



**Adjudication Panel Meeting**

**26 March 2021**

**Held by Video Conference**

<b>Respondent:</b>	Jan Ignacy Iwanik [Affiliate]
<b>Category:</b>	Affiliate since 17 September 2020
<b>Region:</b>	London, UK
<b>Panel Members:</b>	Jules Griffiths (Chair, Lay member) David Ford FIA (Actuary member) Mike Aldred FIA (Actuary member)
<b>Legal Adviser:</b>	James Palmer
<b>Judicial Committees Secretary:</b>	Julia Wanless

## **Allegation:**

The allegation against the Respondent is:

A1 On or around 1 May 2020, he posted a comment on LinkedIn which was inappropriate and/or offensive in that, in response to a post by Person 1 in which he announced he was standing to be a Council member of the IFoA and posted an article on diversity, the Respondent said:

(a) *“Why play the racial card?”*;

(b) *“This term means dark-skinned and this is the button you try to press in people when you present yourself as “truly diverse”*;

(c) *“So you are highlighting your race as relevant. Do as you will. You may even win because your voters need diversity hires to feel better about themselves”*;

A2 In or around May 2020, he posted a comment on LinkedIn which was inappropriate and/or offensive in that, in response to a post by [Company A] with a photograph of employees and the caption *“I am fortunate to work for [Company A] where diversity has been incredible”*, the Respondent said *“so which one is the homosexual?”*

A3 His actions at A1 and/or A2 were in breach of the Integrity principle of the Actuaries’ Code (version 3.0) in that his conduct did not show respect for others, and fell short of the standards expected of a Member.

A4 His actions at A1 and/or A2 were in breach of the Communication principle of the Actuaries’ Code (version 3.0).

A5 His 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).

### **Panel's determination:**

The Panel considered the Case Report and appendices submitted by the Case Manager and Investigation Actuary. The Panel noted that the Respondent had been invited to comment on the Case Report and had not done so. The Panel considered the advice of the Legal Adviser with regard to the definition of Misconduct.

The Panel determined that the Case Report disclosed a *prima facie* case of Misconduct. The Panel accordingly invited the Respondent to accept that there had been Misconduct and the following sanctions:

- Reprimand
- Fine in the sum of £1,000 to be paid within 28 days of the Respondent's acceptance of the Panel's invitation

In addition, the Panel strongly encouraged the Respondent to undertake, at his own expense, appropriate Diversity and Inclusion training with the objective of building an appreciation of the positive benefits of diversity in a professional context, and how to avoid the risk of offending others in future communications.

### **Background:**

The Respondent was a Fellow of the IFoA from 26 August 2008 to 16 September 2020 when he transferred to Affiliate status.

On 1 May 2020 Person 1 raised concerns with the IFoA about the Respondent's actions in posting opinions on LinkedIn. Person 1 described the Respondent's comments as "*discriminatory, small-minded and outright racist*". This gives rise to Allegation 1.

On 22 May 2020 the IFoA were contacted by Person 2, who raised concerns about a comment made by the Respondent on LinkedIn, which Person 2 described as "*blatantly offensive, homophobic and, due to the content of the original post, racist by extension*". This gives rise to Allegation 2.

In the Respondent's initial response to the IFoA he requested that Allegation 2 be withdrawn as he considered the complainant to have committed a tortious interference with his

Company. On 21 September he sent a more detailed response, replying to both the allegations. He did not deny making the comments and stated they were not inappropriate.

The Respondent was invited to comment further after the Case Report was provided, but has not done so.

## **Decision and Reasons on the Allegations:**

### **Allegation 1**

The Panel reviewed screen shots extracted from Person 1's LinkedIn activity.

Under a heading "Bringing True Diversity to the Actuarial Council" Person 1 announced that he was standing for election to the IFoA Council, and asking his network for support.

This was followed by a post from "Jan Iwanik Actuarial Contractor": *"What's so diverse about you? You are a Dulwich boy, aren't you? Why play the racial card instead of focussing on your competence? Shame on you."*

Person 1 replied: *"I think my diversity is shown in the fact that I'm a rocket scientist, engineer, former Lloyds broker, former athlete and actuary. I also volunteer with several charities, help disabled children and made the cut to get into medical school. I'm from East Dulwich originally yes. What do you have against Dulwich?"*

Jan Iwanik Actuarial Contractor: *"I like Dulwich. It is just not the place I think of when I hear "diversity" This term means dark-skinned and this is the button you try to press in people when you present yourself as "trully diverse". Don' tell me did not know that."*

Person replied: *"In my context its not to do with my skin colour. If any physical attribute it's my age. Having someone young on the council who isn't an executive or partner will give an alternative perspective to ways to best improve our profession. East Dulwich is now gentrified, however growing up it was a different story and was very multicultural. I'd like to think that growing up in a community with a variety of different cultures gives me some insight into the work ethos of the actuarial membership which has an increasing proportion from outside the UK."*

Jan Iwanik Actuarial Contractor: *" Your intro: 1) ...from outside the UK. This is something to be proud of, but also to strive to increase further. 2) I come from an Asian background. So*

*you are highlighting your race as relevant. Do as you will. You may even win because your voters need diversity hires to feel better about themselves. I doubt they will, I doubt you will.”*

Person 1 replied: *“So your whole issue is that I wish to increase the horizons of the profession. All I’ll say is that I don’t think racism has a place within the institute. You aren’t worth me wasting my time for any other response.”*

The Panel noted in particular the Respondent’s view that the term *“diversity means dark-skinned”* people and his comment that some IFoA members would hire such people to feel better about themselves. The Panel concluded that the comments were inappropriate and/or offensive and would reasonably be regarded as such by other readers. The Panel noted that the Respondent had not denied making the comments which bore his name. Therefore Allegation 1 is found proved.

## **Allegation 2**

The Panel reviewed a screen shot which is described as *“Employees all over Asia Pacific shared what they love about their work at [Company A] as part of a #LoveWork campaign earlier this year. [Person X] Financial and Portfolio Analyst, Asia Pacific appreciates the diversity at [Company A]. He believes that diversity empowers employees and nurtures empathy.”* There is a photo of 11 smiling people and a statement *“I am fortunate to work for [Company A] where diversity has been incredible”*, and below that, a comment from “Jan Iwanik Actuarial Contractor”: *“So which one is the homosexual?”*

The Panel considered that it may have been appropriate for the Respondent to publicly question statistics behind the description of [Company A] as a diverse workplace, for example to invite Person X to support his comment with information with regard to the profile of the workforce, including the representation of different groups. However, the Panel concluded that the comment was not likely to be a genuine attempt to understand the diversity of the workforce, but was a distasteful and unnecessary remark, which was expressed in an inappropriate manner.

Therefore Allegation 2 is found proved.

### **Allegations 3 and 4**

The Panel reminded itself of the Integrity and Communication principles of the Actuaries' Code. The Panel also considered the scope of the Code, and in particular whether the Respondent's actions were in relation to an actuarial role.

The Panel had regard to the Guidance to support the principles and amplifications in the Actuaries' Code, V1 April 2019. In considering whether the Code applied to the matters found proved in Allegations 1 and 2, the Panel noted that all of the Respondent's comments were made in the name of "Jan Iwanik, Actuarial Contractor", and thus he was drawing attention to himself as an actuary (as described in section 2.8 of the Guidance).

The Panel considered sections 8.7 to 8.13 to be particularly relevant. In summary, the Guidance acknowledges that social media can be an extremely useful tool for communication. The Panel accepted that it is common for members to engage through social media, and concluded that it is not unreasonable for those standing for public office who use social media to promote themselves to have their opinions or claims challenged.

However, the Panel noted that, when exercising their right to express their opinion and challenge others, members are warned to carefully consider the content of what they are posting and how it might be perceived by others. Posting anything that may be viewed as inappropriately discriminatory is given as an example of unprofessional behaviour, as are using inappropriate language and posting inappropriate comments about others.

The Panel considered the views expressed in the postings to be offensive and hostile, and the Respondent should have known that they could have been considered so by others. The Panel concluded that they amounted to a clear breach of the requirements of the IFoA code of conduct that Members should show respect for others and should communicate appropriately.

Therefore Allegations A3 and A4 are proved.

### **Decision and Reasons on Misconduct:**

The Panel then considered whether there was a *prima facie* case that the Respondent's actions, as found proved in Allegations 1, 2, 3 and 4 above, amounted to Misconduct.

For the purposes of the Disciplinary and Capacity for Membership Schemes, Misconduct is defined as 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.

The Panel concluded that the Respondent's actions demonstrated a lack of judgement and were not consistent with the standards of the profession. His actions had the potential to harm the reputation of the profession.

The Panel was satisfied that the Respondent's actions amounted to Misconduct.

#### **Decision and Reasons on Sanction:**

In reaching its decision, the Panel had regard to the Indicative Sanctions Guidance (January 2020). 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.

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.

The Panel identified the following factors which increased the seriousness of the Respondent's conduct:

- he had been a Fellow for over 10 years and should have been well aware of his obligations;
- he was solely responsible for his actions;

- he has offered no evidence of insight or remorse, such as would give the Panel confidence that there was no risk of repetition.

When considering the issue of mitigation, the Panel noted:

- the Respondent has no previous disciplinary history;
- this case did not involve dishonesty, criminal behaviour, a regulatory breach or any financial loss;
- the Respondent has closed his LinkedIn account and therefore the posts were public only from May to September 2020;
- Allegation 1 relates to conduct over the course of a single day, and Allegation 2 is a single comment;
- the Respondent believed that his loss of work was due to the complaint made by Person 2 (but had provided no evidence to substantiate such an assertion).

The Respondent had been invited to provide the Panel with information as to his current financial circumstances. He had not done so.

Taking everything into account, the Panel concluded a sanction was appropriate. The Panel considered whether to impose a Reprimand and concluded it should.

The Panel further considered whether to also impose a Fine. It decided that a fine of £1,000 would be appropriate to mark the seriousness of the Respondent's failings which included causing offence and had potential to harm the reputation of the profession.

The Panel carefully considered whether to also impose a period of education, training or supervised practice as a sanction. The Panel considered that the Respondent's misconduct was less likely to be repeated if the Respondent engaged in personal development to understand the concept of respecting others and the broad meaning of diversity and how to apply this in a professional capacity. The Panel referred to the Guidance Note "Sanctions Involving Education, Retraining and/or Supervised practice" (January 2020). The Panel had no information about the Respondent's current employment, financial means and broader development needs. In the circumstances the Panel was unable to identify the specifics of an appropriate educational intervention which could be imposed. However, the Panel strongly recommends that the Respondent takes responsibility for his personal development and undertakes, at his own expense, appropriate Diversity and Inclusion training with the objective of building an appreciation of the positive benefits of diversity in a professional context, and how to avoid the risk of offending others in future communications.

**Publication:**

Having taken account of the Disciplinary Board's Publication Guidance Policy (May 2019), the Panel determined that, if the Respondent accepted the findings of the Panel, 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*.

That concludes this determination.