



Disciplinary Committee

16 June 2021, Time: 10:00 - 14:30

By video conference

Attending:	Stephen Redmond (lay member and Chair) (SR) Velia Soames (lay member) (VS) Kevin Doerr (actuary member) (KD) George Russell (actuary member) (GR) Jim Webber (actuary member) (JW)
In attendance:	Ian Farr, Chair of Scheme Review Working Party (IF) (Item 4) Jules Griffiths, Convener of Adjudication Panels (JG) (item 9)
Apologies:	None
Executive Staff:	Kirsten Mavor, Secretary to the Committee (KM) Michael Scott, Head of Disciplinary Investigations (MS) Julia Wanless, Judicial Committees Secretary (JSW) Sarah Borthwick, Case Manager (SB) (item 4) Catherine Mouat, Disciplinary Investigations Coordinator (CM) (note taking)

Item	Title	Action
	Welcome, apologies and conflict check The Chair welcomed members to the first meeting of the Disciplinary Committee. The Chair advised that Ian Farr, Chair of Scheme Review Working Party and Jules Griffiths, Convener of Adjudication Panels would be joining the meeting for items 4 and item 9 respectively. Committee Members were asked to raise any conflicts arising from the agenda. GR referred to the conflict he has with some of the cases that might be discussed under item 8. It was agreed that GR would leave the meeting if these cases are discussed.	
1 & 2	Chair and Executive Updates The Chair provided an update on his activities since the last meeting and expressed his gratitude to both the Executive and Committee Members for their efforts throughout the period of lockdown. The Chair referred to the Oversight Report at item 14 and noted that the FRC continued to be satisfied with progress. KM advised that the Committee's terms of reference has now been approved by Regulatory Board. KM provided the Committee with a summary of the main changes since the draft previously circulated. It was agreed that a copy of the Standards Review Process referred to in the terms of reference should be shared with the Committee.	KM
	The remainder of the updates from both the Chair and the Executive were noted by the Committee.	

Item	Title	Action
3.	<p>Minutes and Action List</p> <p>The Committee approved the March minutes and agreed that they should be published in full.</p> <p>The Committee noted the action list.</p>	
4.	<p>Scheme Review</p> <p>IF and SB joined the meeting to present the remaining detailed proposals from the Working Party.</p> <p>SB presented the cover paper and advised that one further Working Party meeting had been held since the March Disciplinary Board meeting. A final meeting of the Working Party is scheduled for 28 June 2021. The Working Party will then be stood down through the drafting phase of the project.</p> <p>SB provided a summary of all the matters that had been agreed in the Scheme Review project so far. A flowchart of the proposed process was also provided for the Committee's benefit.</p> <p>The Committee asked for further clarity about the Regulatory Board's role in the final approval process for the new Scheme.</p> <p>IF presented the remaining proposals relating to (i) referrals to the FRC (ii) the Adjudication Panel stage (iii) the Tribunal stage (iv) the Independent Examiner process and (v) the Appeals process. The Committee considered these proposals in detail.</p> <p>With regard to the process of referring cases to the FRC, it was agreed that, given the upcoming governance changes, this part of the Scheme should remain largely the same. The Committee also agreed that the relevant rules should be subject to the same "plain English" review as the rest of the Scheme and that any reference to the FRC should refer to any successor body.</p> <p>The Committee noted the recommendations in relation to the Adjudication Panel stage and, in particular, that the Adjudication Panel should have the power to exclude Respondents who are no longer Members of the IFoA at the time a Case Report is considered. It was agreed that this was a proportionate approach. It was noted that full details should be provided in the Adjudication Panel decision as to why the Respondent was being excluded which would assist the Readmissions Panel in any subsequent application for readmission.</p> <p>In relation to the Tribunal stage of the process, the Committee agreed with the Working Party recommendations that, overall, the process was working well and the only changes required were improvements in the drafting of the relevant rules. The Committee discussed whether the maximum period of expulsion/exclusion of 5 years should be reconsidered. The majority of the Committee agreed that 5 years remained appropriate as the readmission process acted as a safety net in considering whether the Respondent should hold membership.</p> <p>The Committee agreed with the Working Party's recommendation that the Independent Examiner process should remain largely the same. The Committee discussed whether it was appropriate to extend the process to the IFoA and agreed that this option should be available to the IFoA as a party to the process with the additional test of any such review being in the public interest. It was also agreed that the Independent Examiner process is not the appropriate review process if an allegation is rejected through the filter process. The Committee agreed with the Working Party that the appropriate</p>	<p>KM</p>

Item	Title	Action
	<p>approach in these circumstances would be for a second Assessment Panel to review the decision afresh.</p> <p>Consideration was given to the appeal stages within the Scheme and the Committee agreed with the proposed changes. In particular, the Committee agreed that the IFoA should have the right to appeal so long as the appeal was in the public interest. Also, both parties should have the right to appeal a decision on costs. It was agreed that there should be an independently appointed pool of individuals from which the role of Appeals Assessor or Independent Examiner would be appointed, as and when required.</p> <p>SR thanked both IF and SB for attending the meeting and for the quality of the papers before the Committee.</p>	
5.	<p>Annual Report</p> <p>KM advised that the Committee had previously reviewed sections of the Annual Report but this was the first time that the statistics section had been provided. The Committee agreed that there should be a more detailed explanation in the Annual Report on why it covered a 15 month period 1 March 2020 – 31 May 2021. Also, any comparisons with previous years should take into account the different reporting periods. It was agreed that after the suggested changes to the Annual Report were made, the Chair should have final sign off.</p>	KM
6.	<p>Costs Guidance</p> <p>MS presented a paper summarising the changes to the Costs Guidance over the last three years and how these changes had been communicated to stakeholders. The Committee reviewed this paper and asked that confirmation be sought from the IFoA on its overall strategic view on costs' recovery and whether the "polluter-pays" principle should continue to be followed. It was also agreed that the initial letter to the Respondents advising that an allegation had been received should refer to the possible cost implications of the disciplinary process. It was agreed that Costs Guidance should be discussed further at the September meeting</p>	MS MS
7.	<p>Risk Register</p> <p>The Committee confirmed it had considered the risk register and questioned whether the categorisation of existing risks as being unlikely, possible or unlikely was realistic. This would be reviewed for the next meeting. Also, an additional standalone risk should be added regarding whether the IFoA's disciplinary process is providing value for money in terms of the IFoA's member value proposition. It was agreed that this would be added and that the risk register would continue to be considered as a standing item at each meeting.</p>	KM

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8.	<p>Case Update Report</p> <p>MS and JSW presented the Case Update Report. MS advised that one new allegation had been received since the last Report and there are 11 live cases. The Disciplinary Investigations Team has made good progress in completing investigations with 10 cases being referred to the Clerking Team over the reporting period.</p> <p>Six cases had been considered at the Adjudication Panel stage in the reporting period. JSW advised that there had been a delay in hearing one case due to challenges with appointing a panel member with the appropriate general insurance experience. JSW confirmed to the Committee that steps were being taken to try and recruit more panel members with this area of expertise.</p> <p>The Committee reviewed feedback on the disciplinary process from panel members, legal advisers, Respondents and individuals who had referred allegations. Overall, the Committee agreed that there were not any particular learning points but was pleased to note that there was some positive feedback about the process.</p> <p>KM advised the Committee that a Tribunal was scheduled for 20 July 2021. If any Committee members are interested in attending they should contact either KM or JSW.</p>	All
9.	<p>Discussion with Jules Griffiths, Convener of Adjudication Panels</p> <p>JG presented her paper and referred to the proposal to increase the frequency of Adjudication Panel hearing dates from three months to every 8 weeks. The Committee agreed that this would assist with meeting the timeframes for holding adjudication panels recognising the need to balance the timeframes with the efficiencies of having set dates.</p> <p>JG provided an overview of the adjudication panel process and her view that, in the main, it was working well. The fact that meetings were being held remotely prior to the pandemic had ensured that they had continued to run smoothly. JG appreciated why the training programme had been put on hold but considered that panel members, both experienced and new, would benefit from training in the near future. JG suggested that training sessions should be as interactive as possible as some panel members may feel isolated with limited interaction with other panel members. Also, new appointees to the disciplinary pool would benefit from observing the process prior to sitting on their first panel. The Committee agreed that these points should be taken forward by the Executive when delivering the training programme.</p> <p>SR and the Committee thanked JG for taking the time to attend the meeting and providing her well thought out views on the process. SR recognised that the IFoA's disciplinary process benefited from the depth of experience and knowledge of JG and all disciplinary pool members and recorded the Committee's thanks for the work they all do.</p>	KM

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10.	<p>Remote Hearings Guidance</p> <p>JSW presented a paper requesting that the guidance on holding remote hearings during the pandemic should be extended from 31 July 2021 to 31 December 2021. The Committee discussed the relevant period of extension and agreed that it should be extended until 31 December 2021 as there remain continuing uncertainties. The Committee noted that the date could be pulled forward if restrictions are eased. It was agreed that this guidance should be considered further at the December meeting with a view to discussing what approach will be taken to remote hearings following the pandemic.</p>	JSW
11.	<p>Determinations Review Sub Committee</p> <p>VS presented the report from the Sub Committee. VS was pleased to inform the Committee that the quality of determinations remains high. The Committee considered the Sub Committee's report and agreed that the recommended feedback should be passed on to Conveners. Also, the Committee agreed that a paper should be prepared for the September meeting providing options on what guidance could be issued to panels when considering the level of fines or costs awards in the context of different actuarial market salaries. The Committee noted that some of the decisions did not appear to recognise the impact a fine or costs award may have on the Respondent depending on actuarial salary levels in his/her location.</p> <p>The Committee noted that a question had been raised by the Sub Committee about whether interim decisions should be issued to the person who referred the allegation. It was noted that the current Scheme directed that determinations should be issued to the referrer in the situation when the Adjudication Panel referred the case to the Disciplinary Tribunal. It was agreed that this approach seemed inconsistent with other parts of the Scheme and this should be considered by the Scheme Review Working Party.</p>	KM SB
12.	<p>Internal Review</p> <p>GR advised that he had carried out the internal review of two completed investigations. He will be in a position to issue a report to the Committee within the next month. Overall, there were no major areas of concern identified but he did have some 'learning points' that he would like to share with the rest of the Committee via his report. It was agreed that this was a useful exercise that should be continued.</p>	
13.	<p>AOB</p> <p>The Committee discussed the approach to presenting papers and overall agreed that the most helpful approach was to have all the papers in the one place, being boardpacks.</p>	
14.	<p>FRC Report</p> <p>The Committee noted the content of this report.</p>	
15.	<p>Regulation Board update for Chairs</p> <p>The Committee noted the update from the last meeting of the Regulation Board.</p>	
16.	<p>Committee Remit</p> <p>The Committee noted its terms of reference which were recently approved by Regulatory Board.</p>	

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17.	Schedule of term times The Committee noted this.	
18.	Forward Planning Schedule The Committee noted this and referred to the additional items that had been identified for the September meeting.	
19.	Schedule of Guidance The Committee noted that a 'light touch' review of the guidance was being carried out and will be presented at the September 2021 meeting.	

Dates of next meetings: 23 September 2021 and 8 December 2021