



Disciplinary Committee

11 October 2023, 09:15 – 12:15

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)
Karen Nicol, Disciplinary Lawyer (Items 1 - 7)
Alison Simpson, Case Manager (Items 10 and 13 - 15)
Julia Wanless, Judicial Committees Secretary

In attendance: Jules Griffiths, Former Convener of Adjudication Panels (Item 10)
Calum Roberts, Project Manager, Financial Reporting Council (Items 6 – 13)
Adeel Khan, Project Associate, Financial Reporting Council (Items 6 – 13)

Apologies: None

Item	Title
1.	Welcome and apologies NW welcomed everyone to the meeting and advised that two observers from the Financial Reporting Council (FRC) would be joining for items 6 to 13 and Jules Griffith, former Convener of Adjudication Panels, would be joining for item 10. No apologies had been received.
2.	Declaration of Conflicts of interests No conflicts were declared.
3.	Chair's update The Committee noted NW's update which included that she had attended the Regulatory Board meeting on 25 July, the training session for Disciplinary Pool members on 22 August, and the Regulatory Board strategy day on 20 September.
4.	Executive's Update SB introduced the paper and highlighted the following: <ul style="list-style-type: none">• Interviews for the Committee member vacancy were being arranged and the interview panel would be NW, RG and SB.• The Insolvency Service had issued a reprimand against the Institute of Chartered Accountants in England and Wales for their failure to appropriately enforce a sanction. The Committee discussed this and agreed to consider the IFoA's approach to enforcement and monitoring of sanctions. The Committee also agreed that data on enforcement of sanctions to be included in the quarterly Case Update.• Paul Brooks had been appointed as the new Convener of Adjudication Panels with effect from 1 September 2023• Ben Kemp, former General Counsel, had been appointed as interim CEO of the IFoA, following Stephen Mann's resignation. Actions: Consideration of the IFoA's approach to enforcement and monitoring to be added to the Committee's forward plan. Data on the enforcement of sanctions to be included in the quarterly case update.



Item	Title
5.	<p>Minutes and Actions</p> <p>The minutes of the 20 June 2023 meeting were approved, with one item agreed for redaction for publication. The action list was noted.</p> <p>Action: Redacted minutes of 20 June 2023 meeting to be published</p>
6.	<p>Embedding of Disciplinary Scheme</p> <p>NW welcomed the FRC observers who advised that the purpose of their attendance was to observe and understand the different topics under discussion, in particular how the new Disciplinary Scheme (the Scheme) was bedding in.</p> <p>JH introduced the paper and thanked RH and RG for their assistance in producing the Guidance to support the Scheme. In particular JH highlighted;</p> <ul style="list-style-type: none">• In July 2023, via email, the Committee agreed that the maximum level of fine for Adjudication Panels and Disciplinary Orders should be £10,000. This followed on from their discussion at the June 2023 Committee meeting.• In September 2023 the Committee had approved a clarification to the General Disciplinary Regulations over the transfer of cases from the previous Scheme to the new Scheme. Those updated regulations had been published with effect from 14 September 2023.• Since 1 August 2023, five complaints had been received and some Assessment Panels were due to take place later in October.• Several Respondents who had cases under the previous Scheme had transferred to the new Scheme and because of this there would be some Adjudication Panels and Disciplinary Tribunal Panels under the new Scheme sooner than originally expected.• Training sessions on the new Scheme had been well attended with good engagement from participants. The next session was on 26 October and Committee members should advise SB if they wanted to attend this session. A recorded session was also going to be made available for those who were unable to attend. <p>The Committee then considered the concerns that a Member had raised, via the Regulatory Board, about the Diversity, Equity and Inclusion (DEI) Guidance that the Committee had issued to support the new Scheme. It was noted that some of these concerns related more to the Actuaries' Code and the IFoA's DEI Strategy, rather than the Committee's Guidance, which was directed at decision makers in the disciplinary process and was intended to ensure fairness and transparency in decision making. Following discussion it was agreed that;</p> <ul style="list-style-type: none">• It was helpful to receive feedback on the DEI Guidance. The issues raised in the letter should be fed into the next review of the DEI Guidance.• Given the new nature of the DEI Guidance, it would be appropriate to review it in two years, rather than the three year review planned for the other Guidance. It would be important to seek the feedback of the Panels when reviewing the Guidance.• The Committee should reply directly to the Member. The Committee noted that the Regulatory Board may wish to issue a separate response.• The Committee would like to see, at each meeting, a note of any particular feedback that has been given on Guidance and Regulations.



Item	Title
	<p>Actions:</p> <p>A response on behalf of the Committee to be provided to the Member and shared with the Chair of the Regulatory Board.</p> <p>Panel members to be asked to provide feedback on the Regulations and Guidance. Any feedback received to be included in the quarterly feedback report.</p> <p>The Committee agreed that there did not need to be a Scheme implementation update at each meeting; instead, the Scheme should be allowed to embed and the Executive would report back if anything in particular arose that required the Committee's attention. It was agreed an update would be provided at the April 2024 meeting.</p> <p>Action: Scheme embedding update to be added to the April 2024 meeting agenda.</p>
7.	<p>Applicability of Regulations</p> <p>KN presented the paper and highlighted that as currently drafted, the Regulations were silent on which version of the Regulations should be applied to a case. It was noted that advice had been taken from external lawyers on the approach to be taken. The Committee considered this advice fully and agreed with the proposed approach ie:</p> <ul style="list-style-type: none">• the Regulations in force at the time a Complaint is received should apply to that case;• a Respondent can elect for the most recent version of the Regulations to apply to their case. <p>The Committee approved the suggested wording to be added to the Regulations. It was agreed that this wording should also be shared with the external lawyers. Subject to any comments from the external lawyers, the Committee agreed that all of the Regulations should be updated with the approved wording.</p> <p>Action: Wording to be shared with the external lawyers for their comments. Thereafter Regulations to be updated and published.</p>
8.	<p>Complaints about IFoA process and volunteers</p> <p>JH presented the paper which set out the policy agreed by the Disciplinary Board in April 2020 about complaints against members relating to decisions made by Panels, Boards and Committees. The policy agreed by the Disciplinary Board in April 2020 was that complaints which properly related to the outcome of an IFoA function, rather than to any specific conduct by an individual member, should be referred to the IFoA's Putting Things Right process, upon the basis that they were actually complaints about the IFoA, rather than a disciplinary Allegation. Furthermore, to protect the public interest, such complaints were also considered under the Executive Referral process to identify whether there were any individual professional conduct issues that should be investigated under the Disciplinary Scheme.</p> <p>The Committee agreed that they remained satisfied with the policy approach to members carrying out IFoA functions. Given the introduction of the new Scheme, it was agreed that the appropriate, fair and proportionate way to consider these complaints would be through the assessment process contained within the Scheme and Regulations, rather than through the Executive Referral process. This would mean that the complaint would first be assessed against the criteria, already set out in the General Disciplinary Regulations, to identify whether it was appropriate to be investigated. Involving an independent Assessment Panel in the process would ensure independence and fairness. Where there were no individual conduct concerns, the Assessment Panel could decide to not accept the Complaint. It was agreed that the Assessment of Complaints Guidance should be amended to clarify the approach to complaints about IFoA functions. Finally, the Committee agreed that the policy approach should include complaints relating to members carrying out functions of International Actuarial Association (IAA) member bodies.</p> <p>Action: Assessment of Complaints Guidance to be updated as agreed and published.</p>



Item	Title
9.	<p>Committee self-assessment</p> <p>NW presented the paper setting out the rationale for carrying out a Committee self-assessment. NW noted that a self-assessment was being carried out as part of good governance and as an opportunity to improve the work of the Committee.</p> <p>The paper set out suggested topics to be covered by the self-assessment and the Committee agreed that these were appropriate. It was further agreed that attendance level of individual members at Committee meetings should form part of the assessment.</p> <p>SB highlighted that in previous years the self-assessment had been carried out by all Committee members completing an anonymous survey and this being followed by one-to-one sessions between the Chair and individual Committee members. It was agreed that this would be the approach this year and feedback should also be sought from the Executive who interact with the Committee.</p> <p>It was agreed it would be preferable to have the self-assessment carried out relatively soon with a discussion paper on the results being presented to the January Committee meeting.</p> <p>Actions:</p> <p>The Chair and the Executive to prepare questions for the survey.</p> <p>Feedback to be obtained from Committee members and the Executive.</p> <p>The Chair to hold one-to-one sessions with Committee members.</p> <p>Feedback to be collated and added to the agenda for discussion at the January 2024 meeting.</p>
10.	<p>Report from former Convener of the Adjudication Panels</p> <p>Jules Griffith, former Convener of the Adjudication Panels, joined the meeting. She advised that at the end of August 2023, after a six-year term, she had stepped down as the first Lay Convener of the Adjudication Panels. JG had provided a written report, looking back at her time as Convener and NW thanked her for preparing this.</p> <p>JG suggested that training for panel members could take place more frequently and that more interactive sessions should be offered. JG noted that lay members of the Disciplinary Pool were not paid to attend training and queried whether this policy should be reviewed.</p> <p>The Committee agreed that additional training should be offered. The Committee noted that the policy for lay volunteers being remunerated for attending training was not a decision for the Committee but agreed that this should be reviewed.</p> <p>On behalf of the Committee, NW thanked JG for all that she had done for the IFoA as the Convener, for preparing the report and for attending the meeting to share her views.</p> <p>Actions:</p> <p>Executive to consider further training for Disciplinary Pool.</p> <p>Executive to raise issue of remuneration for training with Engagement Team.</p>
11.	<p>Risk</p> <p>SB presented the paper, highlighting that the Committee had previously agreed a full discussion on risk should take place after the new Scheme had been introduced. The paper suggested six or seven risks for inclusion on the revised risk register, and these had been developed with input from JW and JH. SB sked the Committee to consider these risks and whether there were any others that should be included.</p> <p>RH highlighted that the risks are going to vary, and understandably many were around the embedding of the new Scheme, but the Committee should continue to assess the register and be proactive in removing and adding risks as necessary.</p>



Item	Title
	<p>The Committee agreed the suggested risks and these would be added to the revised register, along with suggested controls.</p> <p>Actions:</p> <p>Executive to prepare revised risk register for the January 2024 Committee meeting.</p> <p>The Committee to consider the suggested controls and whether they wish to identify individual risks for more in-depth analysis.</p>
12.	<p>Public Observer information note and Virtual Hearings</p> <p>The Committee noted the update from JW which advised that the Public Observer information note had been updated to set out where to direct media queries and to set expectations of those observing hearings. The Committee also noted the platform for virtual hearings was changing to MSN Teams.</p>
13.	<p>Case Update Report</p> <p>JH presented the investigations section of the Case Update Report and highlighted that the IFoA were currently running two Disciplinary Schemes, so the report had been updated to reflect that. JH thanked CM, AS and KN for all their work during such a busy period.</p> <p>The Committee noted that since the last report five complaints had been received – four prior to 1 August and one since the new Scheme was introduced.</p> <p>JH advised that since the report had been prepared, a further two case reports had been served, bringing the total number served over the past quarter to seven. With regard to timescales, all the live cases with the exception of one were within the timescales set by the Committee and the Committee had previously been made aware of this one particular case and the reasons for it being outside the expected timescales.</p> <p>JW provided a summary of the Panels and outcomes of cases over the period and advised that the first two Assessment Panels under the new Scheme would take place imminently. Despite the resourcing challenges faced by the Clerk Team, over the period all cases had been heard within the required eight week timeframe.</p> <p>At this point the FRC observers left the meeting.</p>
14.	<p>Feedback</p> <p>SB presented the feedback report. It was noted that two Respondents had been critical of the time taken to deal with the allegations against them. It was agreed that a response would be issued on behalf of the Committee.</p> <p>SB advised the Committee that as part of continuing to embed the new Scheme, gathering feedback from users would be considered. SB asked the Committee whether they found the current approach helpful and whether there was anything else they would like to see feedback on. The Committee agreed that the current approach was helpful.</p> <p>Action: Response to be issued to the Respondents.</p>
15.	<p>Determinations Review Sub Committee</p> <p>VS presented the paper and advised that at the September 2023 meeting the DRSC had reviewed five Adjudication Panel determinations. VS confirmed that the standard of drafting continued to be good.</p>
16.	<p>Objectives update</p> <p>SB reminded the Committee that at their June meeting they had agreed the objectives and priorities for the 2023/24 year. These objectives were provided to the Committee along with a record of progress to date, which was noted by the Committee.</p>



Item	Title
17.	Matters to raise with Regulatory Board SB reminded the Committee that the purpose of this item was to highlight any non-urgent regulatory issues arising out of Committee meetings that should be considered for inclusion in the Executive Update to the Regulatory Board. It was agreed, that if appropriate, the Board should be made aware of the view of the Committee that lay persons should be remunerated for attending training.
18.	Schedule of Guidance – Previous Scheme Noted
19.	Schedule of Guidance/Regulations – New Scheme Noted
20.	Schedule of DC term times Noted
21.	AOB Nothing was raised.

For information

[Committee Terms of Reference](#)

Dates of Next Meeting: - Tues 16 Jan 2024 (09:15 to 12:15)

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