

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

Subject	Outcome of regulatory consultation on minor amendments to the Actuaries' Code
Meeting date	17 May 2023
Previous Steer/Approval	<p>April 2022 - Board approved new Disciplinary Scheme to go to Council</p> <p>July 2022 - Board updated as to Council approval of new scheme and plans for member vote</p> <p>November 2022 - Board updated on member vote to approve new scheme and of consideration being given to the need for consequential amendments to Code</p> <p>December 2022 - Board 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, Interim Head of Regulatory Policy Ben Kemp, General Counsel
Purpose	Approval

A: Executive summary

- This paper provides an update to Regulatory Board (the Board) on the outcome of the consultation on proposed changes to the Actuaries' Code necessitated by the introduction of a new Disciplinary Scheme, to come into effect in August.**
- The replacement of the existing Disciplinary and Capacity for Membership Schemes ("the Existing Scheme") with the new Disciplinary Scheme ("the New Scheme") necessitates minor consequential amendments be made to the Actuaries' Code ("the Code") relating to the requirements around disclosure of convictions and findings, as well as to update references to the title of the New Scheme.
- This report provides for discussion a summary of the feedback provided by the consultation respondents, and invites the Board to approve the proposed amendments.

B: Background

- Since 2019, the Code has included requirements for members to disclose to the IFoA certain convictions and findings that are defined in the Existing Scheme. The Code provides, at Principle 4.2, that members must disclose to the IFoA "*any conviction, adverse finding, judgement or determination or disqualification of the type mentioned in rules 4.8 to 4.11 of the Disciplinary and Capacity for Membership schemes*". Rule 4 of the Existing Scheme specifies detailed circumstances which give rise to both conclusive proof, and presumed proof of facts for the purposes of any disciplinary action.
- On 27 October 2022 IFoA members voted to approve the introduction of the New Scheme, which is due to come into effect on 1 August. The rules relating to Proof in the New Scheme (Rule 6)

also provide for circumstances which give rise to conclusive proof, and circumstances which will give rise to presumed evidence. However, in the New Scheme, these rules are more general in the description of the types of circumstance which might arise and which might therefore be considered in disciplinary proceedings.

6. Proposals were therefore prepared which introduce a revised Principle 4.2 to summarise the types of circumstance which it is appropriate to require members to report; and which make a typographical amendment to Principle 5.2.
7. By email in December 2022, the Board agreed to consult upon the proposals, and approved the consultation document, which was published on 16 January 2023. The proposals consulted upon are contained at Appendix 1.

C: Engagement with the consultation

8. There were 26 responses to the consultation, comprising 24 individual responses and 2 responses from actuarial consultancies. 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 low number, possibly reflecting the consequential nature of the proposed amendments.

D: Response to the consultation

9. The responses to the consultation are produced in full at Appendix 2 – the Summary of Consultation Responses. The responses in red type are for consideration of the Board only and will not be published.

Question	Summary
<p>1. To what extent do you agree that the proposal to amend Principle 4.2 makes it clear the circumstances in which a member would need to self-report to IFoA?</p>	<p>1 organisation strongly agreed and the other responded 'neutral'.</p> <p>54% of individuals either agreed or strongly agreed</p> <p>Respondents noted that guidance would be useful to give further examples of the types of situation that should be reported.</p> <p>17% of individuals either disagreed or strongly disagreed.</p> <p>One respondent noted that it would be preferable to explicitly list all situations in which reporting would be required.</p> <p>One respondent queried whether a court finding that a witness was unreliable, would be reportable.</p>
<p>2. To what extent do you agree with the proposed amended wording in Principle 4.2 makes it clear to members the circumstances in which a member would need to self-report to the IFoA in relation to criminal (or</p>	<p>Both organisations disagreed and 17% of individuals either disagreed or strongly disagreed.</p> <p>Those respondents that disagreed noted that they were based in the UK, and that it was not clear to them that the provisions would apply outside the UK.</p> <p>One respondent noted that the need to report criminal activity abroad would result in an over-reporting due to the nature of activities that were illegal in some countries, but legal in the UK.</p>

	<p>other) matters occurring outside the UK?</p>	<p>50% of individuals either agreed or strongly agreed.</p>
<p>3.</p>	<p>To what extent do you agree that guidance would be useful in order to provide examples of circumstances which should, or should not, be reported?</p>	<p>1 organisation strongly agreed and the other agreed.</p> <p>51% of individuals either agreed or strongly agreed.</p> <p>Respondents noted that guidance would be useful to cover situations like tax penalties, ombudsman decisions, findings of fraud or dishonesty that do not amount to a criminal conviction and driving offences.</p> <p>One respondent noted that guidance would be useful concerning the meaning of the words ‘subject to’ (eg if you hold a position of trustee and there is a finding against the scheme, do you need to report?)</p> <p>25% of individual respondents responded ‘neutral’ and the remaining individual responses did not answer this question.</p>

D: Feedback from the Financial Reporting Council

10. [REDACTED]

F: Guidance and support for members

11. As noted above, although there were few comments received on the proposals, most of the respondents who participated in the consultation stated that guidance would be helpful to assist members in understanding when they have a duty to self-report to the IFoA.
12. It is proposed that guidance should be developed to accompany the Code, which would, in particular, assist members to understand whether a civil court matter requires to be reported; whether a minor criminal matter requires to be reported; how the requirements affect members who hold positions of responsibility in respect of a company, trust or other legal entity; and how the Code applies to members outside of the UK. The guidance would also provide examples of situations that do and do not require to be reported in accordance with the Code.

G: Recommendations

13. It is recommended that the Board:
 - Approves the amendment of the Code in accordance with the proposals consulted upon
 - Approves the development of non-mandatory guidance to assist members in understanding the requirement to self-report
 - Approves the completion of the draft Summary of Consultation Responses to reflect the decisions of the Board; and the subsequent publication of that document

H: Conclusion

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

I: Appendices

- **Appendix 1:** Proposals to amend the Code, as consulted upon
- **Appendix 2:** Draft Summary of Consultation Responses