



Institute
and Faculty
of Actuaries

Adjudication Panel Meeting

25 May 2022

Institute and Faculty of Actuaries

Held by Video Conference

Respondent: Jack Copley

Category: Student since date 29 September 2020

Region: Nottingham, UK

Panel Members: Andy Scott FFA (Chair)
Angela Brown (Lay member)
Peter Ridges FIA (Actuary member)

Legal Adviser: Graeme Watson

Judicial Committees Secretary: Hinna Alim

Allegations:

The allegations against Jack Copley (the Respondent) are:

- A1 On 25 December 2021 he drove a motor vehicle on a public road after consuming so much alcohol that the proportion of it in his breath, namely 93 microgrammes of alcohol in 100 millilitres of breath, exceeded the proscribed limit. This was contrary to section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.
- A2 His actions in paragraph A1 were in breach of the Compliance principle of the Actuaries' Code (version 3.0).
- A3 His actions, in all or any of the above, constituted misconduct in terms of Rule 4.2 of the Disciplinary and Capacity for Membership Schemes of the Institute and Faculty of Actuaries (Effective 1 June 2021).

Panel's determination:

The Panel considered the Case Report and appendices submitted by the Case Manager and Investigation Actuary and the Respondent's response to the Case Report. The Panel also considered the advice of the Legal Adviser. The Panel determined that the Case Report disclosed a *prima facie* case of Misconduct.

There was unequivocal evidence before the Panel that the Respondent had been convicted of the alleged offence under the Road Traffic Act 1988. A criminal conviction inevitably means that the Compliance principle in the Actuaries Code has been breached.

The Panel accordingly invited the Respondent to accept that there had been misconduct and the following sanction:

- A Reprimand

Whilst there was evidence of a serious breach of the Actuaries' Code by way of a criminal conviction for an offence under Road Traffic legislation, this was a single act for which there were significant mitigating factors. The Respondent self-reported the offence at a very early stage and has also co-operated fully with the IFoA investigation and these proceedings. The Respondent has expressed deep remorse for his actions and has taken positive steps to prevent a further similar conviction, and so the risk of repetition is very low, as is any harm to the profession.

Background:

On 25 December 2021, the Respondent drove a motor vehicle on a public road after consuming so much alcohol that the proportion of it in his breath, namely 93 microgrammes of alcohol in 100 millilitres of breath, exceeded the prescribed limit. This was contrary to section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.

On 6 January 2022 the Respondent emailed the IFoA's Disciplinary Investigations Team to refer himself under the Disciplinary Scheme. He advised that he had been charged with a drink driving offence with a court hearing scheduled for 21 January 2022.

On 21 January 2022 the Respondent emailed the IFoA's Disciplinary Investigations Team to advise that he had pled, and been found, guilty and had asked the court for a copy of the Memorandum of Conviction. (He provided the Certified Memorandum of Conviction on 11 February 2022.)

The Certified Memorandum of Conviction confirmed the Respondent was convicted of the offence detailed above. The Respondent pled guilty and was given:

- a community order to carry out unpaid work for 120 hours;
- an order to pay a £95 surcharge to fund victim services;
- an order to pay costs of £85 to the CPS; and
- a disqualification from driving for 2 years, to be reduced by 24 weeks if by 5 June 2023, he completed a course approved by the Secretary of State.

On 18 March 2022 the General Counsel of the IFoA referred the allegation against the Respondent for consideration under the Disciplinary Scheme.

Decision and Reasons on the Allegations:

Allegation A1

Rule 4.10 of the Disciplinary Scheme provides:

“The fact that a member

(a) Has by a Court of competent jurisdiction in the United Kingdom, been convicted of a criminal offence...

Shall for the purposes of the Disciplinary Scheme be treated as conclusive evidence of the findings of fact upon which the conviction, determination, judgement or disqualification order is based.”

Rule 4.12a of the Disciplinary Scheme provides:

“In a hearing before a Disciplinary Tribunal Panel that involves the decision of a court or tribunal that relates to the Respondent:

(a) the fact that the Respondent has been convicted of a criminal offence may be proved by producing a certified copy of the certificate of conviction relating to the offence;”

The Panel has been provided with a certified Memorandum of Conviction relating to contravention by the Respondent of section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.

The Panel finds that Allegation A1 arises from the Respondent's conviction as set out above and, indeed, the Respondent has admitted Allegation A1 and has indicated his agreement to the findings of fact in the IFoA case report.

In all of these circumstances, the Panel found that Allegation A1 was capable of proof.

Allegation A2

The Compliance principle in the Actuaries' Code version 3 (effective 18 May 2019) is as follows:

“Compliance:

4. Members must comply with all relevant legal, regulatory and professional requirements.

4.1 Members must take reasonable steps to ensure they are not placed in a position where they are unable to comply.”

If Allegation A1 were to be found proven (as it has been), it would be inevitable that “*relevant legal ...requirements*” had not been met. The Respondent has also admitted this allegation

and the Panel concluded that the allegation that the Compliance principle had been breached was capable of proof.

Decision and Reasons on Misconduct:

The Panel then considered whether there was a *prima facie* case that the Respondent's actions in Allegations A1 and/or A2 amounted to Misconduct.

For the purposes of the Disciplinary and Capacity for Membership Schemes, Misconduct is defined as:

"...any conduct by a Member, whether committed in the United Kingdom 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 Bye-laws of the Institute and Faculty of Actuaries and/or to any code, standards, advice, guidance, memorandum or statement on professional conduct, practice or duties which may be given and published by the Institute and Faculty of Actuaries and/or, for so long as there is a relevant Memorandum of Understanding in force, by the FRC (including by the former Board for Actuarial Standards) in terms thereof, and to all other relevant circumstances."

The Panel determined that there was a *prima facie* case that the Respondent's actions constitute Misconduct under the Disciplinary and Capacity for Membership Schemes.

The Respondent's misconduct was a serious breach of the Respondent's legal responsibilities as a citizen but did not arise from his professional practice. Overall the Panel was satisfied that there was sufficient evidence that the threshold for Misconduct had been met, given the potential harm that could have been caused by the Respondent's actions and the importance which the profession properly attaches to ensuring compliance with the Actuaries' Code. However, the Panel concluded, taking account of all the evidence available, that this was not so serious a matter as to require referral to a Disciplinary Tribunal Panel.

Decision and Reasons on Sanction:

In reaching its decision, the Panel had regard to the Indicative Sanctions Guidance (November 2021). The exercise of its powers in the imposition of any sanction is a matter solely for the Panel to determine and it is not bound by the Indicative Sanctions Guidance.

The Panel was aware that the purpose of sanction is not to be punitive although it may have that effect. Rather, the purpose of sanction is to protect the public, maintain the reputation of

the profession and declare and uphold proper standards of conduct and competence. The Panel is mindful that it should impose a sanction, or combination of sanctions necessary to achieve those objectives and in so doing it must balance the public interest with the Respondent's own interests.

Misconduct giving rise to a criminal conviction is serious. However the allegations arose from a single incident for which the Respondent has expressed deep remorse, shown insight, accepted full responsibility and taken significant remedial action. The perceived harm to the reputation of the profession is therefore very low, as is the risk of repetition and risk to the public.

In considering sanction, the Panel took into account the following aggravating factors:

- The Respondent was convicted of driving a motor vehicle when over the legal alcohol limit.

The Panel also took into account the following factors in mitigation:

- The Respondent self-reported himself to the IFoA Disciplinary Committee, 15 days before his Court Hearing
- The Respondent has expressed deep remorse
- The Respondent has co-operated fully with this investigation and these proceedings
- The Respondent had not intended to drive and only did so when he felt threatened by another member of the public
- The Respondent has provided two character references which show that his actions are totally out of character
- The Respondent has paid all of the fines and costs and has already completed the driving course required to reduce his ban by six months
- The Respondent has no previous disciplinary or criminal convictions
- The Respondent is now working in a Charity shop as part of his community service

The Panel considered whether to impose a Reprimand and determined that this should form part of the sanction. There was evidence of a serious breach of the Actuaries' Code by way of a criminal conviction for offences under Road Traffic legislation. However, this was a single act for which there were significant mitigating factors, as outlined above.

The Panel then considered whether to impose a fine and decided that it would not be an appropriate or proportionate sanction in this case. The Respondent's penalty for conviction

included a sum of £85 for court fees and a £95 surcharge to fund victim services. As stated above, the Respondent has taken full responsibility for his conduct giving rise to the conviction, has expressed deep remorse for his actions and has taken positive steps to prevent a further similar conviction. The Panel therefore concluded that with all these circumstances, imposing a financial penalty would be unduly punitive.

The Panel finally considered whether to impose a period of education, training or supervised practice and decided that it would not be appropriate in this case, which concerned a breach of The Actuaries' Code in relation to conduct outside of the scope of his professional practice, rather than any error or deficiency in the Respondent's work as an actuary.

Publication:

Having taken account of the Disciplinary Board's Publication Guidance Policy (May 2019), the Panel determined that, if the Respondent accepted the findings of the Panel, this determination will be published and remain on the IFoA's website for a period of two years from the date of publication. This time period is 3 years lower than for normal cases and reflects the remorse and positive action taken by the Respondent for his actions, the extremely low risk of repetition and risk to the public, and also the Panel's concern at the potential effect of a longer publication period on the Respondent.

A brief summary will also be published in the next available edition of *The Actuary Magazine*.

That concludes this determination.