



Disciplinary Committee

27 March 2024, 09:15 – 12:15

Attending: Nicola Williams (NW), Chair Jeremy Hill (JH) Robert Garvin (RG) Rosalyn Hayles (RH) Velia Soames (VS)	Executive Staff: Jenny Higgins (JAH), Head of Disciplinary Investigations Julia Wanless (JW), Judicial Committees Secretary Karen Nicol (KN), Disciplinary Lawyer (item 13) Alison Simpson (AS), Case Manager Catherine Mouat (CM), Disciplinary Investigation Coordinator (note taker)
In attendance: Paul Brooks, Convener of the Adjudication Panels (item 8)	

Item	Title
1.	Welcome and apologies NW welcomed everyone to the meeting. No apologies had been received from Disciplinary Committee (DC) members.
2.	Declaration of Conflicts of interests No conflicts were declared.
3.	Chair's update The Committee noted NW's update which included: <ul style="list-style-type: none">NW observed an IFoA Disciplinary Tribunal Panel (DTP) hearing. She encouraged other DC members to observe future DTP hearings.NW provided an update from the 14 February Regulatory Board meeting.
4.	Executive's Update AS introduced the paper and highlighted: <ul style="list-style-type: none">Sarah Borthwick is expected to return to support the Disciplinary Committee from late June.Options for increasing observer numbers at online DTP public hearings are being explored.The IFoA has been successful in recovering costs in a withdrawn judicial review claim.The report from the February Regulatory Board meeting will be shared with the DC once received. <p>The DC noted the numbers of attendees at last year's training sessions on the new Disciplinary Scheme and were satisfied to know it represented a high percentage of those invited. The DC was also reminded that a video recording of the training was shared with all Disciplinary Pool Members and Investigation Actuaries and this could be accessed on demand.</p>



Item	Title
5.	<p>Minutes and Actions</p> <p>The minutes of the January 2024 meeting were approved (with no redactions) for publication. AS explained the revised layout of the Action List, which was positively received by the DC.</p> <p>Action: Minutes of January 2024 meeting to be published.</p>
6.	<p>Objectives Update</p> <p>JAH introduced the papers and reminded the DC that the IFoA's DEI Business Partner would be coming to the June meeting.</p> <p>JAH highlighted two areas from the Objectives papers:</p> <ul style="list-style-type: none">• At the January meeting the Committee agreed they should review a small sample of cases from beginning to end. The DC discussed the timing and scope of this, bearing in mind very few cases under the new Scheme have concluded, and that the FRC has indicated that they would like to carry out a review of concluded case files later in the year. It was agreed that the timing and scope of the Committee's case review will be agreed at the June DC meeting, by which time details of the FRC's oversight plans will be known.• Training for the DC - JAH asked the DC to let her or JW know if they are interested in attending any training sessions proposed for the Disciplinary Pool or Investigation Actuaries (detailed in agenda item 15). The DC agreed that a short introductory training session on judicial review would be helpful. JAH agreed to look into options for delivering this training. <p>Action – JAH to investigate options for a short introductory training session on judicial review.</p>
7.	<p>Interim Scheme Embedding Update</p> <p>JAH introduced this paper, which asked the DC to note the progress made on embedding the new Disciplinary Scheme. JAH highlighted that:</p> <ul style="list-style-type: none">• While some pre-August 2023 cases have transferred to the new Scheme, there remains a few cases under previous versions of the Disciplinary Scheme. While most of these are expected to conclude by the Summer, there is likely to be a small number of cases under previous versions of the Disciplinary Scheme which will continue in to 2025.• Following the introduction of the assessment stage, 12 Complaints that could not amount to Misconduct, and/or there was no reasonable prospect of proving, have been removed from the disciplinary process at an early stage. This has saved significant costs and resource while still maintaining the integrity of the process.• The introduction of Disciplinary Orders has meant that one conviction case has been dealt with quickly and cost effectively. <p>The DC agreed that the September Committee meeting should be held in person to allow the Committee to discuss the new Scheme in greater detail. JAH confirmed that approval for an in-person meeting had been obtained on this basis. It was also suggested it would be helpful to have time with the Executive staff to discuss the processes used in the case review audit.</p>



Item	Title
	<p>JAH asked DC members to keep the whole day of 3 September free until the location and timings of the in-person meeting had been confirmed. She also suggested an item be included in the June agenda to focus on what will be discussed at the in-person meeting in September.</p> <p>Actions by Executive Staff:</p> <ul style="list-style-type: none">• Logistics of in-person meeting to be confirmed.• June agenda to include planning for September agenda.
8.	<p>Convener of the Adjudication Panels</p> <p>The Chair welcomed Paul Brooks (PB), to give his initial thoughts on his role as Convener of Adjudication Panels and on the new Disciplinary Scheme.</p> <p>After introductions, PB noted that he had only been appointed to the role of Convener in September 2023 and so his experience in the role is still relatively limited, although he is more experienced in roles with other regulators. While much of his role has been liaising with the Clerk team in relation to panel appointments, he has also sat on an Assessment Panel and has been appointed to sit on a Disciplinary Tribunal Panel.</p> <p>PB offered his comments on a range of topics, including:</p> <ul style="list-style-type: none">• The Assessment Panel process; which he considered to be a very fair process. PB provided some suggestions for making the process more efficient. He also noted that Panel members may benefit from further training on this process given that it is a new process and is different from the Adjudication Panel process.• He has now seen the papers for a number of cases and has been impressed with the quality of the bundles. He considers Allegations or Charges to be very clear and evidence bundles and commentary well presented.• He is pleased to see training for the Charing Pool being arranged. He noted that a number of new Chairs have been appointed who may have experience elsewhere, but are new to the IFoA, therefore training specific to the IFoA's disciplinary process would be helpful.• He noted that some other regulators rely on the Legal Adviser to draft the panel determination rather than the Chair. <p>The DC thanked PB for his time and his very interesting presentation.</p> <p>Action:</p> <p>Executive to arrange meeting between NW and PB.</p>
9.	<p>Case Update Report</p> <p>JAH introduced the Case Update Report, which had been provided to the DC in a new format following suggestions on presentation from DC members at the January meeting.</p> <p>JAH summarised progress made on the investigation stages of cases and advised that only one did not meet the DC's timescales in completing the Case Report - this was due to delays in obtaining information from third parties and time involved in obtaining an expert report. JAH noted that Charges in all cases at DTP stage had been served, however work was ongoing to prepare for forthcoming hearings. She also advised that the investigation has just resumed on one of the two cases which had been on hold.</p>



Item	Title
	<p>JW updated the DC on Panel hearings which have taken place since the last DC meeting. She advised that one scheduled Adjudication Panel hearing had been rescheduled due to a conflict of interest. She noted that the next Adjudication Panel diet would take place in May and that there were a number of DTP hearings taking place in March and April. She also advised of the expected imminent outcome of two cases being considered by the Independent Reviewer.</p> <p>DC members agreed that the new format of the report was helpful. They thanked KN for her work in updating this.</p> <p>The DC also acknowledged the table on enforcement of sanctions which had been included at the Committee's request.</p>
10.	<p>Feedback</p> <p>The DC noted the cover paper and the completed questionnaires received from Panel members and legal advisers. No referrers or respondents had returned feedback questionnaires since the last meeting, but one respondent provided feedback via email.</p> <p>The Committee also noted the positive feedback received from the Panel members following the first Disciplinary Order panel held since the last meeting.</p> <p>The DC considered the Respondent's feedback received via email and agreed a response to the Respondent.</p> <p>Action:</p> <p>AS to share the draft response to the Respondent with the DC for approval.</p>
11.	<p>Determinations Review Sub-Committee (DRSC)</p> <p>VS presented the paper from the February 2024 DRSC meeting. The DRSC considered the overall standard of drafting continued to be of a high standard. The only theme arising was around improving clarity regarding how some parties (in particular witnesses) are referred to.</p> <p>The Committee approved the report and the action list.</p> <p>Action:</p> <p>The Executive to share feedback with the Conveners</p>
12.	<p>Determinations Review Sub-Committee Assessment</p> <p>AS introduced the paper which summarised the results from the DRSC's recent self-assessment exercise to review the effectiveness of the Committee. The format of the review was via questionnaires completed by the DRSC members, the non-DRSC members of the DC, Executive staff involved in the disciplinary process and Conveners to the Adjudication and Disciplinary Tribunal Panels.</p> <p>Overall, the results were positive, and all responses indicated that the DRSC effectively carries out its key responsibilities under its Terms of Reference. The DC was asked to approve the recommendations which arose from the assessment, namely:</p> <ul style="list-style-type: none">• Disciplinary Orders to be included with the decisions reviewed by the DRSC as they represent a published decision. Assessment Panel decisions will not be reviewed as they are administrative decisions which are not published.



Item	Title
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- A slight change to the composition of the DRSC to include two Executive staff and two DC members. The Executive staff attending should be one staff member from the Investigations Team and one from the Clerk team, dependent on staff availability, with any conflicts regarding the determinations to be declared.
- A slight change to the DRSC's Terms of Reference to clarify that the DRSC does not consider whether relevant legal principles and/or case law have been applied by Panels and instead only considers whether references to these in determinations are clearly explained. Other minor amendments to the Terms of Reference were proposed to align this with the new Disciplinary Scheme and to bring the format in line with Terms of Reference for other Committees. A copy of the revised Terms of Reference was included with the papers for the DC's approval.

The DC approved all the recommendations, including the revised Terms of Reference.

13. Sanctions Guidance

Following a previous suggestion from the Disciplinary Pool that additional guidance could be provided on the levels of sanctions and fines applicable to different cases, the DC had agreed to consider this further. KN joined the meeting to introduce the papers on this item, which included a table of past cases listing the sanctions applied together with research outlining the approach of other regulators to assist the DC in deciding whether further guidance on sanctions is required. The papers also included the existing IFoA Sanctions guidance currently in place, which is consistent with the approach of other regulators and has been reviewed by the FRC.

The DC was asked to consider whether any amendments to the guidance is necessary in light of the information provided. The DC noted the following:

- while the table of sanctions in past cases provides a helpful summary, each case turns on its specific circumstances which would not be evident from the summary table. It is important that each case is judged on its own merits;
- with the low number of cases being considered, there are not enough cases of a similar type to base decisions on;
- any information made available to Panels must also be available to Respondents and the IFoA.

After a full discussion, the DC agreed that amendments to the Sanctions Guidance were not necessary.

It was agreed that the Executive would consider whether the table of sanctions in past cases should form part of the training programme.

Actions:

- **Executive to consider whether sanctions in past cases should form part of the training programme.**



Item	Title
14.	<p>Enforcement of Sanctions</p> <p>Following the Institute of Chartered Accountant of England and Wales's reprimand by the Insolvency Service (IS) for failing to monitor whether a disciplined Member adhered to the conditions placed upon him, the Committee previously agreed to review the IFoA's approach to enforcement and monitoring of sanctions, as a sense check that procedures are in place to limit the risk of a similar situation arising here.</p> <p>In JW's absence, AS introduced the paper which set out the current process and asked the DC to consider whether the IFoA's disciplinary enforcement arrangements are appropriate or whether any changes are required.</p> <p>The DC considered the procedures comprehensive and to contain the appropriate mechanisms. Whilst they commented on the somewhat manual element to it, they considered it proportionate to the relatively low number of cases.</p> <p>The DC agreed no changes were needed to the current enforcement of sanctions processes.</p>
15.	<p>Training Update</p> <p>JAH introduced the paper updating the Committee on the training plan for the Disciplinary Pool, Legal Advisers and Investigation Actuaries. The update highlighted:</p> <ul style="list-style-type: none">• A meeting with the Conveners of the Disciplinary Tribunal Panels and Adjudication Panels scheduled to discuss how best to deliver the Charing Pool training (also referred to in item 8 above).• Information on the Assessment Panel workshops for Disciplinary Pool members. <p>The Chair requested that the Committee be updated with information on any training appropriate for DC members to attend.</p> <p>The Committee noted the contents of the update.</p>
16.	<p>Risk Register</p> <p>AS introduced the paper and risk register, which had been revised to reflect amendments suggested at the January DC meeting and input from the IFoA's risk analysis team. The Committee was asked to discuss and approve the updated risk register.</p> <p>The Committee had commented previously that some risks overlapped and were not separate risks. The Committee acknowledged and approved the consolidation of these in the revised register.</p> <p>During the discussion a question arose regarding possible reasons for the low number of complaints made overall. The Committee contemplated whether there are barriers causing this and, if so, how to resolve this. It was suggested that the topic warranted a fuller discussion at the in-person meeting in September.</p> <p>Action:</p> <p>The Executive to include item on possible barriers to complaining in the September agenda.</p>



Item	Title
17.	Matters to raise with Regulatory Board The DC noted that a full report on the DC's activities, including their progress against objectives, would be provided to the Regulatory Board in the Summer. No other matters arising from this meeting require to be raised with Regulatory Board
18.	Schedule of Guidance – Previous Scheme Noted
19.	Schedule of Guidance/Regulations – New Scheme Noted. The Committee noted that the DEI Business Partner would be attending the June meeting. It was agreed that the Committee should consider whether any amendments to the DEI Guidance were required in light of this. Action The DEI Guidance to be considered at the September meeting.
20.	Schedule of DC term times Noted
21.	AOB <ul style="list-style-type: none">The Committee thanked the Executive for their work in producing the papers.

For information

[Committee Terms of Reference](#)

Dates of Next Meeting: - 19 June 2024 (0915 to 1215)

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