



Institute
and Faculty
of Actuaries

Disciplinary Tribunal Panel Hearing

13 November 2023

Institute and Faculty of Actuaries Online Hearing

Respondent:	Chinmay Gondhalekar Not present and not represented in absence.
Category:	Lapsed Member
Region:	India
IFoA Case Presenter:	Stephen Ferson, Barrister, instructed by the IFoA.
Panel Members:	Wendy Yeadon (Chair/Lay member) Mark Jones FIA (Actuary member) Paul Rae (Lay member)
Legal Adviser:	Alan Dewar KC
Judicial Committees Secretary:	Julia Wanless

Charge:

Chinmay Gondhalekar, being at the material time a member of the Institute and Faculty of Actuaries, the charge against you is that:

1. In advance of and/or during the Institute and Faculty of Actuaries' CM1 online examination in April 2019, you
 - a. received unauthorised assistance by discussing the examination paper and/or sharing your answers with (an) other candidate(s); and/or
 - b. submitted to the Institute and Faculty of Actuaries an examination paper which was not entirely your own work
2. Your actions at paragraph 1 were in breach of Section 13 (Inappropriate Conduct) of the Institute and Faculty of Actuaries' Assessment Regulations (November 2018)
3. Your actions at paragraph 1 were dishonest
4. You knew or should have known that Company A was involved in widespread collusion in the April 2019 Institute and Faculty of Actuaries examination diet and you:
 - a. participated in this collusion; and/or
 - b. did not speak up regarding this collusion
5. Your actions at paragraph 4 were dishonest
6. Your actions in paragraphs 1 and/or 2 and/or 4 above were in breach of the principle of Compliance under the Actuaries' Code of the Institute and Faculty of Actuaries, version 2.0 (August 2013)
7. Your actions at paragraphs 1 and/or 3 and/or 4 and/or 5 were in breach of the principle of Integrity under the Actuaries' Code of the Institute and Faculty of Actuaries' version 2.0 (August 2013)
8. Your 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 February 2018).

Service:

1. The Panel noted that the Respondent was not present and was not represented in his absence. Having considered the submissions of the IFoA's Case Presenter and having accepted the advice of the Legal Adviser, the Panel was satisfied that the charges had been served in accordance with the provisions of the Disciplinary Scheme 2018.
2. However, the panel noted that in the Respondents submissions, dated 5 November 2023, he had indicated that he had not seen the witness statements referred to in the bundle. IFoA's Case Presenter clarified the situation by referring the Panel to the original service of the bundle, including said witness statements, on 29 June 2023 to which the Respondent had raised no issues. For the avoidance of doubt, the Case Presenter then also referred the Panel to a further service of the statements to the Respondent's e-mail address, on 8 November 2023, and produced evidence they were received and downloaded by the Respondent that day. The Panel were therefore satisfied that the statements had also been served in accordance with the rules.

Proceeding in the Absence of the Respondent:

3. In considering whether to exercise its discretion to proceed in the absence of the Respondent, the Panel had regard to the submissions of the IFoA's Case Presenter. The Panel also took account of the written submissions dated 5 November 2023 of the Respondent which clearly indicated that he was aware of the hearing but would not be in attendance and that he was content for the Panel to proceed in his absence. The Panel considered the advice of the Legal Adviser who, following the submissions of the Case Presenter, referred the Panel to the case of *R v Jones (No.2)* [2002] UKHL 5 and [2003] 1 AC 1, and *R v Hayward* [2001] 3 WLR 125. It is clear from these cases that a court or tribunal has a wide discretion on whether to proceed in the absence of an accused or respondent taking into account all of the circumstances of the case.

4. IFoA's Case Presenter also directed the Panel's attention to the Case Management Form, dated 5 November 2023, where the Respondent indicated that he would not be attending the hearing, having stated "*No (time zone does not match)*" in response to a question about the Respondent's intention to attend. The Case Presenter therefore took the Panel to an e-mail dated 8 November 2023 in which IFoA asked the Respondent if he wished for the timing to be later, suggesting a start time of 12 noon due to the time differences might be accommodated. The Respondent's email response to this matter, dated the same day, stated:

"I have no issues if hearing happens without my attendance...."

5. The Panel noted that the discretion to proceed in the absence of a Respondent should be exercised with the utmost care and caution. The Panel must consider matters such as whether the Respondent has requested an adjournment, whether he would be likely to attend any adjourned hearing, or whether, in all the circumstances, the Respondent had absented himself voluntarily from the hearing. No adjournment was sought by the Respondent and there was no reason to suppose that an adjournment would secure his attendance. The Panel noted the written representations made by the Respondent which were made in the expectation that the hearing would proceed in his absence. The Panel was therefore satisfied that the Respondent had chosen voluntarily to absent himself. In the circumstances, the Panel also determined that it was in the public interest in the expeditious disposal of the case to proceed in the absence of the Respondent.

Panel's Determination:

6. The Panel found parts 1a, 1b, 2, and 3 of the charge proved by way of admission, and the remaining charges, 4a, 4b, 5, 6, 7 and 8 proved to the requisite standard.
7. The Panel determined that the most appropriate and proportionate sanction was: - Exclusion from IFoA membership. The Respondent may not apply for readmission for a period of 5 years.
8. The Panel also ordered the Respondent to pay to the IFoA full costs claimed of £4,663.00. The Panel also directed publication of its decision, in accordance with the Publication Guidance Policy.

Background:

9. The Respondent was a student member of the IFoA from January 2017 until January 2020 when his membership of the IFoA lapsed. Although the Respondent's membership has lapsed, the Disciplinary Scheme still applies. Rule 4.4 of the Disciplinary Scheme provides:

“References to the Respondent shall include a former Member who has resigned or has ceased to be a Member for any reason since the time of the conduct in respect of which an Allegation is made. Any such former member shall remain bound to supply such information and explanations as may be required by an Investigation Actuary, a Disciplinary Tribunal Panel or an Appeal Tribunal Panel regarding his/her conduct and shall remain bound by the determinations of a Disciplinary Tribunal Panel or an Appeal Tribunal Panel or any determination of an Adjudication Panel which is the subject of an agreement under rule 6.10 in respect of any Misconduct committed notwithstanding that his/her membership has ceased.”

10. It is alleged that the Respondent received unauthorised assistance in advance of and/or during the IFoA CM1 Online Examination in April 2019 and submitted an examination paper which was not entirely his own work. These alleged actions were in breach of Section 13 (Inappropriate Conduct) of the IFoA's Assessment Regulations (as of November 2018). It is further alleged the Respondent participated in collusion regarding this exam and did not speak up regarding this collusion. It is alleged that his conduct was dishonest, and his actions were in breach of the principles of compliance and integrity in the Actuaries' Code.
11. Actuarial Mathematics consists of two elements, Actuarial Mathematics (CM1) and Financial Engineering and Loss Reserving (CM2). The aim of the Actuarial Mathematics exam (CM1) is to provide a grounding in the principles of modelling as applied to actuarial work. There are two elements of assessment, referred to as Paper A and Paper B. For the April 2019 sitting, separate excel workbooks were provided for each of the three examination questions, split into tabs for data relevant to the question or a 'working sheet' where candidates could complete their working. Candidates upload the excel workbooks to the exam platform with their solutions. These are then transferred to a marking platform for marking.

12. Candidates sitting IFoA examinations receive a 'CM1' and 'CM2' Guide which signposts them to the Assessment Regulations. In the section titled 'Professional Conduct during the CM examinations' it is noted that the Assessment Regulations apply to students when taking the examination. The CM1 and CM2 Guide dated 1 February 2019 was in place at the time of the Respondent's examination. Candidates are also advised of the rules before sitting the examination. These include; that by submitting their files they are confirming that all the material is entirely the candidate's work, that the content of the examination paper is confidential and that examination materials must not be disclosed or discussed with others.
13. In May 2019 the IFoA received a number of allegations regarding potential Assessment Regulation breaches that took place during the April 2019 IFoA assessment diet from two separate whistle-blowers who were members of a WhatsApp chat group, together with many other IFoA students.
14. In July 2019, the IFoA Board of Examiners set up a task force to investigate these allegations. The Head of Assessment at the IFoA (Witness 2), was responsible for overseeing and managing the initial investigations, and collating information for the Board of Examiners. The task force identified many similarities in the Respondent's exam submissions with a number of other students. Also, the task force identified that the Respondent appeared to be actively involved as a tutor working with Company A, who were believed to be participating in widespread assessment collusion in the April 2019 examinations, or that the Respondent had failed to speak up in relation to any assessment collusion. The task force decided that the evidence available was conclusive that collusion had occurred.
15. The Respondent was notified of this outcome in writing on 10 September. Whilst the investigation was ongoing, the Board of Examiners decided the Respondent should not book onto that year's September diet of examinations. The Respondent denied being part of any collusion for this examination or being in contact with anyone during the April 2019 exam. He stated he took the exam online, alone at home, and that the similarities found must be simply coincidental.
16. Assessment collusion is a clear breach of the Assessment Regulations. However, it was the view of the Board of Examiners that the power and authority within the

Assessment Regulations was insufficient to address the regulatory issues of alleged misconduct that arise from the Respondent's role in the collusion activities. The Board of Examiners considered that it was in the public interest that these issues of potential misconduct arising from alleged breaches of the Actuaries' Code (principles of integrity and compliance) should be formally investigated under the IFoA disciplinary process.

17. The Board of Examiners therefore decided to make a formal application for the Respondent's alleged conduct to be investigated by the IFoA disciplinary process, by way of an Executive Referral.

Findings of Fact:

18. The Panel accepted the advice of the Legal Adviser.
19. The Panel was aware that the burden of proof rests on the IFoA, and that the standard of proof is the civil standard, namely the balance of probabilities. This means that the facts will be proved if the Panel was satisfied that it was more likely than not that the incidents occurred as alleged. There is no requirement for the Respondent to prove anything. If the Panel finds any factual allegation proved, the question of whether it breaches rules or is misconduct is a matter for the Panel's independent judgement. Misconduct is a word of general application and requires a significant falling short and must be blameworthy to the extent of moral opprobrium (*Roylance v The General Medical Council (Medical Act 1983) [1999] UKPC 16*, and *Spencer v General Osteopathic Council [2012] EWHC 3147 (Admin)*).
20. The Respondent made admissions to parts 1a, 1b, 2 and 3 of the charge. The Panel has accordingly found those part of the charge proved in light of those admissions.
21. In reaching its decisions on the various parts of the charge, the Panel considered the documentary evidence in this case together with the submissions of the IFoA's Case Presenter and those of the Respondent. The Panel also considered the advice of the Legal Adviser.

22. The Respondent was not in attendance at this hearing and the Panel was satisfied that this absence was voluntary for the reasons set out above. The Panel has drawn no adverse inference as a consequence of the Respondent's absence.

23. Charge 1 - found proved.

In advance of and/or during the Institute and Faculty of Actuaries' CM1 online examination in April 2019, you: -

- a. received unauthorised assistance by discussing the examination paper and/or*
- b. sharing your answers with (an)other candidate(s); and/or*

- c. submitted to the Institute and Faculty of Actuaries an examination paper which*
- d. was not entirely your own work.*

24. This charge has been admitted by the Respondent and found to be proved by way of those admissions.

25. However, the Panel still considered the evidence provided in support of the admitted charges, as these were inextricably linked with the remaining number of charges, some of which were denied.

26. The evidence for the charges was contained within the witness statements of Witness 1 (Education Actuary for the IFoA); Witness 2 (Head of Assessment at IFoA); and Witness 3 (Head of Disciplinary Investigation at IFoA). No oral evidence was presented at the tribunal hearing. The Panel had no concerns over the credibility of the witnesses, who were all employed by the regulatory body in a professional capacity.

27. The Respondent's exam submission for the April 2019 CM1 examination and the exam submissions for students A to M, who sat the same examination, were analysed by Witness 1 in their role as Educational Actuary for IFoA. In their statement, they say:

“The student submitted identical or near identical answers including commentary, formatting, calculation errors and typographical errors for parts of these questions. The level of similarity was felt strong evidence to suggest that collusion was more probable than not.”

28. The Respondent originally denied being in contact with anyone during the April 2019 exam. Until his submissions made on 5 November 2023, he continued to assert throughout the investigation that the similarities found were simply coincidental.

29. However, in the written statement provided by the Respondent on 5 November 2023 he now states: -

“I accept responsibility for my actions related to the submission of collaborative work that was not entirely my own. I genuinely apologise for my part in this, and I deeply regret the transgression.”

30. The Panel noted the Respondent’s use of the term ‘collaborative’ and accepted the general meaning of the word, namely “produced by or involving two or more parties working together” and that the Respondent had submitted work that was not entirely his own. The Panel determined, therefore on the basis of the admission and the evidence before it, that charge 1 was found proved.

31. Charges 2 and 4 - found proved.

32. Charges 2 and 4 were considered both separately and together, as the issue of collusion was pertinent to both.

Charge 2

Your actions at paragraph 1 were in breach of Section 13 (Inappropriate Conduct) of the Institute and Faculty of Actuaries’ Assessment Regulations (November 2018).

Charge 4

You knew or should have known that Company A was involved in widespread collusion in the April 2019 Institute and Faculty of Actuaries examination diet and you:

- a. *participated in this collusion; and/or*
- b. *did not speak up regarding this collusion.*

33. In the IFoA's Assessment Regulations (as of November 2018), "Cheating", "colluding", and "plagiarising" are listed as examples of inappropriate conduct at Section 13 of those Regulations:

"Engaging in any activity which is in breach of these regulations, or deemed to breach the intent of these regulations, will be considered as inappropriate conduct. This section applies to examinations held both at assessment centres and online. Examples of this may include (but not limited to):

- a) *Cheating - failing to comply with the rules governing assessments or any instructions given by the invigilator.*
- b) *Colluding - assisting another candidate to gain advantage by any means, facilitating or receiving such assistance.*

...

d) Plagiarising - including in your work that which has been created by another person (whether published or unpublished).

34. The Panel was provided with evidence that Regulation breaches related to students sitting online assessments CS1, CS2, CM1, CM2 and CP3.

35. In many cases, the investigations revealed the involvement of the tutorial company, Company A. These cases had been identified by reviewing WhatsApp messages sent to / from Company A which had been provided by two separate whistle-blowers, who were also students involved with the same WhatsApp group.

36. The Panel was taken to various screen grabs of the WhatsApp chat group, where it was evident that Company A was a significant party in the collusion to share examination content and solutions / answers between the group of students.

37. With regard to his association with Company A, the Respondent stated he joined Company A as a student and had assisted in paper checking and doubts sessions for extra income in CT1 theory and not the subject of CM1.

38. Further to that, Company A's website had a page showing images and names of tutors employed to provide learning support to students, and the Respondent was

one of the tutors listed. The Panel saw evidence that the Respondent's LinkedIn profile confirmed he was a member of the IFoA and had association with Company A.

39. The Respondent's mobile number was also evident on some of the screen grabs, which evidences that he was actively involved in the chat group and therefore, on the balance of probabilities, should have been aware of Company A's involvement and collusion.

40. The Panel noted that on the day of the CM1 examination, the WhatsApp screengrab provided by one of the whistle blowers, shows the following message from Company A:-

"Solutions will be shared by mail. make necessary editings and copy paste in your own word file and upload on institute website in given time."

41. The Panel also noted that a high proportion of emails that had been received in response to the subsequent investigation letters sent out by IFoA, used the same language and advice as given by Company A on that WhatsApp group, on how to respond to the IFoA, namely:

"Convey the institute that it is surprising for you to know that there are similarities in your and other candidates' solutions. Tell them that you are not able to guess what may be the possible reason. Add that you have written exam in complete privacy and have not indulged in any kind of malpractice whatsoever."

42. The Panel also noted that in his e-mail response to Witness 2 on 13 June 2019, about the similarities in the exam responses, the Respondent used very similar language, stating: -

"I have received mail regarding similarities in CM1 excel examination conducted by you. I appeared for exam from my home and was alone while giving exam. I also studied and prepared on my own for excel exam. I do not have idea about the similarities detected at your level. I have sincerely given the exam as per rules and similarities found may be some kind of coincidence. I have nothing else to say about the same. I hope the issue will get resolved and outcome will be justifying."

43. In respect of Charge 4, in the Respondent's Charge Response Form sent 5 November 2023, he states: -

“Dispute. (I was part of a WhatsApp group of which many other students of IFoA were a part. I was not aware of any widespread collusion conducted by Company A. I agree on what I did was wrong and I should have contacted IFoA earlier but there was no involvement of me in any collusion with Company A. I was involved in a group on whatsapp (sic) chat application which I was added without my consent although I did not leave it which was my mistake which was wrong from my end, and I agree on that.....)”

44. However, in the written statement also provided by the Respondent on 5 November 2023 he states: -

“I accept responsibility for my actions related to the submission of collaborative work that was not entirely my own. I genuinely apologise for my part in this, and I deeply regret the transgression.”

45. The Panel noted the Respondent's use of the term 'collaborative' rather than 'collusion' but accepted the general meaning of the word, namely “produced by, or involving, two or more parties working together”. The Panel were of the view that if two or more people were working together in order to deceive others into believing they had done the examination without help from other sources, which is what the Respondent and other students were doing, was evidence of collusion.

46. The Panel agreed with IFoA's position that assisting another candidate or candidates, or receiving unauthorised assistance from another source, is collusion and therefore conduct which falls within the examples of an activity that is a breach of the Assessment Regulations. As does submitting an examination paper not entirely the work of the Respondent.

47. Whilst the Panel found charges 1 and 2 proved by way of admission, the Panel also found that it was more likely than not that the Respondent was aware of the widespread collusion taking place during the April 2019 exam due to his presence in the WhatsApp group, and therefore found charge 4 proved to the requisite standard.

48. Charges 3 and 5 - found proved.

49. Charges 3 and 5 were considered both separately and together as the issue of dishonesty was pertinent to both, and the same legal advice was provided and accepted for both charges.

Charge 3

Your actions at paragraph 1 were dishonest.

Charge 5

Your actions at paragraph 4 were dishonest.

50. It is alleged that the Respondent's actions were dishonest. An analysis of the concept of dishonesty is set out in *Wingate v SRA* [2018] EWCA Civ 366 at paragraph 93:

"Honesty is a basic moral quality which is expected of all members of society. It involves being truthful about important matters and respecting the property rights of others. Telling lies about things that matter or committing fraud or stealing are generally regarded as dishonest conduct...Because dishonesty is grounded upon basic shared values, there is no undue difficulty in identifying what is or is not dishonest."

The test for dishonesty is set out in *Ivey v Genting Casinos (UK) Ltd t/a Crockfords* [2017] UKSC 67 at paragraph 74:

"When dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual's knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it was genuinely held. When once his actual state of mind as to the knowledge or belief as to the facts is established the question whether his conduct was honest or dishonest is to be determined by the factfinder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest."

51. Firstly, the Panel noted that in the Respondent's statement in response to allegations, which was sent with the Charge Response Form on 5 November 2023, the Respondent admits the dishonesty in respect of submitting 'collaborative' work, and that this was dishonest (Charges 1 and 3).
52. However, he contested that his actions of not speaking up about the collusion involving Company A was dishonest, although he admits he didn't speak up or leave the group when he could have done.
53. Having found charge 4 proved, the Panel considered that this was a fundamental breach of the Respondent's professional obligation and that cheating in professional examinations, assisting others to cheat in those examinations, and being a party to the platform that enabled this to occur could not be anything other than dishonesty.
54. Therefore, on the balance of probabilities, the panel found charge 5 proved.
55. Charge 6 - found proved.

Your actions in paragraphs 1 and/or 2 and/or 4 above were in breach of the principle of Compliance under the Actuaries' Code of the Institute and Faculty of Actuaries, version 2.0 (August 2013).

56. The Actuaries' Code (version 2.0) was in force between August 2013 and 18 May 2019. Accordingly, this applies to the Respondent's conduct in paragraphs 1, 2 and 4 of the Charge. Version 2.0 of the Actuaries' Code states the following in relation to compliance:

"Members will comply with all relevant legal, regulatory and professional requirements, take reasonable steps to ensure they are not placed in a position where they are unable to comply, and will challenge non-compliance by others."

57. Version 2.0 of the Actuaries' Code also states the following at paragraph 4.4:

"Members will promptly report any matter for consideration under the Institute and Faculty of Actuaries' Disciplinary Scheme which appears to constitute misconduct or a material breach of any relevant legal, regulatory or professional requirements"

58. Having admitted charge 2 and having found charge 4 proved in respect of not speaking up about the collusion on the WhatsApp group, the Panel found the Respondent did not promptly, or at all, report the matters which clearly constituted misconduct, for consideration. The Panel also found that the Respondent took no steps to remove himself from the position of non-compliance, by simply leaving the WhatsApp group. Therefore, charge 6 was found proved.

59. Charge 7 - found proved.

Your actions at paragraphs 1 and/or 3 and/or 4 and/or 5 were in breach of the principle of Integrity under the Actuaries' Code of the Institute and Faculty of Actuaries' version 2.0 (August 2013).

60. The Actuaries' Code (version 2.0) was in force between August 2013 and 18 May 2019. Accordingly, this applies to the Respondent's conduct as set out in the Charge. Version 2.0 of the Actuaries' Code states the following in relation to integrity:

"Members will act honestly and with the highest standards of integrity."

The Actuaries' Code Guidance states, in relation to the principle of integrity, at paragraph 3.1 that "*Members are expected to demonstrate high standards of behaviour*" and at paragraph 3.3 that "*Acting with integrity in a professional setting will generally mean being straightforward and honest in your professional and business relationships and dealing fairly with those around you.*"

61. Having found charges 3 and 5 proved, involving findings of dishonesty, the Panel found this charge proved, as the dishonest conduct demonstrated a clear failure to comply with the integrity principle of the Actuaries Code.

Misconduct

62. Charge 8 - found proved.

Your 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 February 2018).

63. The Panel considered whether the actions of the Respondent amounted to Misconduct. In considering this matter, the Panel took account of the definition of Misconduct, for the purposes of the Disciplinary Scheme, which is: *“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”*.

64. The Panel considered the actions to be very serious, with potentially considerable damage to the reputation of the profession and involved a significant departure from the professional standards expected. The actions involved numerous breaches of the professional standards, multiple acts of dishonesty which clearly amounted to Misconduct. There have been several breaches of the Actuaries Code, namely a breach of the principle of compliance; a breach of the principle of integrity; and although not subject of a specific charge by IFoA, the Panel considered there had also been a breach of the general duty to speak up, as is evidenced by the Panel's findings for charge 4. Taken individually these breaches are evidence of Misconduct and when taken collectively, together with the dishonesty involved, are certainly sufficiently serious as to amount to Misconduct.

Sanction:

65. In considering the matter of sanction, the Panel had regard to the submissions of the IFoA's Case Presenter, the advice of the Legal Adviser, and the Respondent's written submissions. The Panel also had careful 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.

66. 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.

67. The Panel considered sanctions in ascending order, starting with the least severe. The Panel had regard to the following:

- a) the Seriousness and circumstances of the Misconduct;
- b) the purpose for which sanctions are imposed;
- c) any aggravating and mitigating factors; and
- d) the extent to which the Respondent may have, or may have not, demonstrated insight and / or remorse.

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

- The protracted nature of the conduct;
- The number of students involved in the collusion;
- The attempt to cover up and deny the collusion for a considerable time;
- The serious nature of the allegations;
- Multiple instances of dishonesty;
- Evidence of pre-planning;
- The calling into question the integrity of the examination process;
- The risk of damage to the reputation of the professions;
- Lack of insight into the impact on others.
- No evidence of remediation.

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

- Some evidence of remorse and regret;
- Eventual admissions to part of the allegations.

70. The Panel noted the elements of mitigation that have been advanced by IFoA, namely no previous regulatory findings, the impact of this investigation on the Respondent, and the work the Respondent has done since but didn't find them compelling. As the Respondent was at the early start of their student membership,

the lack of previous findings was unsurprising. Focusing on the impact the investigation has had on himself, rather than the impact his actions could have had on others, was seen to be an aggravating rather than mitigating factor as it further demonstrated a lack of insight. Finally, the Panel considered that the work the Respondent has done since, does not negate the seriousness of his actions at the relevant time.

71. The Panel considered whether this was a case that warranted no sanction. This was not appropriate in the light of the seriousness of the conduct found proved, would place no restrictions on the Respondent where the risk of repetition is high due to a lack of insight, only partial admissions, and no evidence of remediation.

72. The Panel considered whether to impose a Reprimand. Likewise, due to the seriousness of the actions found proved this was not appropriate as this involved a pro-active course of action, with virtually no mitigation, and the level of harm in terms of public confidence in the profession and the integrity of the examination process, was high.

73. The Panel considered whether to impose a Fine. The panel considered the imposition of a fine but felt that a nominal fine could undermine public respect of the regulatory process, and there has been no evidence of financial gain to the Respondent provided which would indicate the appropriateness of such a sanction. The Panel had considered the financial circumstances of the Respondent and decided that the imposition of costs would be a more appropriate use of any of his available finances.

74. The Panel considered whether to impose a period of education, training or supervised practice. The Respondent is no longer considering an actuarial career and has been working for some time in a different discipline, namely data science, therefore enforcing any training or education in the actuarial field was not an option., The Panel also considered that the dishonesty aspects of the findings cannot be appropriately addressed by a period of education or training in these circumstances.

75. The Panel considered whether to impose a period of suspension or the withdrawal of a Practising Certificate. The Panel considered neither of these sanctions would address the seriousness of the actions found proved, as they would have no real

deterrent effect on the Respondent who is no longer working as an actuary or considering a return to that work. The primary purpose of imposing such a sanction is to act in the public interest and maintain the reputation of the profession, and this would not achieve that aim.

76. The Panel considered whether to exclude the Respondent from Membership of the IFoA. The Panel considered that the gravity and seriousness of the Misconduct found proved is fundamentally incompatible with remaining as a member of the Institution. The Panel noted that acts of dishonesty usually lead to expulsion or exclusion and there are no particular circumstances in this case where a well-informed member of the public would not regard dishonesty as a bar to continued membership of the profession. The Panel recognised that exclusion could have an effect on the income of the Respondent but given that he no longer works in the capacity of actuary, felt that any future earnings impact in any other profession was a matter for him and his employers.

Costs:

77. The IFoA made an application for costs of £4,663.00 incurred in preparation for the hearing and attendance at the hearing by the IFoA's Case Presenter. The Panel noted that costs included costs incurred in the preparation for the Tribunal Hearing and the cost of the hearing itself. It did not appear to include the wider investigation costs which could have been significant in an investigation where there have been unnecessary delays caused by the Respondent failing to promptly engage with his regulator. The Panel considered the costs sought to be at a reasonable level, and that the work done justified that amount. The Panel therefore ordered the Respondent to pay the full IFoA costs claimed of £4,663.00.

Right to appeal:

78. The Respondent has 28 days from the date that this written determination is deemed to have been served upon him in which to appeal the Panel's decision.

Publication:

79. Having taken account of the Publication Guidance Policy (May 2019), the Panel determined that this determination will be published and remain on the IFoA's website for a period of five years from the date of publication. A brief summary will also be published in the next available edition of *The Actuary Magazine*.

80. That concludes this determination.

Ms Wendy Yeadon
Lay Chair

22 November 2023

Published on 14 December 2023