciplinary process, giving the information needed to monitor the disciplinary work of the IFoA. The report is prepared by Jenny Higgins, Head of Disciplinary Investigations, and Julia Wanless, Judicial Committees Secretary. The Committee monitored compliance with indicative timescales and was pleased to note that generally the time taken to progress cases had improved.
10. A statistical report on cases between 1 June 2022 and 31 May 2023 can be found at Appendix 3. A flowchart setting out the disciplinary process can be seen at Appendix 4.
11. All determinations of Panels were available to the Committee at their quarterly meetings. The Committee's Determinations Review Sub-committee reviewed every determination issued by panels and reported back to the Committee. The report made recommendations about how the decision-making process could be improved and areas where training may be appropriate. The Committee was pleased to note that the overall quality of written determinations remained consistently high. Constructive feedback was provided to the Conveners of Panels and the Disciplinary Investigation Team.
12. The Committee continues to be provided with information to monitor cases to allow them to consider whether there are trends arising which needed to be raised with the Board. Given the low numbers of cases it continued to be difficult to establish trends.
13. As part of their oversight role the Committee receives and considers feedback from stakeholders on the effectiveness of the operation of the disciplinary process and, where appropriate, takes steps to improve the process. The Committee were provided with a quarterly report on feedback received from Respondents, those who have referred complaints, Panel members and Legal Advisers. The presentation of this report has been improved to try and assist the Committee to assess the feedback more easily. Parties are sent an electronic survey which they can complete to provide feedback. In response to the feedback received, some communications to Respondents have been made clearer.
14. A copy of the quantitative feedback received can be seen at Appendix 5.
15. [REDACTED]
16. The Committee's oversight role also includes Committee members observing Disciplinary Tribunal Panel hearings. Due to the small number of Disciplinary Tribunal Panels taking place this year,

only one was observed by a Committee member. The Committee member provided written feedback on the hearing, which was included in the quarterly feedback report considered by the Committee.

17. Across June to September 2022 the Chair met individually with the Convener of the Adjudication Panels, the Convener of the Disciplinary Tribunal Panels and the Chair of the Investigating Actuary Pool as part of her induction programme. The Chair found these meetings to be very helpful, particularly as they took place in the early months of her tenure.

### ***Guidance***

18. The Committee has a responsibility to provide guidance, on procedures it considers appropriate, for the performance of functions under the Disciplinary and Capacity for Membership Schemes.
19. In September 2022 the Committee approved changes to the Costs Guidance and Timeframes Guidance and these were published in October 2022. This was reported to the Board through the Executive Update.
20. The changes to the Timeframes Guidance were to reflect changes to process and to manage all parties' expectations. There had been a shift towards more engagement with Respondents during the Tribunal process and an Adjudication Panel diet process had been adopted allowing panels to be scheduled every two months; the Guidance was updated to reflect these process changes.
21. The change to the Costs Guidance was to reflect current case law.
22. The Committee has also been reviewing and approving Guidance for use under the revised Disciplinary Scheme - please see paragraph 35.
23. A Schedule of Guidance issued by the Committee can be seen at **Appendix 6**.

### ***Training***

24. The Committee has a responsibility to approve, on recommendation from the Executive, the training programme for those involved in the Disciplinary and Capacity for Membership Schemes and oversee its delivery.
25. As part of the implementation for the revised Disciplinary Scheme, a training plan was approved by the Committee at their January 2023 meeting. The focus of the training programme is the introduction of the revised Disciplinary Scheme and training has been scheduled for Disciplinary Pools, Legal Advisers, Investigation Actuaries and Regulatory Appointments Committee for June, July and October 2023.
26. The Convener of the Adjudication Panels and the Convener of the Disciplinary Tribunal Panels held drop-in sessions for Panel Members and Legal Advisers in October 2022 and May 2023. These drop-ins are arranged for Panel Members and Legal Advisers to meet the Conveners and other pool members and to provide feedback on their experience as members of the disciplinary pools. Topics discussed included Determinations Review Sub-committee feedback; anonymisations in determinations and the Disciplinary Scheme review.
27. Disciplinary Newsletters were sent to all Disciplinary Pool members and Investigation Actuaries on a quarterly basis. These included updates on the Scheme Review, other work of the Committee and links to case law updates.

## ***FRC Oversight***

28. This FRC has reviewed and commented on the revised Disciplinary Scheme and supporting regulations. As a result of the FRC's review of the revised Disciplinary Scheme and supporting regulations, the FRC has confirmed that three prior recommendations relating to specific amendments to the IFoA's Disciplinary Scheme can be closed.
29. As part of its oversight activities, the FRC observed the Committee's September 2022 meeting and reviewed a selection of closed disciplinary investigations. Positive feedback was received, with the FRC commenting that the Committee was well run and effective in its support of the IFoA's disciplinary function.

## **D: Objectives**

30. The Committee agreed 3 objectives for this period which were:
  - a) Scheme Review: The Committee will progress the implementation of the new Disciplinary Scheme.
  - b) Diversity, Equity and Inclusion (DEI): Embedding the DEI strategy into the work of the Committee.
  - c) To monitor future arrangements put in place for actuarial regulation to establish whether it will have an impact on the disciplinary function.
31. An update on each objective is detailed below. At each meeting the Committee were provided with an update on the progress of each objective.

## **Disciplinary Scheme Review**

32. The key focus of the Committee over the past year has been the implementation of the revised Disciplinary Scheme. In June 2022, following approval by this Board, the revised Disciplinary Scheme was approved by Council.
33. A full member vote took place in September/October 2022, and a variety of communications were issued to support the vote. This included articles in the Actuary magazine, updates in electronic Newsletters, a blog from Ian Farr FFA, Chair of the Scheme Review Working Party, and a video from Matt Saker. To support the Member vote and to help Members understand the changes being proposed, a rationale document, flowcharts showing the proposed process and an FAQ document were published. The Disciplinary Scheme was approved by Members with an 85% majority.
34. The new Disciplinary Scheme will be effective from 1 August 2023.
35. As noted above, the Committee have responsibility to issue Guidance in support of the Disciplinary Scheme. A new suite of Guidance is required to support the new Disciplinary Scheme and at their January and April 2023 meetings draft Guidance was presented to the Committee for approval.
36. Training to support the new Disciplinary Scheme was also approved by the Committee, as set out at paragraph 25 above.
37. The Executive have made colleagues aware of the revised Disciplinary Scheme to ensure that documentation in other areas of the IFoA can be updated accordingly. In particular, this Board

consulted on and are implementing changes to the Actuaries' Code in relation to reporting convictions and other adverse findings.

## **DEI**

38. The Committee agreed that one of their objectives for the 2022/23 year should be to embed the IFoA's DEI strategy into their work. This was further broken down to; collect data and monitor disciplinary outcomes; to consider DEI in the context of the revised Disciplinary Scheme and further objectives to be developed once specialist knowledge was available.
39. Progress on this objective has been limited. The Committee were advised to defer collecting data until the Diversity Workstream project establishes more widely across the IFoA what DEI data is to be collected, monitored and stored.
40. However, as part of the implementation of the revised Disciplinary Scheme, the Committee approved DEI Guidance for use by disciplinary Panels and other disciplinary decision makers. The DEI Guidance will be published in August 2023 to coincide with the implementation of the revised Disciplinary Scheme. The Committee has also approved and will publish Guidance on Reasonable Adjustments to support the revised Disciplinary Scheme.

### **To monitor future arrangements put in place for actuarial regulation to establish whether it will have an impact on the disciplinary function**

41. The Committee have received updates on the FRC's transition to the Audit, Reporting and Governance Authority (ARGA). It is currently expected that ARGA's statutory enforcement powers will augment and complement the IFoA's disciplinary processes. Once the draft legislation is available, the Committee will consider whether any changes are required to the IFoA's disciplinary framework.

## **E: Looking forward**

42. At their June 2023 meeting, the Committee discussed priorities and objectives for the upcoming year. Of key importance is the implementation of the revised Disciplinary Scheme on 1 August 2023. The Committee also approved an action plan on DEI, which was developed in consultation with the IFoA's DEI Business Partner.

## **F: Conclusion**

43. The Board is asked to:
  - Provide any comments or steer on the content of the report; and
  - To note the report.
44. If the Board would like further information on the statistical report provided at Appendix 3, please contact Jenny Higgins, - Head of Disciplinary Investigations or Julia Wanless, the Judicial Committees Secretary.

## **G: Appendices**

Appendix 1 - Terms of Reference

Appendix 2 - Term times of Committee members

Appendix 3 - Statistical report on cases

Appendix 4 - Disciplinary process flowchart

Appendix 5 - Quantitative feedback on the disciplinary process

Appendix 6 - Schedule of guidance issued by the Disciplinary Committee

## **DISCIPLINARY COMMITTEE**

### **Terms of Reference**

#### **Purpose**

Oversees the management and operation of the Disciplinary and Capacity for Membership Schemes.

*Note: A number of capitalised terms used in this Terms of Reference are as defined in the Disciplinary and Capacity for Membership Schemes.*

#### **Key Responsibilities**

##### **1. Strategy**

- a. Oversees the Executive's delivery of the disciplinary elements of the IFoA's regulatory strategy.
- b. Recommends to the Regulatory Board areas of focus in terms of the disciplinary elements of the IFoA's Regulatory Strategy.

##### **2. Planning and Reporting**

- a. Provides, in partnership with the Executive, such information as the Regulatory Board requires including an annual summary of its activities
- b. Provides, in partnership with the Executive, reports on specific issues, as necessary. Reports to the Regulatory Board will include but are not limited to feedback on lessons learned from any proceedings under the Disciplinary and Capacity for Membership Schemes.

##### **3. Governance**

- a. Complies with the Governance Manual
- b. Ensures that all regulations and guidance it provides are consistent with the terms of the Disciplinary and Capacity for Membership Schemes.
- c. Ensures that the Committee's activities support the IFoA principles of equality, diversity and inclusion.

##### **4. Oversight**

- a. Oversees the management and operation of the Disciplinary and Capacity for Membership Schemes.
- b. Arranges, with approval from the Regulatory Board, for a review of any, or all, of the provisions of the Disciplinary and Capacity for Membership Schemes.
- c. Approves, if appropriate and subject to consultation in accordance with the Standards Review Process, changes to any of the provisions of the Disciplinary and Capacity for Membership Schemes.
- d. Makes and varies regulations as it considers necessary for the implementation of the Disciplinary and Capacity for Membership Schemes.

- e. Provides guidance, on procedures it considers appropriate, for the performance of functions under the Disciplinary and Capacity for Membership Schemes.
- f. Receives and considers feedback from stakeholders on the effectiveness of the operation of the disciplinary process and, where appropriate, takes steps to improve the process.
- g. Approves, on recommendation from the Executive, if appropriate, the maximum fine which an Adjudication Panel may invite a Respondent to pay under the Disciplinary and Capacity for Membership Schemes.
- h. Sets and monitors the time frames for investigations and proceedings under the Disciplinary and Capacity for Membership Schemes.
- i. Approves, on recommendation from the Executive, if appropriate, the training programme for those involved in the Disciplinary and Capacity for Membership Schemes and oversees its delivery.
- j. Such other functions as shall be agreed by the Regulatory Board.

## **Membership**

The Committee shall comprise at least five members appointed by the Regulatory Appointments Committee, to include at least:

- Three lay members, one of whom shall be nominated as chair
- Two Fellows

Members currently sitting on Council are prohibited from sitting on the Disciplinary Committee. Committee Members should also not hold any appointments under the Disciplinary and Capacity for Membership Schemes.

**Executive Support:** Secretary to the Disciplinary Committee

## **Specific Procedural Rules**

1. The quorum for meetings shall require at least three members and there must be at least one lay member and one actuary member present.
2. Specific procedural rules apply to the operation of the Disciplinary Committee and the various judicial committees and panels established under the Disciplinary and Capacity for Membership Schemes. The Disciplinary and Capacity for Membership Schemes takes priority in the case of any conflict with these Terms of Reference.
3. The minutes of Disciplinary Committee shall be made publicly available on the IFOA's website but only after they have been formally approved at a subsequent meeting of the Disciplinary Committee (note: certain aspects of the minutes may be redacted if considered necessary by the Disciplinary Committee).

*View the Disciplinary and Capacity for Membership Schemes*





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## Disciplinary Committee Term Times 1 June 2023

| Name            | Role       | Term start date | Term end date                                    | Term number |
|-----------------|------------|-----------------|--|-------------|
| Nicola Williams | Lay Chair  | 8 April 2022    | 8 April 2025                                     | 1           |
| Robert Garvin   | Member     | 21 April 2022   | 20 April 2025                                    | 1           |
| Velia Soames    | Lay Member | 1 May 2022      | 30 April 2025                                    | 2           |
| Rosalyn Hayles  | Lay Member | 07 July 2021    | 7 July 2024                                      | 1           |
| Kevin Doerr     | Member     | 14 June 2021    | 13 June 2024 (temporarily stepped down May 2023) | 2           |

## Appendix 3

### Statistical report on caseload between 1 June 2022 and 31 May 2023

It is important to note that the Disciplinary Committee oversee the management and operation of the Disciplinary and Capacity for Membership Schemes but they do not have any power over any disciplinary actions or decisions.

A glossary is appended to this report.

|   | 1 June 2022 to<br>31 May 2023 | 1 June 2021 to<br>31 May 2022 |
|---|-------------------------------|-------------------------------|
| <b>Allegations received</b>                             | <b>8</b>                      | <b>30</b>                     |
| <b>Cases considered at Adjudication Panels</b>          | <b>19</b>                     | <b>29</b>                     |
| Cases dismissed   | 10                            | 7                             |
| Cases referred to Disciplinary Tribunal Panel           | 3                             | 9                             |
| Cases where misconduct found and accepted by Respondent | 2                             | 13                            |
| Referred back to Disciplinary Investigation Team        | 4                             | 0                             |
| <b>Referrals to the Independent Examiner</b>            | <b>3</b>                      | <b>1<sup>b</sup></b>          |
| <b>Cases considered by Disciplinary Tribunal Panels</b> | <b>6</b>                      | <b>6</b>                      |
| Cases dismissed   | 0                             | 0                             |
| Cases where misconduct found                            | 4                             | 4                             |
| Cases adjourned   | 2                             | 2                             |
| <b>Applications for Readmission to Membership</b>       | <b>1</b>                      | <b>0</b>                      |
| <b>Interim Order applications</b>                       | <b>0</b>                      | <b>0</b>                      |
| <b>Number of Appeal Tribunals</b>                       | <b>0</b>                      | <b>0</b>                      |
| <b>Number of Capacity for Membership Hearings</b>       | <b>0</b>                      | <b>0</b>                      |

<sup>b</sup> Referral was not accepted by the Independent Examiner

Sources of the allegations received;

| Source                          | 1 June 2022 to 31 May 2023 | 1 June 2021 to 31 May 2022 |
|---------------------------------|----------------------------|----------------------------|
| Executive Referral <sup>1</sup> | 2                          | 6                          |
| Member of the Public            | 2                          | 13                         |
| Employer                        | -                          | 1                          |
| Other Actuary                   | 4                          | 9                          |
| Other                           | -                          | 1                          |
| Trustees                        | -                          | 1                          |
| <b>TOTAL</b>                    | <b>8</b>                   | <b>30</b>                  |

<sup>1</sup> This process allows the IFoA to formally instigate a case investigation in the absence of an individual/organisation raising an allegation against a Member. Each referral is independently reviewed by an Executive Officer of the IFoA and the Chair of the Investigation Actuaries' Pool before a decision is taken to instigate a formal investigation. This is also the approach followed where a member self-refers in relation to their own possible Misconduct.

**Membership Categories of the Respondents in allegations received;**

| Membership category | 1 June 2022 to 31 May 2023 | 1 June 2021 to 31 May 2022 |
|---------------------|----------------------------|----------------------------|
| Fellow              | 6                          | 23                         |
| Student             | 1                          | 5                          |
| Former Fellow       | 1                          | 1                          |
| Former Student      | -                          | 1                          |
| <b>TOTAL</b>        | <b>8</b>                   | <b>30</b>                  |

### Practice areas of the Respondent in allegations received

(The allegations against these Respondents may not relate to technical work carried out in that area and most Respondents have recorded more than one practice area, so the numbers shown do not correspond to case levels)

| Practice area           | 1 June 2022<br>to 31 May<br>2023 | 1 June 2021<br>to 31 May<br>2022 |
|-------------------------|----------------------------------|----------------------------------|
| General Insurance       | 2                                | 13                               |
| Health and Care         | -                                | 1                                |
| Investment Management   | -                                | 7                                |
| Investment Banking      | -                                | 1                                |
| Life Insurance          | 3                                | 5                                |
| No information recorded | -                                | 1                                |
| Pensions                | 1                                | 8                                |
| Risk Management         | -                                | 1                                |
| Student                 | 1                                | 5                                |
| Retired                 | 1                                | -                                |
| Other non-actuarial     | 1                                | -                                |

| Geographical location of Respondent | 1 June 2022 to 31 May 2023 | 1 June 2021 to 31 May 2022 |
|-------------------------------------|----------------------------|----------------------------|
| UK                                  | 4                          | 23                         |
| India                               | 1                          | 1                          |
| Australia                           | 1                          | -                          |
| Singapore                           | 1                          | -                          |
| China                               | 1                          | -                          |
| Ireland                             | -                          | 1                          |
| South Africa                        | -                          | 4 <sup>a</sup>             |
| Spain                               | -                          | 1                          |
| <b>TOTAL</b>                        | <b>8</b>                   | <b>30</b>                  |

<sup>a</sup> One member was subject to 3 allegations, from different sources.

Last year it was noted that the number of allegations received in 2021/2022 was a marked increase on the previous year. At that time it was too early to identify whether this was the start of a continued increase in the number of complaints. The increase was partly caused by one Member receiving 3 individual complaints against them, and one member of the public making 8 similar complaints against 8 individual Members. For the year 2022/2023 allegations have returned to a more usual level.

Of the 8 allegations received, the key issues were;

- Technical competence
- Inappropriate/ offensive communications
- Inaccurate/ misleading communications
- Breaches of actuarial rules
- Falsifying exam transcripts
- Complaints handling
- Conflicts of interest

## Adjudication Panels

Across 1 June 2022 to 31 May 2023 there were two cases where Adjudication Panels made a finding of misconduct which was accepted by the Respondent;

| Case No | Source               | Membership status | Location of Respondent | Key issues   | Outcome   |
|---------|----------------------|-------------------|------------------------|--|---|
| 21/015  | Member of the public | Fellow            | UK                     | Preparation of expert report in divorce proceedings and not communicating appropriately. | <ul style="list-style-type: none"><li>• Misconduct</li><li>• Reprimand</li><li>• Fine of £7,500</li><li>• Period of education, training or supervised practice.</li></ul> |
| 22/006  | Other Actuary        | Fellow            | UK                     | Worked for two companies at one time which created potential conflict of interest        | <ul style="list-style-type: none"><li>• Misconduct</li><li>• Reprimand</li><li>• Fine of £2,000</li></ul>   |

These determinations are published on the [website](#)

## Independent Examiner

| Case No | Outcome of referral  |
|---------|--|
| 22/002  | Finding of no misconduct was referred to the Independent Examiner by the person who made the complaint. The Deputy Independent Examiner accepted the referral and affirmed the decision of the Adjudication Panel. |
| 22/017  | Finding of no misconduct was referred to the Independent Examiner by the person who made the complaint. The Independent Examiner accepted the referral and affirmed the decision of the Adjudication Panel         |
| 18/004  | Finding of no misconduct was referred to the Independent Examiner by the person who made the complaint. The Independent Examiner accepted the referral and affirmed the decision of the Adjudication Panel         |

## Disciplinary Tribunal Panels

Across 1 June 2022 to 31 May 2023 Disciplinary Tribunal Panels determined four cases of misconduct, against three Respondents. Two cases against one Respondent were part-heard and are therefore not reported below. A Disciplinary Tribunal Panel also considered an application for readmission to membership, following expulsion under the Disciplinary Scheme.

| Case No           | Source                   | Membership status       | Location of Respondent | Key issues  | Outcome  | Costs award  |
|-------------------|--------------------------|-------------------------|------------------------|---|--|--|
| 21/013            | Executive referral       | Lapsed Member           | UK                     | Providing information to their employer, about IFoA exam results, which was incorrect and/or dishonest.                                     | <ul style="list-style-type: none"> <li>• Misconduct</li> <li>• Fine of £3,000</li> <li>• Exclusion for 3 years</li> <li>•</li> </ul>                                   | <ul style="list-style-type: none"> <li>• Full costs of £2,547 to IFoA</li> </ul>     |
| 21/011            | Member and Self-referral | Fellow                  | UK                     | Dishonest communications regarding HMRC status  | <ul style="list-style-type: none"> <li>• Misconduct</li> <li>• Two-year suspension from Membership</li> </ul>  | <ul style="list-style-type: none"> <li>• Full costs of £2,631 to IFoA</li> </ul>     |
| 19/030 and 20/017 | Member of public         | Fellow                  | UK                     | Preparation of expert reports in divorce proceedings and not communicating in a timely manner. Failure to cooperate with the investigation. | <ul style="list-style-type: none"> <li>• Misconduct</li> <li>• Reprimand</li> <li>• Fine of £10,000</li> <li>• A period of supervised practice for one year</li> </ul> | <ul style="list-style-type: none"> <li>• Full costs of £13,606.86 to IFoA</li> </ul> |
| N/A               | N/A                      | Expelled former Student | India                  | Application for Readmission to Membership following expulsion from the IFoA for 2 years on 22 January 2019.                                 | <ul style="list-style-type: none"> <li>• Application granted</li> </ul>  | N/A  |

These determinations are published on the [website](#)

## Timescales

The Disciplinary Committee have set [timescales](#) within which disciplinary matters should be progressed. At each meeting the Committee are provided with quarterly case update prepared by the Executive and updated on the progress of cases.

Of the 19 investigations completed for Adjudication Panel's consideration, the Disciplinary Investigation Team completed 17 investigations within the indicative timeframes. Of the two that were not completed within the relevant timeframes, those cases had been placed on hold, at the request of the Respondent, for several years due to concurrent criminal and civil proceedings.

Of these 19 cases;

- eight were considered by an Adjudication Panel within the indicative timeframe of six weeks/eight weeks<sup>1</sup>
- the Clerking Team reported to the Disciplinary Committee that 11 cases were not heard by Adjudication Panels within the timeframes and that this was in agreement with the Adjudication Panel Convener. One case was delayed on application from the Respondent for more time to respond to the Case report. The remaining 10 cases were delayed due to resourcing issues.

Of the 6<sup>2</sup> cases considered by Disciplinary Tribunal Panels during 1 June 2022 – 31 May 2023;

- the Charge in two of the cases had been served and considered in 2021, but the associated hearing was adjourned part-heard until October 2022.
- Of the remaining cases:
  - Charges in three cases were served within the indicative timescales.
  - One Charge was not served within the indicative timeframes. This was due to the Executive working through the backlog of cases arising from Covid and resourcing issues (as reported to the Board last year).
  - Two cases were considered by the Disciplinary Tribunal Panel within the indicative timeframes.
  - Two joined cases were not considered by the Disciplinary Tribunal Panel within the indicative timeframes due to procedural matters that needed to be addressed in advance of the hearing being scheduled.

## Current cases

At 31 May 2023 the total number of live cases was 10.

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<sup>1</sup> The timeframes guidance was changed in October 2022, and the timeframe changed from 6 weeks to 8 weeks.

<sup>2</sup> Although there were 6 cases, there only 4 charges as 2 Respondents had 2 separately made allegations against them, which were joined at the Disciplinary Tribunal stage



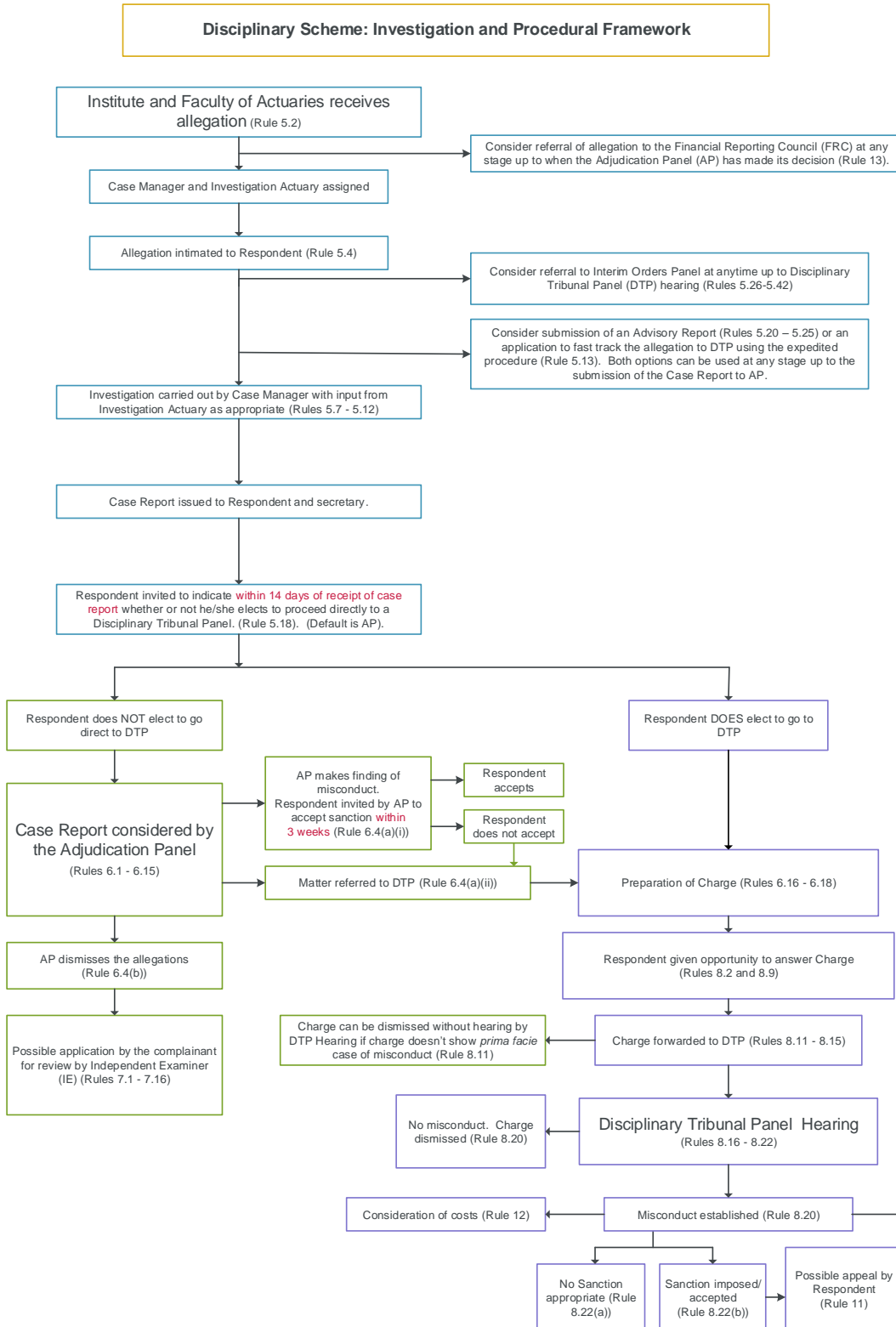
## Glossary of Terms

| <b>Term</b>                       | <b>Definition</b>   |
|-----------------------------------|---|
| Adjudication Panel                | A Panel appointed to consider the outcome of the initial investigation, which is presented in a Case Report, or Advisory Report. For Case Reports, the Panel will determine whether or not the matters disclose <i>prima facie</i> evidence of Misconduct and agree the next step in the disciplinary process, including the option to refer to a Disciplinary Tribunal Panel. The Adjudication Panel meets in private and is comprised of at least three Panel members, one of whom is always a lay member.  |
| Appeals Tribunal                  | In the event that a Respondent wishes to dispute the findings of a Disciplinary Tribunal Panel, the Scheme allows a right to appeal.  |
| Capacity for Membership           | The Capacity for Membership process was introduced on 1 February 2018. This process provides an alternative route for cases where the current capacity of the Respondent is impaired and this impairment is relevant to the allegation or charge.   |
| Case Report                       | A Case Report sets out the allegations made against the Respondent and contains all the relevant facts and information obtained during the investigation but does not set out any recommendations. The Respondent is given the opportunity to comment on the Case Report before an Adjudication Panel considers whether or not there has been Misconduct.   |
| Determination                     | Decision of an Adjudication or Disciplinary Tribunal Panel.   |
| Disciplinary Tribunal Panel (DTP) | A DTP is convened to consider matters which have not concluded at Adjudication stage, or have been referred by the Convener via the expedited procedure. The DTP is comprised of three or more people, at least one of whom shall be a Fellow of IFoA and at least one shall be a Lay person. The DTP is advised by an independent Legal Adviser. The DTP will decide whether the allegations amount to Misconduct and, if so, what the appropriate sanction (if any) would be. DTP Hearings are usually held in public with the notice of the hearing published on the IFoA website. |
| Exclusion/Expulsion               | The sanction where the Misconduct found proved is of such gravity that the reputation of the profession or the public interest requires that the Member is no longer able to practice or claim membership of the profession. Exclusion is the order where membership has already ceased at the time of the Disciplinary Tribunal Panel; expulsion where membership is current.  |
| Executive Referral Process        | This process allows the IFoA to formally instigate a case investigation in the absence of an individual/organisation raising an allegation against a Member. Each referral is independently reviewed by the IFoA General Counsel (or appropriate senior deputy) and the Chair of the Investigation Actuaries' Pool before a decision is taken to instigate a formal investigation. This is also the approach followed where a member self-refers in relation to their own possible Misconduct.  |

| <b>Term</b>          | <b>Definition</b>   |
|----------------------|---|
| Independent Examiner | If an Adjudication Panel decides that there is no <i>prima facie</i> case of Misconduct, the person who made the allegation can refer the case to an Independent Examiner for review, if the grounds set out in the Scheme are met. The Independent Examiner is completely independent of the IFoA.   |
| Interim Order        | An urgent application to impose provisional restrictions on a Member's ability to practice, pending the outcome of the disciplinary proceedings. The IFoA will use this facility in compliance with its duty to protect the public, where the facts and circumstances merit.  |
| Misconduct           | Defined at rule 4.2 of the Disciplinary and Capacity for Membership Scheme and includes any conduct, whether committed in the UK or elsewhere, in the course of carrying out professional duties or otherwise constituting failure by that Member to comply with the standards of behaviour, integrity, competence or professional judgement which other Members or the public might reasonably expect of a Member having regard to the Rules and Bye-laws and/or relevant standards or guidance. |
| Respondent           | A member (or former member) of the IFoA who is the subject of an Allegation of Misconduct.  |

# Appendix 3

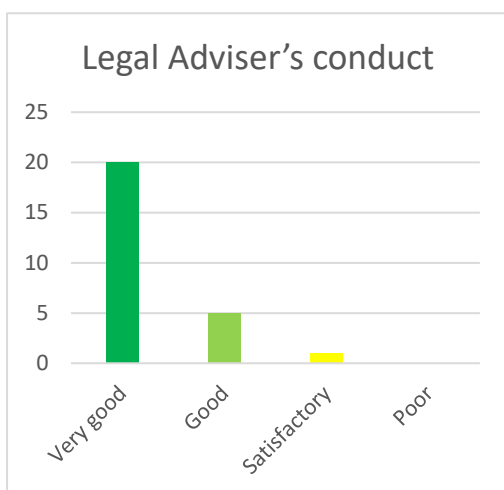
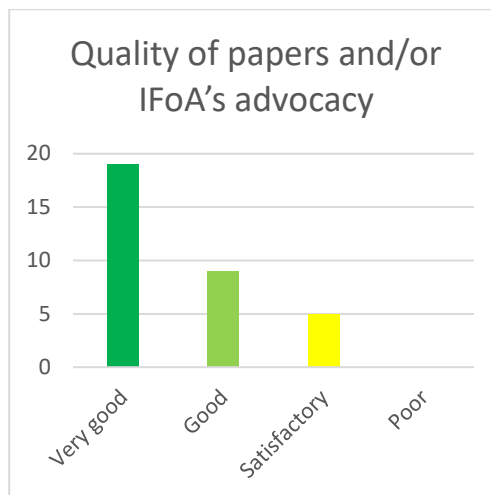
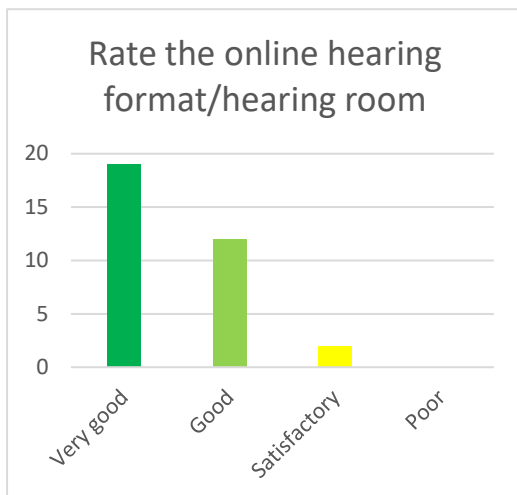
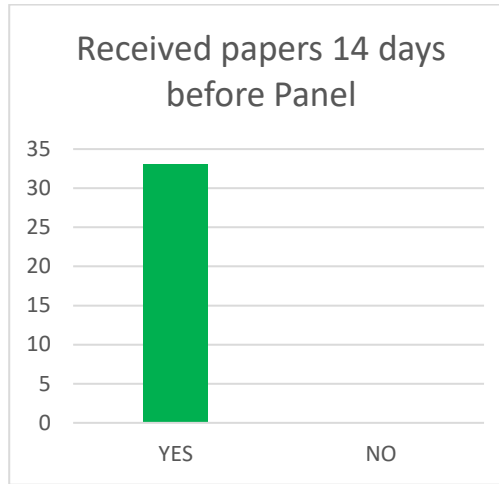
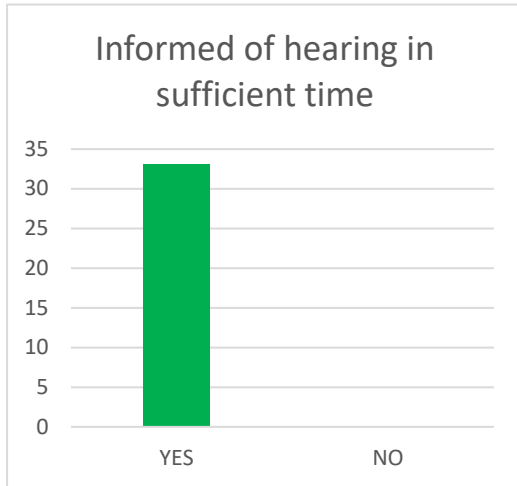
## Disciplinary Framework

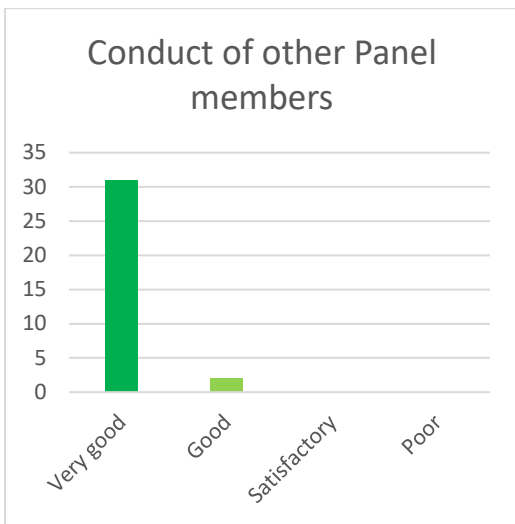
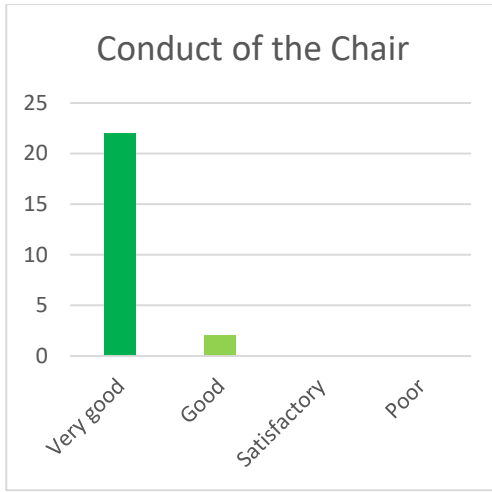
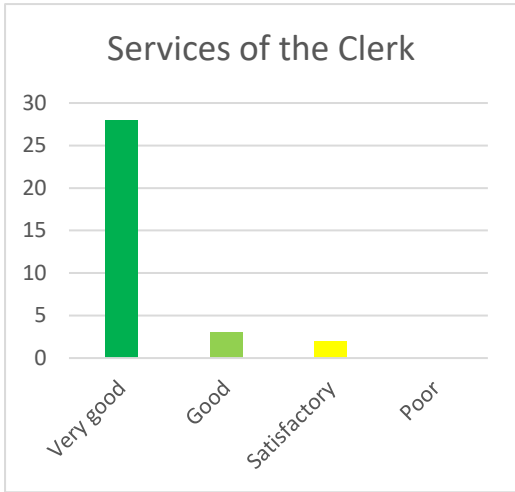


Note: The Capacity for Membership process provides an alternative process where the Respondent’s health may have been materially impaired at the time of the alleged misconduct and continues to be a significant factor. An Application for transfer to the Capacity for Membership process can be made at any stage up until when the final determination is issued.

## Collated quantitative feedback from Panel members and Legal Advisers

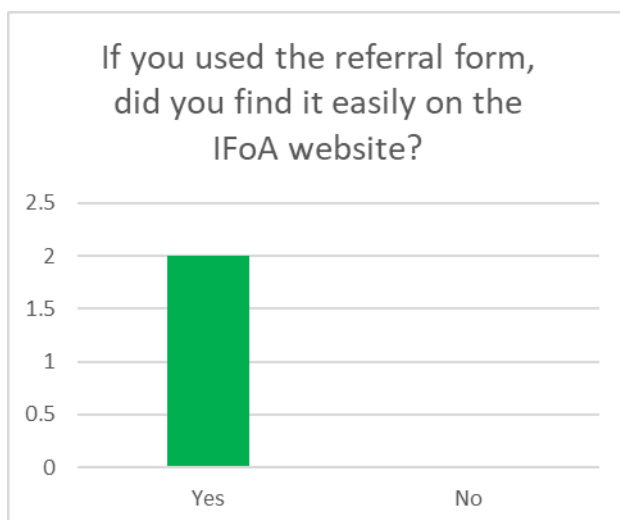
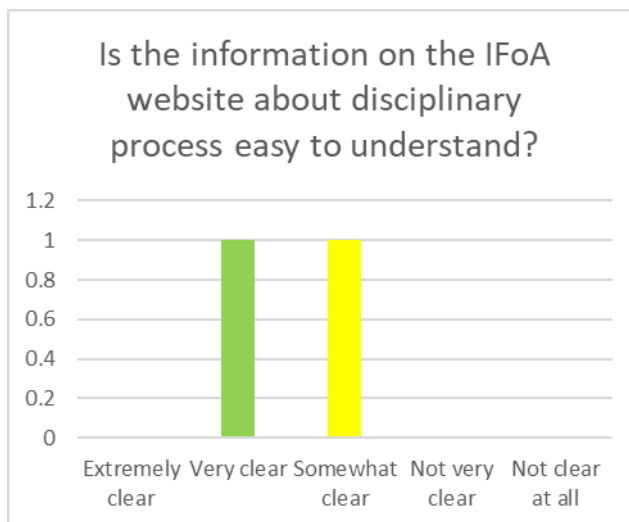
18 August 2022 to 31 May 2023 (year end) (please note the recording of feedback changed in August 2022)



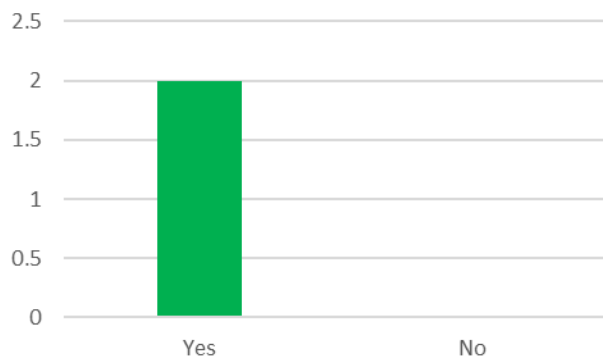


## Collated quantitative feedback from Referrers

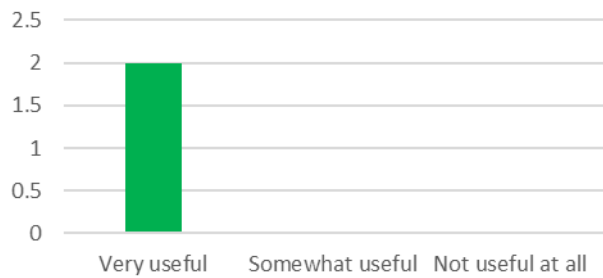
18 August 2022 to 31 May 2023 (year end)



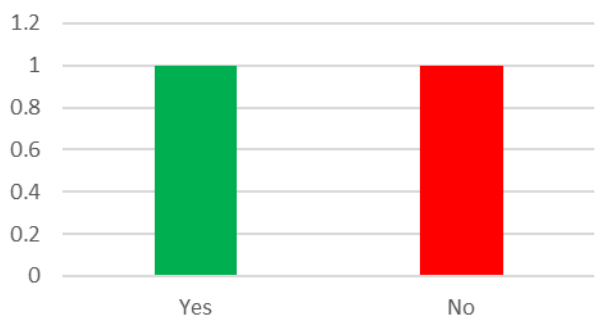
If you used the referral form, did you find it easy to complete?

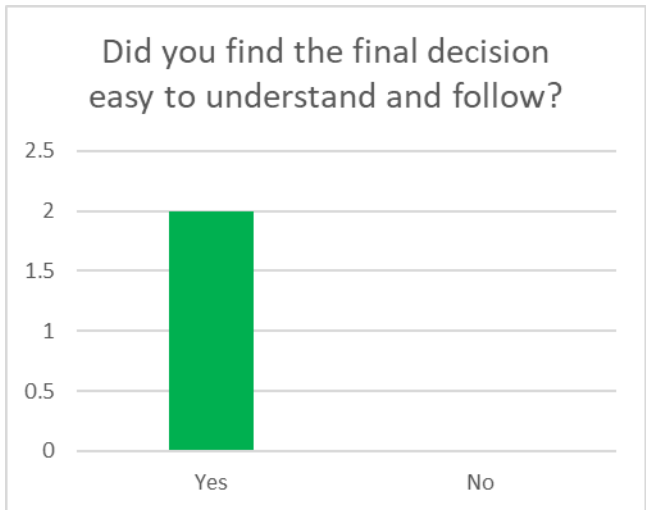
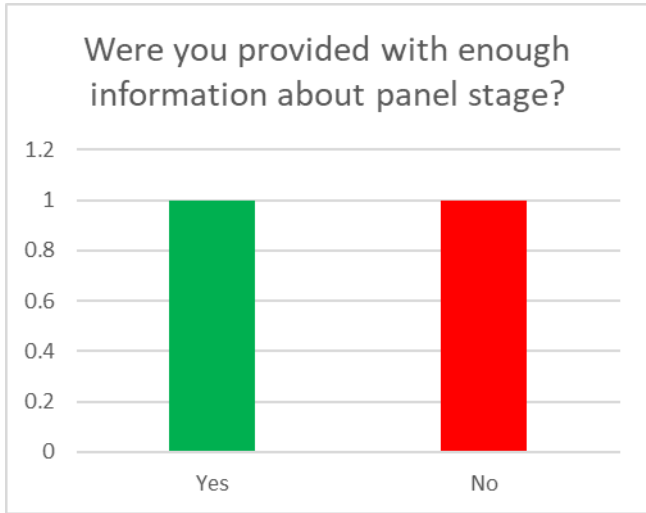


How useful did you find the information notes that were provided to you throughout the process?



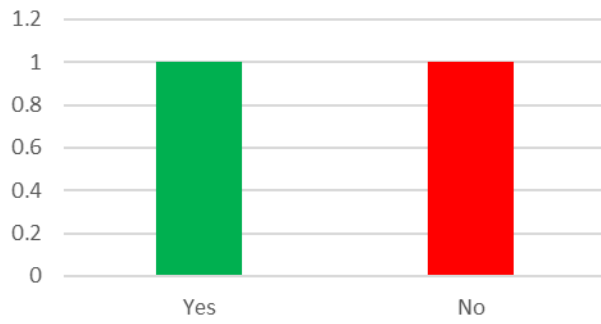
Were you kept sufficiently updated on the progress of the investigation?





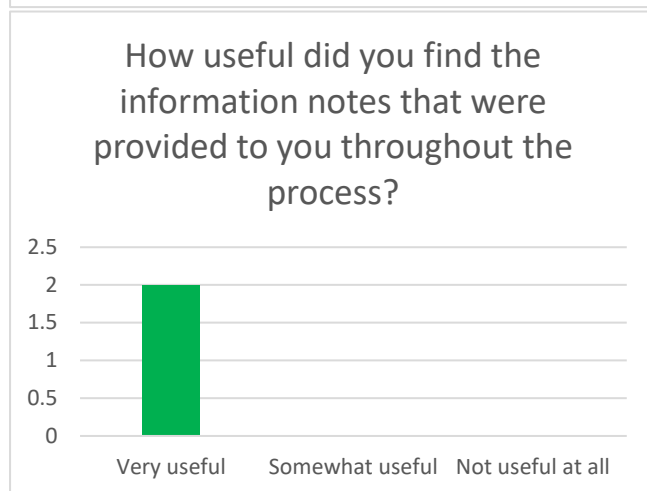
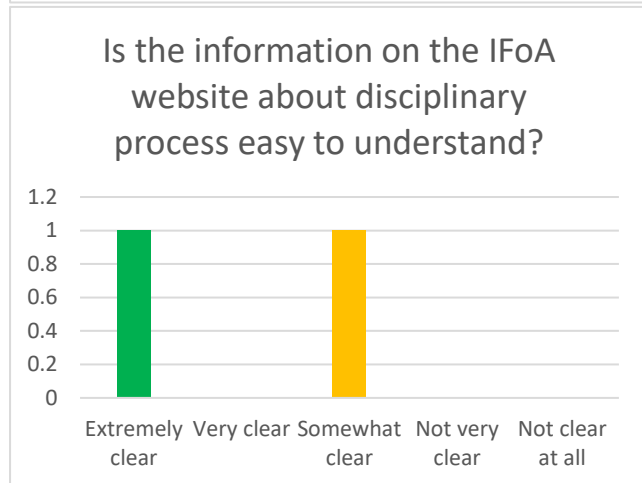
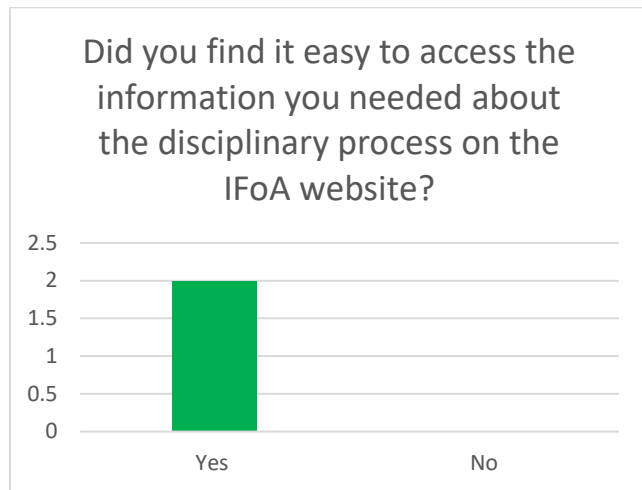


Throughout the process, was it always clear who you could contact about the case?

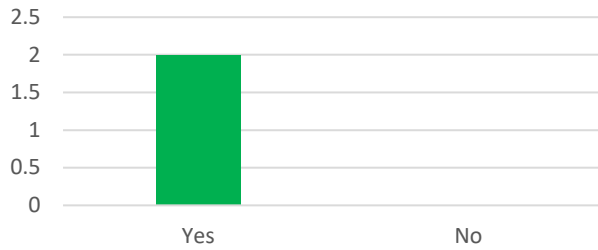


## Collated quantitative feedback from Respondents

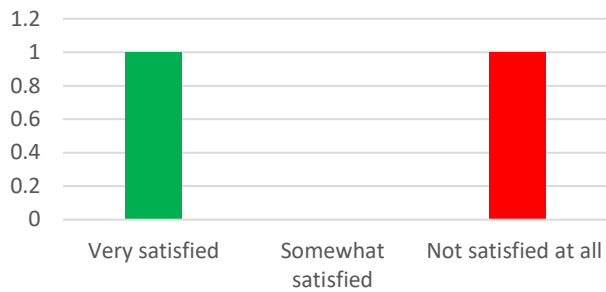
18 August 2022 to 31 May 2023 (year end)



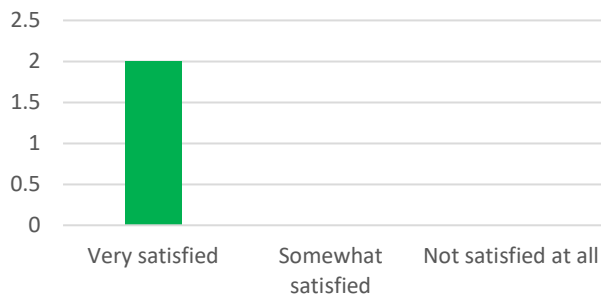
Were you kept sufficiently updated on the progress of the investigation?



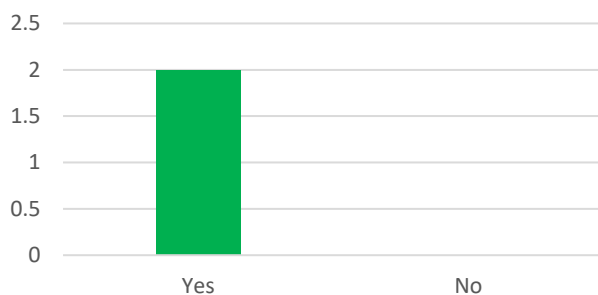
How satisfied were you with the overall time taken to investigate?



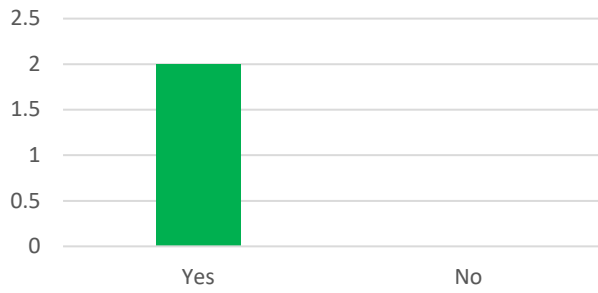
How satisfied were you with the way in which the matter was investigated?



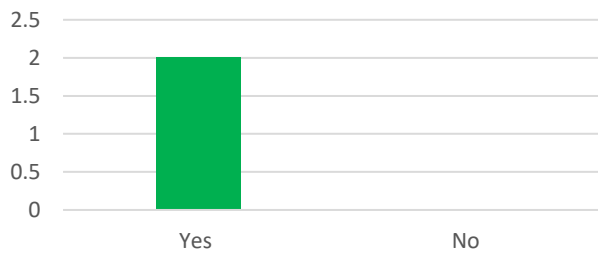
Did the Case Report contain all the information you expected?



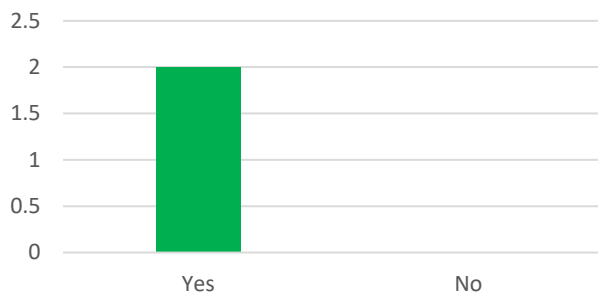
Did you find the Case Report easy to understand and follow?



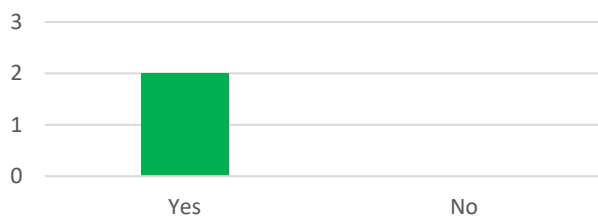
Were you provided with enough information about the panel stage?



Did you find the final decision easy to understand and follow?



Throughout the process, was it always clear who you could contact about the case?



### SCHEDULE OF DOCUMENTS AS AT 14 JUNE 2023

A 'light touch' review was approved by the Committee on 30 September 2021. The dates below reflect the 'light touch review' and a full review of will be carried out as part of the Scheme Review project.

| Description  | Comments   |
|--|--|
| Guidance Note on Disciplinary Tribunals during Covid 19  | Last review: Nov 2021<br>Due for review: Nov 2024  |
| Writing Determinations Guidance Policy   | Last review: Nov 2021<br>Due for review: Nov 2024  |
| Indicative Sanctions Guidance  | Last reviewed: Nov2021<br>Due for Review: Nov 2024   |
| Supplementary Guidelines on the Imposition of Sanctions in CPD Infringement Cases                                | Last reviewed: Nov 2021<br>Due for Review: Nov 2024  |
| Guidelines on the Imposition of Sanctions involving a period of Education, Retraining and/or Supervised Practice | Last reviewed: Nov 2021<br>Due for Review: Nov 2024  |
| Publications Guidance Policy   | Last reviewed: Nov 2021<br>Due for Review: Nov 2024  |
| Guidelines for Disciplinary Tribunal Panels and Appeal Tribunal Panels on the Award of Costs                     | Last Reviewed: Oct 2022<br>Due for Review: Nov 2024  |
| Regulations on the Approval of Nominations for Adjudication Panels   | Last Reviewed: Nov 2021<br>Due for Review: Nov 2024  |
| Regulations for Approval of Nominations to Disciplinary Tribunal Panel   | Last Reviewed: Nov 2021<br>Due for Review: Nov 2024  |
| Guidelines for Panel Members on the Civil Standard of Proof  | Last Reviewed: Nov 2021<br>Due for Review: Nov 2024  |
| Time Frames for Investigations and Proceedings under the Disciplinary Scheme                                     | Last Reviewed: Oct 2022<br>Due for Review: Nov 2024  |
| Guidelines on the Maximum fine at the Adjudication Stage   | Last reviewed: Sep 2021 *<br>Due for Review: Sep 2024<br>*Board agreed to keep fine level at £7,500. |
| Guidelines for all Disciplinary Hearing Events on Remote and In Person Hearings                                  | Issued 1 March 2022<br>Due for Review: March 2025  |
| Guidelines for all Disciplinary Hearing Events on the Service of Documents                                       | Issued 1 March 2022<br>Due for Review: March 2025  |