

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

Subject	Consultation on draft guidance to support proposed DEI changes to the Actuaries Code
Meeting date	17 December 2024
Previous Steer/Approval	<p>November 2021 Board was updated on the IFoA's wider work on its strategy around DEI and provided steer on proposed regulatory work.</p> <p>February, April, July 2022 Board was updated via regular Executive updates on work to review DEI requirements.</p> <p>November 2022 Board discussed and approved proposed changes to the Code to go out for consultation.</p> <p>May 2023 Board considered outcome of consultation, approved changes to the Code and approved proposals for implementation</p> <p>November 2023 Board considered outline supporting guidance</p> <p>February 2024 Board approved the member engagement plan</p> <p>8 May 2024 Board discussed Council response to draft guidance</p> <p>14 May 2024 Board approved in principle decision to go out to consultation on guidance subject to conditions</p> <p>16 July 2024 Board was updated on the outcome of Council's mid-strategy review of its five-year DEI strategy and, having seen the changes made by Council to the DEI strategy, agreed to proceed with the consultation</p> <p>August 2024 Board approved (by email) draft guidance to go out for consultation</p>
International issues considered?	Yes
Author	Ashley MacIntyre, Senior Regulatory Lawyer
Reviewer	Emma Gilpin, Head of Regulatory Policy
Purpose	Approval

A: Executive Summary

1. This paper relates to the Regulatory Board's (the Board's) recent consultation on draft guidance to support proposed Diversity, Equity and Inclusion (DEI) changes to the Actuaries' Code.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. It provides an update on the response to the consultation and sets out the decision to be made by the Board.

B: Background

3. The IFoA published its five-year strategy around DEI in January 2022, which set out a range of commitments. In respect of regulation, the Strategy included a commitment to review the IFoA's regulatory framework, including the Actuaries' Code (Code) and guidance.
4. 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).
5. In November 2022, 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 and 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 attached at Appendix 1.
7. The changes approved (with the agreed amendment) are set out in Appendix 2.
8. 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.
9. 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.
10. 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.
11. Having considered the feedback, the Board agreed that consultation on the draft guidance should be published subject to:
 - 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

- 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
 - Amendments being made to the wording of the draft guidance to reflect feedback from Council and the IFoA's Diversity Action Group (DAG).
12. 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.
 13. 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, and are included at Appendix 3.
 14. The consultation closed on 28 October 2024.

C: Consultation update

Purpose of consultation

15. By way of reminder, the purpose of a regulatory consultation is to get feedback, gauge the response and likely impact of the proposals, and see if there are any issues the Board has not considered.
16. The consultation is not a vote and it is entirely appropriate for the Board to introduce measures, even if they are not supported by a majority of respondents, if the Board agrees it is reasonable to do so, having regard to the IFoA's Royal Charter responsibilities to regulate its members in the public interest.

Promotion of consultation

17. The consultation was published on the IFoA website and promoted in the regulatory newsletter, the Actuary magazine and on social media.
18. Two webinars took place where the proposals were explained and questions from delegates were addressed. The webinars were attended by around 145 individuals.

Consultation responses

19. There were 144 responses to the consultation, including:
 - 130 responses from individuals (123 individuals provided a response through the questionnaire for individuals and 7 additional responses were received by email).
 - 13 responses from organisations.
 - 1 response (provided through the questionnaire form for completion by organisations) signed by 102 individuals and 7 past members.

20. Of the individual respondents (who specified their country):

Country	Number of member respondents	Number of non-member respondents	TOTAL
UK	92	3	95
Channel Islands	2	0	2
Australia	2	0	2
Bermuda	2	0	2
Cyprus	1	0	1
Hong Kong	1	0	1
Ireland	2	0	2
Kenya	1	0	1
New Zealand	1	0	1
Singapore	5	0	5
South Africa	2	0	2
Switzerland	1	0	1
Trinidad and Tobago	1	0	1
USA	2	1	3
Europe*	1	0	1*(respondent entered Europe in "Other" field)
Total	116	4	120

21. Of the organisations who responded, 8 are employers of IFoA members.

22. In relation to the completed questionnaire submitted that is signed by 102 individual members and 7 past members, many of those signatories also submitted individual responses and cross referred to this document. We understand this is related to the 'petition' referred to below.

23. **[Redacted]**.

24. DAG resubmitted its pre-consultation comments on the guidance which were previously taken into account by the Board in the final drafting of the guidance.
25. The FRC has not provided a formal response to the consultation, as is their usual practice. However, following recent discussion, the FRC is considering whether to provide the IFoA with a note of their position as the IFoA's oversight body. If provided, this will be shared with the Board.
26. Board members may observe from the consultation responses that there was a 'petition to object to the inclusion of DEI into the Code' promoted by an IFoA member, **[Redacted]**, which we believe resulted in the response signed by 109 individuals (referred to above), and to which a number of the individual respondents cross refer.
27. The IFoA has also been made aware of high levels of activity on social media platforms in relation to the consultation, particularly LinkedIn. In particular, relating to a post by an ex-president, which led to a series of exchanges between LinkedIn followers. This post encouraged Members to sign the petition mentioned above.
28. The IFoA has also been made aware of the possibility of individuals submitting multiple responses and/or responses with false details about the respondent in relation to this particular consultation. It is noted that regulatory consultations are not votes but rather an opportunity for anyone with an interest to share their views, but Board members should be aware of the concerns that have been raised.
29. Further information on the respondents, including a list of respondents, the types of organisations responding, the number of IFoA members employed by responding organisations, locations of IFoA members employed by responding organisations, types of IFoA membership held by responding individuals and their areas of actuarial practice, and a summary of responses by percentage is included in the summary of consultation responses circulated to the Board on 22 November 2024.
30. For comparison purposes, the total number of consultation responses on proposed DEI changes in 2023 was 198. Responses to other recent regulatory consultations were: QAS/PC integration (32), Review of APS L1 (11), Review of APS Z1 (5), Regulatory changes re Climate Change (65), Practising Certificates Scheme Review (104), Review of APS P1 (17), CPD Scheme Review (220) and the consultation on **changes** to the Actuaries Code in 2017-2018 (103) and 2013 (269).

D: Benchmarking Update

31. At the November 2022 meeting, a copy of a benchmarking report was provided which looked at the DEI approaches taken by other professional regulators.
32. To ensure that the Board has the most up to date information in this regard, an updated version of the benchmarking report is included at Appendix 4.

E: Timing and further consultation

Timing

33. If there is no change in decision on the amendments to the Code then the Board will need to consider the appropriate timings for the changes to come into effect.
34. The IFoA maintains a standards approval process document that sets out the process for the introduction, review, amendment and withdrawal of codes, standards and guidance under the IFoA's regulatory framework.
35. The standards approval process provides that any changes to the Code, APSs or non-mandatory Guidance will be communicated to members and other interested stakeholders in advance of those changes coming into effect. It also provides that the period of notice between proposals being approved and their effective date will vary depending on the nature of the proposals but will normally be a minimum of one month.
36. Previous examples of periods of notice between proposals being announced and their effective date are set out below:
 - **2019 Changes to the Code.** The period of implementation before the Code came into effect was **one year**, with the revised Code and accompanying guidance coming into effect on 18 May 2019. It was noted that the final version of the guidance would be published by early Spring 2019.
 - **2023 Minor changes to the Code.** The amendments took effect from 1 August 2023 (**two months** after the announcement) to align with the new Disciplinary Scheme. Although the changes were not substantive and did not set any new or different expectations.
 - **Revised APS Z1.** Updated APS Z1 came into effect on 19 November 2023 (approximately **two months** after the announcement).
 - **New APS X2.** APS X2 came into effect on 1 July 2015 (that is, **six months** after the announcement).

Further consultation

37. If the Board decides it is appropriate to amend either or both of the amendments to the Code or the guidance, then it may be necessary for the Board to reconsult with members depending on the meaning, effect or substance of the amendments.
38. The standards approval process also includes information on when it is appropriate to consult when introducing, amending and withdrawing standards. A summary is set out below:
 - Minor amendments to standards that do not materially change their meaning, effect or substance may be made without consultation, for example following a 'light touch' review. Notice of any changes will however always be communicated to members.
 - Where it is determined that a consultation process will take place, this may take the form of an informal consultation with key stakeholders with an interest in the proposals or a

full, public consultation. In appropriate circumstances, both an informal and formal consultation will be carried out.

- The decision whether to carry out a (formal or informal) consultation, as well as its format and duration, will be taken by the Executive and be proportionate to the impact of the proposal.
- The length of a consultation will be determined by the nature and significance of the proposals. A consultation will however normally be open for a minimum period of two months.

39. In relation to introducing guidance, the standards approval process provides that, as a general rule, proposals to introduce general non-mandatory guidance will not normally require to be formally consulted upon however there may be circumstances in which a formal consultation might be appropriate. The decision whether to carry out a (formal or informal) consultation, as well as its format and duration, will be taken by the Executive and be proportionate to the impact of the proposal.

F: Communication of Board decision

40. It is proposed that the Board's decision is not communicated until after the Christmas break, in order to allow for proper drafting of communications. This will ensure that appropriate resource can be provided to assist with the communications and that the message is accurately communicated to members and others through appropriate channels.
41. All Board members are therefore asked to keep discussions and the decisions reached on this matter confidential until 13 January 2025.

G: Decision for Board

42. The Board is asked to consider:
- 1) Whether anything has been raised in the process of consultation, or otherwise, that would cause the Board to change its decision that it is appropriate to introduce provisions to the Code relating to DEI. Such changes could be:
 - a. to reverse the decision entirely and not introduce DEI provisions; or
 - b. to amend the changes.
 - 2) Whether or not to introduce Guidance. This could involve:
 - a. introducing Guidance as consulted upon;
 - b. introducing Guidance, with amendment; or
 - c. not introducing Guidance.
 - 3) The timings for introduction of new Code provisions (if the decision to introduce them is not reversed) and/or Guidance (if it is to be introduced), including whether there will be a staged

approach to the introduction of any new measures, as well as the appropriate period allowed for implementation before any requirements come into force.

4) The need for any further consultation, if amended Code provisions and/or Guidance is proposed.

43. The Board is also asked to provide any steer it deems appropriate on communication around the decision.

H: Appendices

- **Appendix 1:** Minutes from the May 2023 Regulatory Board meeting.
- **Appendix 2:** Agreed changes to the Code, shown in mark-up against current Code.
- **Appendix 3:** Consultation Documents
- **Appendix 4:** Benchmarking update
- **Appendix 5:** Consultation responses (*please refer to the Egress folder*)