

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

Subject	Outcome of regulatory consultation on formalising DEI requirements in the Actuaries Code
Meeting date	17 May 2023
Previous Steer/Approval	<p>November 2021 Board was updated on the IFoA's wider work on its strategy around DEI and provided steer on proposed regulatory work.</p> <p>February, April, July, 2022 Board was updated via regular Executive updates on work to review DEI requirements.</p> <p>November 2022 Board discussed and approved proposed changes to the Code to go out for consultation.</p>
International issues considered?	Yes
Author	Hannah MacLeod, Senior Regulatory Lawyer
Reviewer	Fiona Goddard, Acting Head of Regulatory Policy Ben Kemp, General Counsel
Purpose	Approval

A: Executive Summary

1. This paper provides an update to Regulatory Board (the Board) on the outcome of the consultation on proposed changes to the regulatory framework in respect of Diversity, Equity and Inclusion.
2. It provides for discussion: a summary of the feedback provided by the consultation respondents; a note of the Executive's consideration of the key themes raised by respondents; and, for steer, a suggested way forward in respect of each proposed amendment.
3. The consultation drew significant interest from members (particularly in the UK) and employers, as well as external individuals and interested bodies. 198 responses were received.
4. While the majority of respondents supported the formalising of DEI themes within the Code, the responses to the consultation questions and the specific proposals were polarised, with significant differences of opinion between the strong supporters of the proposals and those respondents who were strongly in disagreement.
5. This paper aims to address the points of concern raised within the responses to the consultation, and, in doing so, makes a number of suggestions for the Board to consider. These suggestions and recommendations are summarised in section G.

B: Background

6. The IFoA published its five-year strategy around DEI in January 2022, which set out a range of commitments.
7. In respect of regulation, the Strategy included a commitment to review the IFoA's regulatory framework, including the Actuaries' Code, in order to ensure that the DEI Strategy is reflected in the expectations of Members.
8. Further, the Board introduced its own commitment in October 2021 when it updated its Regulatory Policy Statement, which states:
 - *'The IFoA's regulatory role will be carried out in a way that promotes diversity, equity and inclusion'* (section 16)
9. In furtherance of these commitments, the Board considered at its November 2022 meeting, the existing treatment of DEI principles within the Code and guidance, together with proposals to amend the Code. The Board agreed to consult on the proposals, which were published on 16 January 2023. The proposed amendments are contained at Appendix 1.

C: Engagement with the Consultation

10. The consultation was published on the IFoA website and promoted in the regulatory newsletter, the Actuary magazine and on social media. Blogs were published to highlight the consultation and two webinars took place where the proposals were explained and questions from delegates were addressed. The webinars were attended by around 130 individuals.
11. There were 198 responses to the consultation, including 179 responses from individuals and 19 responses from organisations. In comparison to the number of responses received for other recent regulatory consultations, such as relating to Climate Change (65), Practising Certificates Scheme Review (104), Review of APS P1 (17), CPD Scheme Review (220) and the last consultation on **changes** to the Actuaries Code in 2017-2018 (103), this is a significant number.
12. Of the individual respondents:
 - 83% are based in the UK, with the remaining number spread across the world.
 - 96% are members of the IFoA, working across the full spectrum of practice areas.
13. Of the organisations who responded:-
 - 78% are employers of IFoA members
 - 10% are membership bodies representing actuaries
14. In terms of the representation of IFoA members, 13% of all members are employed by (or work for) one of the responding organisations, and 22% of UK members are employed by (or work for) one of the responding organisations

D: Responses to the Consultation

Question	Summary
<p>1. To what extent do you agree do you agree with the proposal to amend Principle 1.1? (Members must show respect for everyone and treat others fairly. in the way they conduct themselves.)</p>	<ul style="list-style-type: none"> 61% of organisations either <u>agreed or strongly agreed</u> 46% of individual responses either <u>agreed or strongly agreed</u> 28% of organisations either <u>disagreed or strongly disagreed</u> 42% of individuals either <u>disagreed or strongly disagreed</u>.
<p>2. To what extent do you agree with the proposal to add a new Principle 1.2 to introduce an obligation on Members to encourage DEI?</p>	<ul style="list-style-type: none"> 45% of organisational respondents either <u>agreed or strongly agreed</u>. 34% of individual respondents either <u>agreed or strongly agreed</u>. 39% of organisational respondents either <u>disagreed or strongly disagreed</u>. 59% of individual respondents either <u>disagreed or strongly disagreed</u>.
<p>3. To what extent do you agree with the proposal to add a new Principle 1.3 to introduce an obligation on Members not to subject others to bullying, victimisation or harassment?</p>	<ul style="list-style-type: none"> 50% of organisational respondents either <u>agreed or strongly agreed</u>. 51% of individual respondents either <u>agreed or strongly agreed</u>. 39% of organisational respondents either <u>disagreed or strongly disagreed</u>. 35% of individual respondents either <u>disagreed or strongly disagreed</u>.
<p>4. To what extent do you agree with the proposal to amend Principle 5 (Speaking Up) to include specific DEI requirements?</p>	<ul style="list-style-type: none"> 45% of organisational respondents either <u>agreed or strongly agreed</u>. 48% of individual respondents either <u>agreed or strongly agreed</u>. 50% of organisational respondents either <u>disagreed or strongly disagreed</u>. 42% of individual respondents either <u>disagreed or strongly disagreed</u>.
<p>5. Do you feel that you would have any concerns about your ability to comply with the proposed amendments to the Code?</p>	<ul style="list-style-type: none"> 28% of organisational respondents believed they <u>would have concerns</u> about their ability to comply with the proposals. 39% of individual respondents believed they <u>would have concerns</u> about their ability to comply with the proposals. 28% of organisational respondents believed they <u>would not have concerns</u> about their ability to comply with the proposals. 39% of individual respondents believed they <u>would not have concerns</u> about their ability to comply with the proposals.
<p>6. How significant do you think the impact of the proposed amendments to the Code would be on your professional or personal life?</p>	<ul style="list-style-type: none"> 72% of organisational respondents gave a '<u>neutral</u>' response to this question. 44% of individual respondents gave a '<u>neutral</u>' response to this question. 29% of individuals believed the impact would be <u>significant or very significant</u>. 11% of organisations stated that they believed the impact would be <u>insignificant</u>. 27% of individuals believed the impact would be <u>insignificant or very insignificant</u>.
<p>7. Do you feel that DEI values would be better reflected within guidance only?</p>	<ul style="list-style-type: none"> 17% of organisations answered yes. 44% of individuals answered yes. 56% of organisations answered no. 31% of individuals answered no.
<p>8. Are there any other areas of the Code you feel ought to be amended to reflect DEI expectations?</p>	<ul style="list-style-type: none"> 11% of organisations answered yes. 4% of individuals answered yes. 78% of organisations answered no. 84% of individuals answered no.

E: Key Themes Arising and Recommendations

15. The responses to the consultation are produced in full at Appendix 4 – the Summary of Consultation Responses. The responses in red type are for consideration of the Board only and will not be published.
16. The main themes arising from the consultation are as follows:

The definition of DEI

17. A significant number of respondents (both those in support of the proposals, and also those not in favour of the proposed amendments) made comments regarding the definitions of Diversity, Equity and Inclusion. Some respondents simply highlighted that if the proposals were to be introduced, it would be important to provide a definition of these terms within Guidance to the Code, in order to ensure that the meaning of the terms is clear to Members. Other respondents disagreed with the definitions provided within the consultation documents. Some respondents commented that DEI is a shifting concept, whose meaning may vary over time, and which is therefore not an appropriate term to use within a professional Code.
18. The definitions used within the consultation material are as follows:
 - i. **Diversity:** means recognising differences and variety in people and their skills and experience, and appreciating these variations.
 - ii. **Equity:** means that individuals have access to the support and resources they need (as opposed to the same support and resources as each other) to succeed in their roles.
 - iii. **Inclusion:** means that all individuals will be valued in the workplace, that they will be encouraged and listened to, and that their individual contributions will be appreciated.
19. These definitions mirror those contained within the IFoA QAS Handbook (DEI addendum). However, it would be possible to alter or expand upon these terms in any Guidance to be produced and advice on this has been obtained from the IFoA's DEI Business Partner.
20. That advice suggests that it would be useful to expand on the definitions, and to connect each term to the others. The definition of 'diversity' might include reference to valuing and harnessing differences. It is also suggested that reference is made to both visible and less easily visible/non-visible differences, and diversity of thought and outlook. The advice suggests that the definition of 'inclusion' might also speak to employees *feeling or experiencing* a sense of belonging.
21. It is **recommended** that the Board agrees that if DEI is to be specifically referred to within the Code, an explanation of the meaning of Diversity, Equity and Inclusion is provided within Guidance to the Code, which is developed with the support of a DEI expert, in order to provide guidance and assurance to members.

Equity or Equality

22. The consultation material, like the IFoA DEI Strategy, was clear in stating that the proposals relate to diversity, *equity*, and inclusion, as opposed to diversity, *equality* and inclusion. The intention in using the term 'equity' rather than 'equality' is to reflect the principle of fairness, and to recognise that equal treatment does not always result in fairness, because different people require different resources or support. This principle is readily illustrated by the example of physical disability (someone with a disability may require different resources in order to work as comfortably and effectively as their colleague, not the same resources as a colleague with no disability). However, it can also apply to many other situations where individuals have different circumstances from their peers, from different socio-economic backgrounds, to different living arrangements, or caring responsibilities.
23. Many respondents who disagree with the proposals to introduce the suggested Principle 1.2, note that they are concerned about the IFoA's use of the term 'equity'.
24. Some respondents note that 'equity' is suggestive of an intention to ensure 'equality of outcome' whereas 'equality' is suggestive of 'equality of opportunity'. Those respondents who made this distinction were clear in expressing their view that *equality of opportunity* is an acceptable ambition, but that *equality of outcome* is inappropriate and undesirable.
25. 'Equity' aims to address systemic and underlying inequality, by recognising that identical (or equal) treatment is not always successful in achieving fairness because different people need different resources and support.
26. It is **recommended** that if the Code should be amended to refer to DEI (or if Guidance be produced in relation to DEI) this should be a reference to Diversity, *Equity* and Inclusion. This will ensure alignment with the IFoA DEI Strategy.

Behaviour that may amount to bullying, victimisation or harassment

27. Respondents in favour of this proposed addition to the Code commented that it was helpful to specifically call out this expectation, and that it was beneficial to emphasise the importance of this requirement and to make it clear that it applies to the treatment of Members and non Members both outside and inside the work environment.
28. However, some respondents who disagree with the proposal to introduce a new Principle 1.3 commented that the terms bullying, victimisation and harassment have not been defined within the proposed text and that the lack of definition is problematic.
29. The words 'bullying, victimisation and harassment' are established terms, used commonly in the UK in relation to professional conduct and employment matters. No special meaning was intended by their inclusion within the proposals and any dictionary definition of the terms would provide an explanation of their meaning suitable for their use within the Code. It is proposed that if this addition was made to the Code, guidance would be produced which would contain examples of these behaviours.

30. Most respondents not in agreement with this addition, and some who were otherwise in agreement with the addition, disagreed with the use of the words “may amount to”.
31. As explained in the consultation materials, the phrase ‘may amount to’ was included to ensure that bullying or harassing behaviour is not acceptable simply because the recipient is uncomplaining. The intention of the proposed words is to ensure that members appreciate and understand that their behaviour towards one person can have an impact on observers, and that this behaviour can contribute to the culture of a working environment.
32. Some consultation responses have highlighted that the use of the words ‘may amount to’ creates an uncertain situation, where, in a subjective sense, any behaviour may amount to bullying, victimisation or harassment. Whilst, in response to any complaint, the IFoA will consider a Member’s behaviour objectively, rather than subjectively, some respondents felt that there is an inherent subjectivity to bullying that is exacerbated by the use of the words ‘may amount to’ and which would put members at risk of unjustified or spurious complaints against them.
33. It is **recommended** that if the Board determines to include the proposed new Principle 1.3, Guidance be developed to help members understand the meaning of ‘bullying, victimisation and harassment’.
34. It is **recommended** that the Board considers including the proposed new Principle 1.3 under deletion of the words ‘may amount to’ and instead agrees to the development of guidance which explains the effect of behaviour on third parties and the role members play in contributing to the culture of an organisation.

Fairness

35. The proposed amendments refer to the principle of fairness at both Principle 1 and Principle 5. They require members to “treat others fairly” and to Speak Up if they believe others are “being treated unfairly”.
36. Those respondents not in favour of these amendments commented that the words ‘fairly’ and ‘unfairly’ are undefined, difficult to define, and subjective.
37. Those in support of the proposals commented that treating others “fairly” is fundamental to the principles of DEI and should be included in the Code.
38. As explained in the consultation material, the requirements relating to fairness within the Code would, as with existing provisions, be assessed objectively. Reasonable and justified behaviour would not amount to a breach of the Code simply because one person subjectively viewed that behaviour as being unfair.
39. Some respondents commented that the requirement to act ‘fairly’ conflicted with the obligation to encourage equity, because equity (ie potentially treating others differently to address an underlying inequity) is ‘inherently unfair’.

40. Respondents provided examples within their responses of complaints that might arise if the proposals were enacted, and these included: service providers in a commercial dispute claiming they were not treated fairly; candidates not appointed to a job, claiming that they were treated unfairly; employees receiving a below inflation pay rise claiming they were treated unfairly.
41. The intention of the proposals was to expand upon the existing terms of the Code using the readily understandable concept of fairness in order to reflect DEI principles within the IFoA's expectations of member behaviour. It is anticipated that most members will be familiar with the concept of fairness and that most members are adept at applying any reasonable judgement that might be required in order to assess objectively what fair treatment looks like.
42. It is **recommended** that if the proposals are approved, the terms 'fairly' and 'unfairly' remain as suggested, with guidance developed to provide examples of acceptable and unacceptable behaviour, and to provide clarity around the alignment of fairness and equity.

Respect for everyone

43. It is an existing requirement under the Code that members must "show respect for others in the way they conduct themselves". Some respondents have commented that they disagree with the proposal to amend this requirement to one where members "must respect everyone".
44. The reference to 'everyone' has led some respondents to express concern that they would not be able, and should not be required, to respect some people. Examples are provided that relate to various rule-breakers and criminals, and some respondents suggest that, where fundamental views differ, it would be more appropriate to require members to 'tolerate' others.
45. The intention of the proposed amendment was to highlight that respectful behaviour should be owed not only to those with whom we agree, but that it is a fundamental expectation of the IFoA that members act with courtesy and politeness, regardless of their audience.
46. It is **recommended** that if the proposals are approved, the term 'show respect for everyone' remains as suggested, with guidance developed to provide examples of acceptable and unacceptable behaviour.

A duty to 'encourage' DEI

47. The proposal to introduce a requirement on members to take positive action in respect of DEI has been the most divisive of the suggested amendments.
48. Supporters of the amendment state that its proposal is welcome as it highlights the fact that members should play an active role in the promotion of DEI, and that as chartered professionals, actuaries should hold themselves to the highest standards of society. Other respondents spoke of the importance of professional values being reflected in how members act and conduct themselves, not just how they talk about themselves.

49. Critics of the proposals questioned the ability of all members to fulfil this positive obligation and some considered that it placed an undue burden on some members who themselves may be faced with inequality or discrimination.
50. A considerable proportion of respondents state that guidance is necessary in order that members understand their obligations, and that the guidance needs to provide real-life examples of ways in which Members could be seen to fulfil this requirement.
51. One comment stated that DEI is nuanced and different members will be able to fulfil this requirement in different ways. Certainly, this is one point that guidance could be used to cover, as it could provide a range of examples of actions members might be able to and might choose to take in order to fulfil the obligation.
52. One respondent suggested that the duty should be re-stated as a duty to encourage 'where members have an opportunity to do so in the course of their work'. This suggestion reflects the concern of many respondents that the requirement is too open-ended and that members may not all have the opportunity to fulfil the obligation.
53. The proposals were framed as a 'should' requirement in order to address this point. However, the Board will wish to consider whether this is sufficient to reflect the varying positions of all members across the globe, or whether the proposal should be amended to specifically refer to members having an 'opportunity' to encourage. It will be important when considering this wording, to ensure that the Code does not suggest that members are obliged to take every opportunity to encourage DEI – members need to be provided the freedom to determine how and when they fulfil such a positive obligation.
54. One comment within the responses is that members hold very dearly their individual adherence to the Integrity principle, and that any suggestion of a breach of this integrity, would be felt very keenly; and that even if unjustified, a complaint against a member for a breach of this principle, in particular, would have negative consequences. This comment suggests that the proposals create a risk that Members will be criticised for not openly demonstrating promotion of DEI, and that such criticism would amount to a challenge to that member's integrity.
55. The suggestion from this respondent suggests that any positive requirement (and one which might on occasion be inadvertently breached through inaction) such as the proposed requirement to 'encourage' might fit in the Code better under Principle 5, Speaking Up.
56. The proposed Principle 1.2 was included within Principle 1 because of the fundamental correlation between DEI principles and respect. This direct link is borne out in the existing guidance to the current version of the Code which states in connection with the Integrity Principle, that '*The IFoA promotes equality and diversity and the development of an inclusive profession that incorporates people from a range of backgrounds. Members are encouraged to behave in a way that recognises and respects diversity and different cultures*'.
57. However, Principle 5 of the Code does contain other positive obligations on members, which could be seen as imposing a similar type of requirement as the proposed duty to encourage diversity,

equity and inclusion. The Board will wish to consider whether, if a duty to encourage DEI is to be introduced, such a duty fits better at Principle 1 or Principle 5.

58. One respondent suggested that it might be more appropriate to introduce a requirement to encourage not DEI, but “a culture where all are treated as individuals, free of discrimination such that all feel able to contribute where they can add value”. This suggestion has the advantage of avoiding the terms Diversity, Equity and Inclusion, which for some are problematic. However, in doing so, it similarly misses certain of the aims contained within the principles of DEI.
59. It is **recommended**, that if the Board decides to introduce an obligation to encourage diversity, equity and inclusion, that consideration be given as to whether the requirement should sit under Principle 1 (Integrity) or Principle 5 (Speaking Up).
60. It is **recommended**, that if the Board decides to introduce an obligation to encourage diversity, equity and inclusion, that guidance be produced to explain how individual members might fulfil this requirement; and to provide examples of behaviour and actions that might encourage DEI.

The risk of unjustified complaints against members

61. A large proportion of the respondents who did not support the proposals spoke of some concern regarding unjustified complaints against them if they took action which might be deemed to be contrary to DEI principles; or where they were unable to evidence their compliance with the proposed obligation to encourage.
62. Examples were provided within the responses, such as: someone who refuses to let others speak in a meeting could claim that they were "not listened to"; an actuary who makes public statements on hot topics, even if done with the utmost respect, could be reported under the disciplinary scheme; a member who dismisses an incompetent member of staff could be reported for not acting equitably; a member who sets up business with three partners of the same gender could be complained about for not being inclusive.
63. Although the consultation materials explained the basis on which the IFoA would discipline members (that is, on proof of misconduct, which is by definition a high and serious threshold), respondents commented that even where a complaint was not upheld, this would cause stress and upset to the member subject to complaint or investigation.
64. The discipline team at the IFoA does not anticipate that the proposals, if introduced, would result in an influx of complaints against Members. Further, the team has highlighted that, under the new Discipline Scheme (to come into force in August), each complaint will be assessed to determine whether it should be accepted. Therefore, complaints received against members will not automatically be referred for investigation. Complaints will not be accepted if they meet any of the following criteria:
 - the complaint could not amount to misconduct even if the facts are proven;
 - there is no reasonable prospect of proving the matter giving rise to the complaint;

- the matter giving rise to the complaint should be considered by another body and/or court before being reassessed.
65. It is suggested that any guidance to be produced in relation to DEI would assist members in understanding the circumstances in which a complaint might be investigated or disciplinary action might be taken against a member in respect of DEI matters. This guidance would aim to reassure members that the Code does not prescribe how members might encourage DEI. As explained above, guidance would also aim to make clear the meanings of bullying, victimisation and harassment, in order to assure members that the Code does not seek to restrict or interfere with debate or commercial discussion or negotiation. Guidance might also explain that the Code does not seek to interfere with the relationship between an employer and an employee, and that the provisions of the Code do not preclude fair and effective performance management.

Meritocracy

66. Several respondents commented that the profession should be a meritocracy, and that this would preclude the promotion of the principles of 'equity' and 'inclusion'. Those respondents stated that members should not be obliged to 'lower standards' in order to comply with the Code.
67. Respondents queried whether an obligation to follow DEI principles would require members to: give time and consideration to bad ideas; employ people with poor skills; employ underqualified people simply to meet a quota.
68. These comments were not in the majority, and it is hoped that most IFoA members will have an understanding of DEI, the aims of the IFoA's DEI Strategy, and the over-arching aim of the IFoA to promote and advance the profession. It would be possible within any guidance on DEI, and through examples, to explain that the principles of equity and inclusion are to the benefit, rather than the detriment, of the pursuit of high-quality work and outputs.

Application to personal life

69. In recognising that the Code can apply to members' conduct outside work, some respondents have expressed concern that they would be required to comply with a positive obligation to encourage DEI within their personal lives.
70. The Code applies to members' conduct outside of work to the extent that it could be said to reflect on the profession. If a member was to engage in online bullying, it is possible that this could be seen as a breach of the Code.
71. However, a failure to encourage DEI at home or within a personal setting is far less likely to reflect upon the profession as a whole, and therefore unlikely to amount to a breach.
72. The Code already places positive obligations upon members which are unlikely to have an effect on their personal lives. For example, the existing requirements within Principle 6 concerning communication convey a requirement on members to communicate clearly and timeously. A failure

to do so in respect of personal communication is unlikely to constitute a breach of the Code since it would not reflect on the profession as a whole.

73. It is important to apply common sense and judgement to the interpretation of how the Code might apply.

Overlap with Equalities legislation

74. Some respondents were of the view that the proposals are superfluous given the existence of Equalities legislation in the UK. They stated their belief that there is already an obligation to treat people equally, and without discrimination; and that there was a duty within the legislation not to harass or victimise.
75. The comments submitted do not acknowledge the global application of the Code, nor the limitations of the Equality Act within the UK. The Equality Act applies to employers and service providers. It also provides employment protection to individuals who hold specific characteristics, as defined within the legislation. The Act does not impose any DEI obligations on individual employees.
76. The Actuaries' Code has a separate and distinct application to that of the Equality Act, and indeed, any other employment legislation that might apply to members. It would be possible to make this point clear within any guidance, to assist Members to understand the locus and the function of the Code.

Conflict with individual rights and freedoms

77. Some respondents who were opposed to the proposals, commented that the proposals, if introduced, would contravene a member's fundamental human rights. The respondents make reference to the right of free speech, an individual's right not to promote something they disbelieve in, and the right to cultural and religious beliefs.
78. As explained within the consultation material, the proposals would not prevent members from holding and expressing personal, moral or religious beliefs. The proposals are asking members to respect the fact that others might hold different beliefs, and to voice their own beliefs in a way which is not reasonably considered offensive, and which does not amount to bullying, victimisation or harassment.
79. The proposed obligation to encourage DEI is not prescriptive, and members will be able to fulfil this obligation in many different ways. Members are not expected to engage in activities which are contrary to their own religion or beliefs.
80. If the proposals are introduced, guidance should be developed to help members understand that it is up to each individual how they encourage DEI, and that the obligations within the Code do not restrict an individual's right to religion, personal beliefs, or expression.

Speaking Up against others being 'excluded'

81. Several respondents noted that the proposal to amend Principle 5, and in particular, the proposed obligation on members to Speak Up if others are being excluded, fails to recognise that there can be legitimate reasons for excluding people in certain circumstances.
82. It is accepted that there are many situations where it is fair, just and appropriate to exclude someone from a conversation, a situation, or an event. The obligation to Speak Up only in the event of unfair or unjustified exclusion was intended to be implied.
83. However, in order to be clear, **it is recommended** that, if the Board decides to introduce the proposed addition to Principle 5, that it does so with the addition of the word “unfairly” after the word ‘excluded’ at 5.2, and that guidance be developed to support members’ understanding of this requirement.

F: Input from the Financial Reporting Council

84. [REDACTED]
85. [REDACTED]
86. [REDACTED]
87. [REDACTED]
88. [REDACTED]
89. [REDACTED]

G: Input from the IFoA Diversity Action Group

90. The IFoA’s Diversity Action Group responded to the consultation and provided general comments in respect of each proposal. The full DAG response is included at Appendix 2.
91. By way of summary, DAG expressed its support for the intent behind the explicit reference of DEI within the Code; and was supportive of the intent to ensure the speaking up requirements are understood in the context of DEI. However, DAG expresses concern as to the lack of clarity within the proposals, particularly in connection to the meaning of the words ‘fair’ and ‘respect’.
92. DAG expressed concern that a requirement to act ‘fairly’ might have a negative effect on DEI initiatives, such as efforts to support under-represented communities or address systemic barriers.
93. In terms of the proposal to introduce an obligation to ‘encourage’ DEI, DAG expresses concern that this might be interpreted as an obligation on all members to volunteer their time towards DEI initiatives or work explicitly on DEI-related actuarial work, and considers that guidance would be required to provide clarity around what would constitute encouraging behaviour.
94. In respect of Speaking Up, DAG expresses concern that the proposals place undue pressure on vulnerable members or those who are facing systemic inequality and barriers themselves.

95. Regarding the work of actuaries, DAG raises a concern that the proposed amendments could put members at risk of outside criticism, for example class actions by groups of customers.
96. In respect of all of the proposals, the DAG response highlights that guidance, training and reflective practice discussions would be beneficial to raise awareness and understanding of the obligations of individual members in respect to DEI.
97. The Board will wish to consider whether the provision of guidance and training will be sufficient to address the concerns raised by DAG around interpretation and clarity.

H: Guidance

98. As noted above, many respondents noted that guidance would be essential to help support members in complying with the proposed amendments to the Code. In drafting the amendments, it was anticipated that guidance would be developed to support any amendments.
99. The individual respondents to the consultation were divided as to whether DEI would be better reflected in guidance only. The organisational responses were of the view that a change to the Code, supported by guidance would be preferable.
100. The responses to the consultation have helped to identify various issues and themes which could be clarified through guidance. These areas are noted above and summarised below.
101. Draft guidance has been developed and is contained at Appendix 3. It is proposed that, if the draft amendments to the Code are to be introduced, further work should take place to refine and finalise the guidance. This work would include input from the IFoA's DEI Business Partner, and from DAG, who it is anticipated could assist in the formation of examples and case studies.

I: Proposals

It is recommended that:

1.	Principle 1 of the Code be amended as consulted upon, under deletion of the words "may amount to" at Principle 1.3
2.	consideration be given to including the proposed Principle 1.2 instead at Principle 5.
3.	Principle 5 of the Code be amended as consulted upon, with the addition of the word "unfairly" after the word "excluded" at Principle 5.2.
4.	<p>non mandatory guidance be developed, with the support of the IFoA DEI Business Partner, and the IFoA Diversity Action Group to provide members with:</p> <ul style="list-style-type: none"> • An understanding of the meaning of diversity, equity and inclusion • Examples of treating others fairly and unfairly • Examples of encouraging DEI • An understanding of the meaning of bullying, victimisation and harassment • Example behaviours of bullying, victimisation and harassment • An understanding that negative behaviour can impact on the culture of an organisation • Help in determining who to 'speak up' to in respect of unfairness, and in what circumstances

5.	the Board approves the completion of the draft Summary of Consultation Responses to reflect the decisions of the Board; and the subsequent publication of that document.
6.	consideration be given as to how to support members in understanding the requirements of the amended Code, through Professional Skills materials and events.

J: Conclusion

102. The Board is asked to approve the recommendations noted above, with such amendments as may be determined.

K: Appendices

- **Appendix 1:** Proposals to amend the Code, as consulted upon
- **Appendix 2:** Consultation response from Diversity Action Group
- **Appendix 3:** Draft Guidance on DEI
- **Appendix 4:** Draft Summary of Consultation Responses