



Determination Report for Adjudication Panel

19 December 2016

Kevin Boxall, FIA (the Respondent)

On 19 December 2016 the Adjudication Panel considered allegations that, whilst a Member of the Institute and Faculty of Actuaries (the IFoA):

On 17 February 2016, at Croydon Magistrates' Court the Respondent was convicted of an indictable offence that on 30 June 2015 he, with intent to cause harassment, alarm or distress, used threatening, abusive or insulting words or behaviour or disorderly behaviour thereby causing another person harassment, alarm or distress and the offence was racially aggravated within the terms of section 28 of the Crime and Disorder Act 1998 and contrary to section 31(1)(b) and (4) of the Crime and Disorder Act 1998.

The Respondent failed to advise the Institute and Faculty of Actuaries of his conviction as required under paragraph 1.19 of the Disciplinary Scheme.

In his actions above, the Respondent failed to maintain and observe the standards of conduct expected of a Member, in breach of Principles 1 (Integrity) and 4 (Compliance) of the Actuaries' Code (version 2.0) and, in any event, constituting Misconduct in terms of Rule 1.6 of the Disciplinary Scheme of the Institute and Faculty of Actuaries (effective 1 August 2010, amended 18 October 2012) being conduct falling below the standards of behaviour, integrity, competence or professional judgement which other Members or the public might reasonably expect of a Member.

Determination

The Panel agreed that it had sufficient information on which to make a decision.

Having considered the Case Report including the appendices submitted by the Investigation Actuary and the comments submitted by the Respondent, the Panel determined that the facts as alleged above amounted to a *prima facie* case of Misconduct against the Respondent.

The Panel invited the Respondent to accept that there had been Misconduct and to accept the following sanctions:

- A reprimand.
- A fine in the amount £200.

The Panel's reasons were as follows:

1. The Respondent was admitted as a Fellow of the Institute and Faculty of Actuaries on 31 December 2001 and was a Member of the Institute and Faculty of Actuaries at the relevant time.
2. On 7 October 2015 at Croydon Magistrates' Court, the Respondent pleaded not guilty to a charge of racially aggravated harassment within the terms of section 28 of the Crime and Disorder Act 1998 and contrary to section 31(1)(b) and (4) of the Crime and Disorder Act 1998 committed on 30 June 2015.
3. On 17 February 2016 the Respondent was convicted of the offence above and fined £930, ordered to pay a victim surcharge of £93 and to pay costs of £620 to the Crown Prosecution Service.
4. The Disciplinary Scheme states at Rule 1.13(a) that:
"The fact that a Member:

(a) has by a court of competent jurisdiction in the United Kingdom or elsewhere been convicted of a criminal offence...
...shall for the purposes of this Scheme be treated as conclusive evidence of the findings of fact upon which the conviction, determination, judgement or disqualification order is based."
5. The Panel also recognised that the Actuaries' Code (version 2.0 of August 2013) which was in force at the time of the alleged Misconduct states that:

"The Code applies at all times to members' conduct in their work as actuaries, but will also be taken into consideration where their conduct in other contexts could reasonably be considered to reflect on the Profession."
6. The Panel took into account the seriousness of the charge of which the Respondent had been convicted, the fact that he had pleaded not guilty and did not appear to have shown any remorse for his actions.
7. The Panel determined that the nature of the offence of which the Respondent had been convicted was such that the Respondent's behaviour had fallen significantly below the standards defined in Rule 1.6 of the Disciplinary Scheme. Moreover, the Panel had regard to Rule 1.12(b) of the Scheme in determining that the conviction of an indictable offence against the Respondent amounted to *prima facie* evidence of Misconduct.
8. In considering whether to offer a sanction, the Panel were mindful that the purpose of the Disciplinary Scheme is the protection of the public and the need for the public to have confidence in the role of the IFoA. They were also mindful of the principle of proportionality

together with the impact of any sanction(s) on the Respondent and the seriousness of the *prima facie* Misconduct itself.

9. The Panel considered that the conduct of Respondent warranted a substantial fine for such a serious offence. However, the Panel took account of the Indicative Sanctions Guidance Note issued by the IFoA's Disciplinary Board on 30 August 2016. This Guidance Note directs Panels to have due regard to action already taken against the Respondent by other bodies such as courts, regulators and other professional bodies. It further directs that any sanction imposed by a Panel is separate from disposal by other bodies (such as courts or other regulators) but a Panel may, where relevant, take account of other such disposals. The Panel noted that the Respondent had been fined by the Magistrates' Court and considered that the imposition of a further fine for the same offence would be disproportionate.
10. The Panel also took account of the mitigating circumstances as set out by the Respondent.
11. The Panel decided that a reprimand was the appropriate sanction to offer.
12. In considering the second allegation, the Panel noted that the IFoA received a message via a contact form on the IFoA website from an anonymous source by email dated 21 March 2016 advising that the Respondent had been found guilty of racially aggravated harassment. The message from the anonymous source contained a link to a London Evening Standard article on the incident. The IFoA contacted the Respondent on 26 May 2016 and 10 June 2016 in respect of the above conviction. At no time before the 10 June 2016 did the Respondent report the matter to the IFoA.
13. The Panel had regard to the reporting requirement under Rule 1.19 of the Disciplinary Scheme which states that:

"Every Member has a duty to disclose promptly to the Institute and Faculty of Actuaries any conviction...to which he is subject."

14. The Panel noted that the Respondent had not notified the IFoA of the matter at any time and was concerned that the Respondent was unable to offer any satisfactory explanation for this failure. As a result, the Panel concluded that given the length of time which had elapsed before the Respondent was contacted by the IFoA, such failure amounted to *prima facie* evidence of Misconduct and the Panel further imposed a fine of £200.

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