

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

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| Subject | Consultation on draft guidance to support proposed DEI changes to the Actuaries Code |
| Meeting date | 23 January 2025 |
| Author | Neil Buckley, Chair of Regulatory Board |
| Purpose | Noting |

A: Introduction

1. This paper sets out the Chair's summary on the key themes arising from the response to the Regulatory Board's (the Board's) recent consultation on draft guidance to support proposed Diversity, Equity and Inclusion (DEI) changes to the Actuaries' Code.
2. The Chair and other Board members will have the opportunity to provide their views on the key themes at the Board meeting on 23 January 2025.

B: Key Themes

Board's approach to DEI regulation

3. Some respondents are concerned that the regulatory action proposed by the Board in relation to DEI does not comply with the principles set out in the Regulatory Policy Statement (RPS), in particular paragraphs 12 and 13 which sets out the IFoA's approach to regulation.
4. Specific reference is made to:
 - The Principles of Good Regulation (as set out in section 21(2) of the Legislative and Regulatory Reform Act 2006). This means regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent and should be targeted only at cases in which action is needed (paragraph 12).
 - The requirement that regulation is proportionate, such that regulatory intervention is undertaken only to the extent necessary and appropriate to the risk (paragraph 12a).
 - The requirement that regulation is targeted, so that regulatory action should be focused on identified problems, such as to minimise side effects (paragraph 12c).
 - The IFoA's aim to undertake its regulatory role in a way which is principles-based and outcomes-focused and that regulatory action should focus on solving a specific problem (paragraph 13a).
5. Compliance with the RPS is a key responsibility for the Board.
6. Appendix 1 sets out the process followed by the Board in approving the proposed regulatory action in relation to DEI.
7. There is also a sense in some of the feedback that the Board's decision to introduce requirements is because Code amendments were something perceived to have been committed

to in the IFoA's DEI Strategy, with an implication that the Board did not appropriately and independently consider the question of whether to introduce requirements, having regard to its public interest and other responsibilities.

8. The Board was clear that the policy decision to make changes to the Code to reflect DEI considerations is one that was made freely and in line with its role and responsibilities. The minutes of the November 2022 meeting of the Board discussing the policy decision are attached at Appendix 2.
9. Further information on the process around that policy decision is set out in Appendix 1 below.
10. An update on the IFoA's DEI Strategy and progress in relation to each strategy theme is also attached at Appendix 4.

Themes previously arising from Code consultation

11. Many of the themes arising from the guidance consultation were raised and considered by the Board as part of the original consultation on proposals to make changes to the Actuaries' Code to introduce specific requirements relating to DEI.
12. These themes include:
 - The definition of DEI
 - Equity or Equality
 - A duty to encourage DEI
 - The risk of unjustified complaints against members
 - Application to personal life
 - Conflict with individual rights and freedoms.
13. The themes were considered by the Board at its May 2023 meeting. The paper provided to the Board and minutes from the meeting are attached at Appendix 3.

DEI is a political issue

14. A number of respondents who disagreed with the introduction of DEI provisions to the Code made comments regarding DEI being a political issue and therefore inappropriate to include in the Code.
15. Comments include:

“I object to the inclusion of 1.2 in the code itself [Members should encourage diversity, equity and inclusion] as the terms "diversity", "equity" and "inclusion" have not been defined in the code...The topic is also one around which there is much political debate and controversy and terminology and meanings may evolve. To me it would be preferable if the code was stable over the mid term, and explanatory guidance used to allow for changing language use or fashion.”

“the DEI proposals are political in nature and as such do not belong in an ethical code”

“DEI effectively imposes a politically contentious speech code into the UK workplace”

“Equity is a political term”

“A requirement on members to respect other people and their views, as in the current Actuaries’ Code, is a clear and fundamental building block of an ethical profession that seeks to serve the public interest. By contrast, diversity, equity and inclusion are ill defined concepts that mean different things to different people and have political (and political correctness) connotations associated with them. As such they should have no place in the Actuaries’ Code, breaches of which can have serious consequences for members.”

“The second amplification [Members should encourage diversity, equity and inclusion] remains inappropriate and unclear. It is inappropriate for the IFoA to effectively require members to adopt a political stance. The IFoA should be, and remain, politically neutral.”

The application of the IFoA’s Disciplinary Scheme to DEI conduct

16. Linked to the theme of the risk of unjustified complaints against members (referred to above), many of the respondents to Question 10 (To what extent does the guidance help you understand how the IFoA’s Disciplinary Scheme applies to members’ conduct in respect of DEI) note that they are concerned about complaints under the Disciplinary Scheme in relation to DEI conduct.
17. Comments include that it is unclear how complaints that relate to contentious issues will be dealt with, it is unclear what constitutes misconduct in relation to a failure to encourage DEI, and there is uncertainty as to how DEI fits into the Disciplinary Scheme.

Neil Buckley, Regulatory Board Chair

January 2025

C: Appendices

- **Appendix 1**, Process followed by the Board in approving the proposed regulatory action in relation to DEI (attached)
- **Appendix 2**, minutes of the meeting of the Board dated 16 November 2022 (section 6)
- **Appendix 3**, Board paper on the outcome of regulatory consultation on formalising DEI requirements in the Actuaries’ Code dated 17 May 2023 (see Section E) and minutes of meeting.
- **Appendix 4**, DEI Strategy Update dated 14 November 2024, together with the updated DEI Strategy.

Appendix 1

1. In November 2021, the Board was updated on the IFoA's wider work on its strategy around DEI. In respect of regulation, the strategy specifically anticipated a review of the regulatory framework, including the Actuaries' Code, to ensure the DEI strategy is reflected in the expectation of members. It was noted that the Executive was taking forward this project and would bring proposals to the Board for consideration and approval.
2. The IFoA published its [five-year strategy around DEI](#) in January 2022, which set out a range of commitments, including the commitment to review the IFoA's regulatory framework, and the Actuaries' Code (Code) and guidance.
3. Prior to that, the Board had introduced its own commitment relating to DEI in October 2021 when it updated its [Regulatory Policy Statement](#), to include the following: *'The IFoA's regulatory role will be carried out in a way that promotes diversity, equity and inclusion'* (section 16).
4. At its November 2022 meeting, the Board was provided with an update on a review by the Executive of the regulatory requirements for members around DEI. It was noted that the aim of the review was to ensure that the standards for members in this area continue to be high, to protect the public, as well as the reputation of the profession. The update included:
 - An overview of the scope of the review project.
 - The approach to the review project, which included:
 - A consideration of the requirements of the FRC and other relevant statutory regulators.
 - A review of any DEI-related disciplinary cases which have come before the IFoA.
 - An information consultation with IFoA practitioners and the Diversity Action Group.
 - A review of the DEI provisions applicable to QAS Accredited Organisations
 - To what extent DEI is currently reflected in the IFoA's requirements for members and whether any amendments or new requirements should be introduced.
 - An analysis and conclusions from the current IFoA requirements, including a recommendation that there should be changes made to the Code to introduce more explicit DEI requirements, including a positive obligation around diversity, equity and inclusion.

(See Document 1).
5. Following the update, at its November 2022 meeting, the Board agreed to consult on [proposals to make changes to the Actuaries' Code to introduce specific requirements relating to DEI](#). That consultation was published on 16 January 2023.

6. On 17 May 2023, the Board considered the outcome of the consultation. This included the engagement with the consultation, responses to the consultation, key themes arising from the consultation, and recommendations. Following consideration, the Board approved amendments to the Code, subject to some adjustments to the wording consulted upon. The Board also agreed that non-mandatory guidance would help members understand the obligations introduced by these amendments. The Board's decision is set out in paragraph 6.6 of the minutes from the May 2023 meeting.
7. At its November 2023 meeting, and subsequently, via email, the Board approved, for consultation, draft guidance to support members in understanding how to apply the new DEI requirements in the Code.
8. The approved draft guidance was shared with Council, which resulted in a series of written exchanges with the President concerning the Board's approach to the Code amendments, posed by Council.
9. On 10 April 2024, the President provided the Board with written feedback on the draft guidance prepared by a group of Council members. This feedback was considered by the Board at a meeting on 8 May 2024 and subsequently at its full Board meeting on 14 May 2024.
10. Having considered the feedback, the Board agreed that consultation on the draft guidance should be published subject to:
 - a. Allowing Council's mid-strategy review of its five-year DEI strategy to complete, in case there was anything arising that would affect the proposals
 - b. Allowing consultation responses to provide further feedback on the proposed Code changes (that were consulted upon in 2023) as well as the draft guidance, recognising that members and others might find it helpful to provide feedback when able to see both documents
 - c. Amendments being made to the wording of the draft guidance to reflect feedback from Council and the IFoA's Diversity Action Group (DAG).
11. At its July 2024 meeting, the Board considered the update on the outcome of Council's mid-strategy review and, having seen the changes made by Council to the DEI strategy, agreed to proceed with the consultation.
12. In August 2024, the Board approved (by email) a further revised version of the guidance, which was updated to take account of comments from Council, DAG and the IFoA's external legal advisers. The Board also approved the consultation documents, which were published on 28 August 2024.
13. The consultation closed on 28 October 2024.
14. On 17 December 2024, the Board considered the response to the DEI guidance consultation. It also considered the paper circulated to the Board by the Executive which included the

background to the consultation, a consultation update, a benchmarking update, information on timing and further consultation, information on communication of the Board decision and the decision for the Board.

15. Having considered both the response to the consultation and matters set out in the Board paper, the Board agreed to continue the meeting over to January 2025 and asked for a paper to be prepared setting out a range of alternative options for approval.
16. The Board also included with each consultation a regulatory impact assessment (RIA) in accordance with its standards approval process document. The standards approval process document sets out that RIAs are used by the Board as a tool to explain to those affected (or potentially affected) by a regulatory or policy option what this is likely to mean for them. An RIA is completed each time the Board is asked to approve a proposal to introduce new standards or guidance or decide measures such as making changes to the IFoA's Continuous Professional Development or Practising Certificates Scheme. RIA's are intentionally drafted to be relatively short and concise, while ensuring that a meaningful assessment of impact is carried out. The RIA will normally be completed by the GC Executive and shared with the Board prior to its approval of the relevant proposal. The RIA will normally be published alongside any consultation proposals and made available to members and the public.
17. The documents referred to in this Appendix 1 can be provided by the Executive as required.