



Disciplinary Committee

20 June 2023, 09:15 – 12:15 via MS Teams

Attending:	Nicola Williams, Chair Robert Garvin Rosalyn Hayles Velia Soames	Executive Staff:	Sarah Borthwick, Secretary to the Disciplinary Committee Jenny Higgins, Head of Disciplinary Investigations Catherine Mouat, Disciplinary Investigation Coordinator (note taker) Alison Simpson, Case Manager (Items 7, 8 and 13-16) Hinna Alim, Judicial Committees Deputy Clerk
In attendance:	Jacqui Reynolds, Chair of the Investigation Actuary Pool (items 13-15)		
Apologies:	None		

Item	Title
1.	Welcome and apologies
2.	Declaration of Conflicts of interests No conflicts were declared.
3.	Chair's update The Committee noted NW's update, in particular that she had recently been in Edinburgh to meet with the Executive and the Regulatory Appointments Committee (RAC), where SB, JH and JW presented on the revised Disciplinary Scheme.
4.	Executive's Update SB introduced the paper and highlighted the following: <ul style="list-style-type: none">Recruitment for a further actuarial Committee member would be taking place over the Summer.An amended version of the Actuaries' Code would come into effect on 1 August 2023, with amendments to reflect the revised Disciplinary Scheme.A copy of extract of the IFoA's corporate plan, providing a roadmap of what the organisation wants to achieve, had been provided to the Committee. <redacted>
5.	Minutes and Actions The minutes of the 26 April 2023 meeting were approved, with no redactions required for publication. The action list was noted. Action: SB to publish minutes of April 2023 meeting



Item Title

6. Scheme Implementation

JH provided an overview of the paper, noting that it was six weeks until the implementation date of the revised Disciplinary Scheme. She advised that the first training session had taken place on 12 June 2023 and that it had gone well, with good engagement from the attendees.

VS commented that as the implementation date drew nearer, it is apparent what a massive long-term project this has been and how well it had been managed. She congratulated the Executive. NW echoed the amount of work it had taken to get to this stage.

The Committee noted that the launch of the revised Scheme was a good opportunity to raise awareness of the disciplinary process. JH advised that there were several communications planned to raise awareness and the Committee would be updated on these at the next meeting.

The paper was noted by the Committee.

7. Guidance for approval

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 again thanked Kevin Doerr and RH for reviewing the Guidance and providing helpful feedback. JH requested that the Committee should raise any substantive points, but if drafting style points, these should be raised with JH out with the meeting. The Guidance that was being presented to the Committee for approval would thereafter be finalised and approved by RH and RG, on behalf of the Committee. RG had kindly volunteered to complete this in place of Kevin Doerr. The following Guidance was presented to the Committee for approval;

- Sanctions
- Adverse inferences
- Appointment of Panels
- Writing determinations
- Disciplinary Orders
- Expert witness
- Disclosure
- Reasonable Adjustments
- Special measures and witness

In considering the draft Guidance documents, the Committee noted the following:

Sanctions Guidance – JH advised that the FRC had considered this draft, as it related to one of their outstanding prior year recommendations. They had provided useful feedback and were pleased with the draft.

The Committee agreed with the recommendation that Interim Orders should not be included in the Sanctions Guidance given that the considerations for imposing an Interim Order were different from a final sanction. As the Interim Order Regulations were so detailed, and Interim Orders were so rare, it was agreed that dedicated Interim Orders Guidance was not needed, although this would be kept under review.

JH advised that the Disciplinary Pool had asked for more Guidance on the levels of sanctions and fines applicable. During discussion it was agreed that this could be difficult as the IFoA do not have a large number of cases, and it can be difficult to categorise them. RH highlighted that in her experience 'tariff' like guidance can go out of date very quickly and suggested it may be more useful to have a table showing examples of cases and the sanction applied.



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It was agreed that the Executive prepare a table of past cases and the sanction applied, to share with the Committee, to see whether this may assist the Disciplinary Pool. Research would also be carried out into the approach of other regulators. This will assist the Committee in deciding whether there needs to be further guidance on sanctions.

Action: SB to prepare information on sanctions applied on past cases and to carry out research into approach of other regulator

Adverse inference Guidance

JH highlighted the legal advice received in relation to adverse inferences. The Committee approved the approach proposed in the draft.

Appointment of panels guidance – JH advised that since this guidance had been shared with the Committee, further discussions had taken place with the Conveners about them being able to provide case management directions on case, if a Chair had not yet been appointed. This intention had not been set out as clearly in the Guidance as intended, so this would be updated follow the meeting and circulated to the Committee.

Action: JH to circulate updated Appointments Guidance to Committee.

Reasonable adjustments

VS noted that this new Guidance was good to have but questioned whether Panels and/or the IFoA had any additional duties to make reasonable adjustments which were not covered by the Guidance.

Action: JH to obtain advice on duties of Panels/ IFoA.

The Committee approved in principle all of the draft Guidance documents presented to it, and delegated authority to RH and RG to sign off the final versions of the documents once they had been updated in accordance with the Committee's comments.

The Committee agreed that the new suite of Guidance documents should only apply to cases being considered under the new Disciplinary Scheme, and that previous versions of Guidance documents should continue to apply to cases being considered under former versions of the Disciplinary Scheme.

8. Maximum fine at Disciplinary Order and Adjudication Panel stage

AS introduced the paper and gave a brief overview of the previous reviews of the maximum level of fine at the Adjudication Panel stage. The Committee had considered this in 2021 and decided that the maximum level of fine at Adjudication Panel stage should be reviewed when implementing the revised Disciplinary Scheme.

The Committee were asked to discuss whether the maximum level of fine, which was currently £7,500, should be changed. The Committee noted the approach of other regulators and the feedback from the Convener of Adjudication Panels.

During discussion it was noted;

- The maximum level of fine had not been increased since 2011.
- An inflationary increase may be appropriate.
- A slightly higher maximum fine would not be out of step with the approach taken by other regulators in this area.
- More cases may be concluded at Disciplinary Order/ Adjudication Panel stage if a slightly higher fine was available for Disciplinary Orders/ Adjudication Panels.
- Even if the maximum level of fine was increased, this does not mean that it has to be imposed, but gives the Panel the option to impose a fine higher than £7,500.



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	<p>The Committee agreed that the maximum level of fine should be increased. To assist the Committee in determining the appropriate level of maximum fine, the Committee asked for calculations to be carried out to establish what an increase in line with inflation since 2011 would be. This should be circulated to the Committee out with the meeting to allow them to decide on the appropriate level of fine.</p> <p>Action: SB to circulate further information about inflationary increase since 2011.</p>
9.	<p>Regulations</p> <p>JH provided an overview of the Regulations to support the revised Disciplinary Scheme. The Committee were reminded that they approved the Regulations in April 2022, when they approved the revised Disciplinary Scheme. Some very minor amendments were proposed for clarity and consistency. These were approved by the Committee and would be published in support of the revised Scheme.</p> <p>Action: Regulations to be published at appropriate time to support revised Scheme.</p>
10.	<p>Tenure of Appointments</p> <p>SB introduced the paper which asked the Committee to provide a recommendation to the RAC. The Disciplinary Committee has responsibility to make recommendations to the RAC on the general tenure of roles under the revised Disciplinary Scheme.</p> <p>The Committee agreed that appointments under the revised Disciplinary Scheme should be for three years, renewable for a further three years, with two exceptions;</p> <ul style="list-style-type: none">• Appointees to the Investigation Actuary Pool should be for four years, renewable for a further four years.• Appointees to the Legal Adviser Pool should be for five years, renewable for a further five years. <p>SB would arrange for the recommendation to be put before the RAC.</p> <p>Action: SB to pass recommendation to the RAC.</p>
11.	<p>Diversity, Equity and Inclusivity (DEI)</p> <p>SB presented the proposed plan setting out how the DEI strategy of the IFoA might be embedded into the work of the Committee. Following the last Committee meeting SB had discussed with the IFoA's DEI Business Partner how DEI might be embedded within the work of the Committee and the disciplinary process more generally.</p> <p>SB highlighted that one of the actions was DEI training for this Committee and asked whether there were any DEI related aspects they particularly wanted training on. The Committee welcomed the idea of training, preferring that there was centralised DEI training provided for Board and Committees, but advised that it was difficult for them to identify what particular training they needed. SB would feed this back to the DEI Business Partner.</p> <p>Following discussion the Committee approved the plan and agreed the most pressing item would be consideration of how aspects of the disciplinary process could be made more accessible and inclusive. SB advised the Executive would be working with the DEI Business Partner on this.</p> <p>Action: SB to feedback to DEI Business Partner regarding training and Executive to work on making aspects of the disciplinary process more accessible and inclusive.</p>



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12. Objectives update

SB introduced the paper which set out what the Committee had achieved in progressing its objectives for the year 1 June 2022 to 31 May 2023 and suggested some objectives/priorities for the year 1 June 2023 to 31 May 2024. The Committee noted their achievements over the past year. It was noted that this would be reported on to the Regulatory Board in June 2023 when they would consider the Annual Report of the Committee's activities.

The Committee agreed that as well as the significant 'business as usual' work of the Committee, the following would be priorities for the upcoming year;

1. Implementation of the revised Disciplinary Scheme.
2. Analysis of risks following the introduction of the revised Disciplinary Scheme.
3. Continuation of embedding the DEI strategy into the work of the Committee.
4. To monitor the enforcement powers and procedures of the Audit Reporting and Regulatory Governance Authority and how this may impact the disciplinary function.

The Committee also agreed a medium term objective for approximately 18–24 months' time which was to complete a post implementation review of the revised Disciplinary Scheme.

Action: SB to develop the objectives into a work plan.

13. Case Update Report

JH and HA presented the case update report which covered the period 1 April 2023 to 31 May 2023.

JH spoke to the investigation section of the report and the Committee noted that three advisory reports had been issued since the update report had been prepared, so there were now seven live investigations. JH further advised that two charges for Disciplinary Tribunal Panel cases would be served in the next few weeks.

HA provided a summary of the Panels and outcomes over the relevant period. It was noted that eight cases had been considered by Adjudication Panels and three cases had been considered by Disciplinary Tribunal Panels over the relevant period.

The Committee also noted that the Independent Examiner had reviewed the outcome of an Adjudication Panel determination and affirmed the outcome of that Panel.

14. Feedback

SB introduced the paper which provided the Committee with the feedback received from Panel members, Legal Advisers, referrer of allegations and Respondents. The Committee noted that feedback remains generally positive, although one Respondent had commented on the time taken for their case to be concluded.

SB advised that she had discussed with Ben Kemp and JW, whether some of this feedback could be shared with the Conveners, as currently the only feedback they get is from the Determinations Review Sub Committee. The Committee agreed that it would be good to share this feedback with the Conveners. SB advised she would work with JW to progress it.

Action: SB and JW to progress sharing feedback with Conveners.

The Committee discussed the feedback received from a referrer of an allegation who was dissatisfied with the outcome of the Adjudication Panel and their subsequent referral to the Independent Examiner. The Committee noted that they did not have any right of review or appeal and agreed that SB should confirm this to the referrer.

Action: SB to respond to referrer.



Item	Title
15.	<p>Discussion with Chair of Investigation Actuary Pool</p> <p>JR introduced herself and highlighted the difference between her previous role as an Investigating Actuary (IA) and being the Chair of the IA Pool. She explained that as the Chair she considers Executive Referrals and provides independent input into them.</p> <p>JR commented that in previous years it has been possible to identify trends in the type of cases being received, such as CPD cases, or exam cheating, but it now feels more like there is a wide variety of cases.</p> <p>The Committee thanked JR for all the work she does and for attending the Committee meeting.</p>
16.	<p>Determinations Review Sub Committee</p> <p>VS presented the paper from the 5 June 2023 Sub-Committee meeting and advised that the Sub-Committee continued to be impressed by the overall quality of the determinations. The Committee noted the paper and report.</p>
17.	<p>Risk Register</p> <p>The Committee noted the risk register and the chart which tracked the movement of residual risks. As previously advised, the Committee noted that a fuller discussion on risk would take place following the implementation of the revised Scheme, likely at the October 2023 meeting.</p> <p>VS questioned risk DC02 which was about having insufficient quantity and quality of volunteers. She asked whether the likelihood should be 'likely' as recorded on the risk register, or 'possible'. SB agreed to follow this up.</p> <p>Action: SB to follow up with JW on likelihood of risk DC02.</p>
18.	<p>Matters to raise with Regulatory Board</p> <p>It was agreed that there were no particular matters to raise with the Regulatory Board.</p>
19.	<p>Schedule of Guidance – noted</p>
20.	<p>Schedule of term times - noted</p>
21.	<p>AOB</p> <p>NW suggested holding one Committee meeting per year in person, which was supported by the other Committee members. SB advised that she would check the IFoA's policy on this matter.</p> <p>Action: SB to clarify position on in person Committee meetings.</p>

For information

[Committee Terms of Reference](#)

Dates of Next Meetings: - Wed 11 October 2023 (915 to 1215) and Tues 16 Jan 2024 (915 to 1215)

Forthcoming Hearings: Details of hearings are published [here](#)