

Institute and Faculty of Actuaries

Regulatory Board

Noting report

Subject	The IFoA's Regulatory Toolkit	
Regulatory Board meeting	21 February 2023	
Previous Board Update/Steer/Approval	September 2022 -Strategy Day	Discussed in brief and paper requested
International Issues Considered?	Yes – applies to regulation of all members	
Author	Hannah MacLeod, Senior Regulatory Lawyer	
Reviewer	Emma Gilpin, Head of Regulatory Policy	
Purpose	Noting	

A: Introduction

1. This paper sets out, for the Board to note and discuss, the suite of 'tools' available to the IFoA in the carrying out of its regulatory functions.
2. This follows on from a discussion at the Board's strategy day about the different ways in which the IFoA (and more specifically, the Board) can respond to regulatory issues that may arise and a suggestion that it would be helpful to reflect on those and consider (a) whether the Board is fully utilising all of those tools; and (b) whether more ought to be done to communicate these tools to members.

B: Overview

3. There are various circumstances which may lead the Board to consider using its regulatory toolkit. New or emerging practices; legislative changes; identification of public interest risks relating to actuaries; new corporate strategies or changing market conditions may all lead to a need to assess whether the existing regulatory framework is adequate, or whether some sort of action is required.
4. In the event that this arises, the Board has a range of options at its disposal, some of which will be more appropriate than others depending on the circumstances. There may also be different tools that are more appropriate at different times. In determining how to respond to an identified event, it might be helpful for the Board to consider the following questions:
 - Does the Board have enough information about the matter arising?
 - Does the Board have enough information about how actuaries are involved in the issues arising?
 - Is this a new concern or has it been considered previously?
 - If it has already been considered by the Board, or another regulator, what were the conclusions and reasoning behind any action or inaction?
 - Is the issue already subject to regulation and if so, what regulation, and by whom?

- Is the issue a technical actuarial matter?
 - What, if any, action is already being taken by other regulators at this stage?
 - What areas of practice are concerned?
 - Is the concern limited to an area for which a PC is required?
 - Is the concern limited to an area in which actuaries are carrying out a defined and ongoing role?
 - Are the identified concerns causing an immediate risk?
 - Is the matter likely to be a short-term concern?
 - Are Members already aware of the concerns or risks?
 - How is the concern being managed in practice?
5. On some occasions, one response may be sufficient and effective. Alternatively, it may be appropriate to begin with one measure, and escalate through different types of measure if the circumstances require. There may also be situations where a combination of different types of measure is appropriate.

C: Regulatory Toolkit

6. The measures currently available are summarised below and listed in the table at **Appendix 1**. A number of the specific measures have been highlighted below as areas worth considering in a little more detail.

(i) Communications to members

7. It may be that a concern is one that could be appropriately mitigated through raising awareness, or lightly encouraging members to behave in a particular way. Such an approach may also be appropriate where actuaries are not directly responsible for a matter but where there is a potential role for actuaries in helping with a wider public interest issue.
8. In this event, publishing member communications may be the most appropriate response. There is a range of different tools available for that (set out below in **Appendix 1**).

Specific consideration: Risk Alerts

9. The Board currently has, as part of its toolkit, the ability to issue 'Risk Alerts'. These were introduced in 2016 and were intended to be a quick way of highlighting public interest issues that the IFoA wants members to think carefully about. To date 12 Risk Alerts have been published.
10. In order to ensure that they are issued quickly, Risk Alerts are subject to an expedited governance process and do not have the same amount of time and research spent on them as would be the case with, for example, non-mandatory guidance. Therefore they cannot provide guidance to members on how to act or steps to take, they can only raise awareness and suggest matters/considerations that members may find it helpful to think about.
11. To be effective, the Risk Alert should be concise and it should be published promptly. If the concern or risk is well known, and has been the subject of discussion or debate for some time amongst the actuarial community, it would not usually be appropriate to issue a Risk Alert.
12. Risk Alerts can be related to technical actuarial issues, although we would usually share an advance copy with the FRC in such cases.

13. It has been observed, and also flagged by some Practice Boards and other groups, that there can be confusion around the nature of Risk Alerts, their status and about when they will be issued (or not). To date, most of the Risk Alerts published have been suggested by Practice Boards or other IFoA groups. There have also been a number of proposals for Risk Alerts that have not been taken forward by the Board.

(ii) Training and CPD

14. There may be particular matters or issues identified which relate to a concern about gaps in member knowledge or it may be recognised that a matter is new and unlikely to be well understood by members. In such cases, there are a range of training and CPD options within the regulatory toolkit (set out in **Appendix 1**).
15. The sort of situations where these tools might be appropriate could be if new legislation or new standards are produced; or where communications with members have highlighted a common or widespread desire for clarification on an area of professional practice.
16. In deciding whether such steps are appropriate, it may be relevant to consider what other training and CPD is already in place or proposed, either by the IFoA or others (such as regulators).

Specific consideration: Professional Skills Training

17. The IFoA's CPD scheme currently sets out that a certain proportion of a members' CPD should be professional skills training. To support that and to promote professional ethical behaviour amongst members, the IFoA produces Professional Skills Training (PST) materials, with an annual programme for the development of new content and PST events.
18. Content usually includes filmed scenarios (scripted and using professional actors and supplemented by filmed discussion of possible responses from volunteers/IFoA staff) as well as vignettes and 'train the trainer' facilitation packs.
19. This is a valuable method of providing tailored training materials that support the IFoA's professional ethical regulation of its members.
20. The Board has oversight of the development of the PST content through the Professional Skills Content Development Committee and receives an annual report on activities. In practice, the PST tries to align with issues being considered by the Board and new regulatory requirements being introduced. However, it may be that the Board could provide more of a steer on topics and could more often utilise the PST content as a 'tool' to promote particular professional ethical messages or to raise issues.

(ii) Education

21. If a newly identified issue is considered to be essential to the understanding and practice of actuaries, it might be appropriate to address this matter at qualification stage. This might involve suggesting an addition to the qualification curriculum, or a change to the qualification process.
22. There may also be some consideration of the content of the Stage 1 Professionalism course, which is a specific component of the route to qualification and focuses on IFoA regulation (including the Code) and professionalism in practice.
23. There may also be some consideration about the content of the UK Practice Modules, which (once introduced in their reviewed format) should focus on the knowledge around the roles for which Practising Certificates (PCs) are required and are one of the criteria for applying for a PC.

(iii) Practising Certificates

24. One part of the IFoA's toolkit is the ability to require that a member must hold a PC before undertaking a role. The nature of the PC Scheme is that it is designed to be an additional check on suitability of individuals to carry out certain ongoing, actuarial roles, identified through regulation or legislation.
25. Clear criteria have been agreed for determining when a PC requirement is likely to be appropriate, recognising the significant impact of such a step in restricting which members are able to apply for and undertake particular roles.
26. Generally speaking, the intention of the PC Scheme is to provide a certification system for actuarial roles set out in legislation or regulation, which have particular public interest significance. Therefore it would usually be appropriate to introduce a PC requirement only where such a specific ongoing role exists, and where it is possible to set out clear and definable competencies necessary to carry out such a role.
27. Given its impact, this tool would only be introduced following a detailed member and stakeholder consultation and after assessment of the impact of such a measure.

(iv) Code and Standards

28. If a concern was significant, and of an ongoing nature, such that raising awareness was felt to be insufficient to address any risk, the Board may wish to consider introducing new mandatory requirements or formal non-mandatory guidance into its regulatory framework.
29. This could be: an update of existing requirements Actuaries' Code; new or amended non-mandatory guidance; or a new/amended Actuarial Practice Standard (APS).
30. If the proposal was substantive in nature, a consultation would ordinarily be undertaken before any decision was made to implement a change.
31. A change to the Code would usually be appropriate where the concern related to fundamental professional ethical values relating to actuaries, recognising the high-level principles-based approach to the Code. Where a change is being suggested, consideration should be given as to whether the existing guidance relating to the Code should be updated, or whether additional specific guidance would be beneficial.
32. Alternatively, where a change to the Code itself is deemed not appropriate, it might be appropriate to look at non-mandatory guidance. Whilst guidance cannot impose on Members additional requirements, not contained within the Code or an APS, it can be a useful way to provide case studies or example behaviours to help explain or emphasise existing, general requirements.
33. A new or amended APS might be considered where there is an ongoing ethical or conduct risk or issue, which can be mitigated through specific direction of members. Although not technical or aimed at process requirements, the use of APS can be effective in imposing specific requirements on members, either in respect of particular practice areas, or in respect of particular elements of practice.

(v) Further information or review

34. Where it is identified that a topic requires further investigation, the Board may wish to invite a deep-dive into the relevant issues, or recommend a Thematic Review be carried out to consider the actuarial perspective in more detail before further considering regulatory activity.

35. This might be a formal Thematic Review under the Actuarial Monitoring Scheme (AMS) programme, with review of work and published results, or it could be something less formal, whereby the IFoA Executive carries out a review for the Board (usually with volunteer input) into a particular topic so that they can better understand actuarial issues within a public interest topic and determine whether further steps are required.
36. Thematic Reviews under the AMS Programme involve detailed consideration of how work is carried out in practice by actuaries, and can include review of samples of work, interviews and obtaining specialist actuarial input. Once a Thematic Review is complete, the Board will usually consider the review outputs in order to assess whether the issues identified give rise to matters which require additional regulation, through one or more of the 'tools' available.

(vi) Engagement with others

37. The Board may wish to discuss an issue with other regulators or relevant stakeholders in order to establish whether the issues are being sufficiently addressed elsewhere, or whether a coordinated approach would be beneficial.
38. The Board may also choose to write more formally to other regulators or stakeholders to raise concerns about a topic or to suggest certain steps that they feel are appropriate but are outside of their remit.
39. If the risk or concern relates to a matter within the remit of another regulator, the Board may seek to discuss the issue or make recommendations to that body using existing channels of communication.
40. In respect of technical actuarial matters, if the Board determines that a solution is a technical actuarial standard or technical guidance applying in the UK, then this should be referred to the FRC with a suggestion or request, either informally through stakeholder meetings or discussion, or through a formal request for the FRC to consider a specific Technical Actuarial Standard (TAS) or corresponding guidance (under the Memorandum of Understanding).

C: Communication about the 'toolkit'

41. It is important for members to understand the nature of what is published by the IFoA in its regulatory capacity and of the different consequences of each of the different 'tools' it uses.
42. Currently there is some information on the IFoA's website about its regulatory role and the Standards Approval Process sets out the different parts of the regulatory framework. However, more could be done to make that as clear as possible.
43. For example, the Board may wish to consider whether the web-page could be used to provide simple, clear descriptions about the main 'tools', the situations in which they will be issued and how members are expected to respond to each.
44. It may also be helpful to look at whether more could be done to explain internally, for example to Practice Boards and other IFoA groups, the decision making processes for when certain tools are likely to be used or not. This may also be helpful to incorporate into the Board member induction materials.

D: Decision

The Board is asked to note this paper and provide any thoughts or suggestions on the regulatory toolkit.