

Institute and Faculty of Actuaries
Regulatory Board
Approval report

Subject	Diversity, Equity, and Inclusion (DEI) requirements for Members	
Regulatory Board meeting	16 November 2022	
Previous Board Update/Steer/Approval	Nov 2021	Board updated on the IFoA's wider work on its strategy around DEI and provided steer on proposed regulatory work
	February, April, July, 2022	Board updated via regular Executive updates on work to review DEI requirements
International issues considered?	Yes	
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Reviewer	Emma Gilpin, Head of Regulatory Policy	
Purpose	Approval	

A: Executive summary

1. This Paper provides an update to the Regulatory Board ('the Board') on the review of the regulatory requirements for Members around Diversity, Equity and Inclusion (DEI), following the publication of the wider IFoA DEI Strategy (endorsed by Council) and previous steer provided by the Board on the regulatory aspects of that Strategy.
2. It also sets out, for approval, proposed changes to the Actuaries' Code ('the Code') to go out to consultation as well as proposals for the development of non-mandatory regulatory guidance for Members.

B: Background

3. As the Board is aware, the IFoA published its [five-year strategy around DEI](#) in January, which set out a range of commitments.
4. That Strategy was based on the draft 'Strategy and Commitment' paper that was developed by the IFoA's Council-sponsored DEI Strategy Group and which was considered by the Board at its meeting in November 2021.
5. In developing that document, the Group took into account wider recent regulatory responses to DEI issues, including the [Discussion Paper](#) published jointly by the UK Prudential Regulation Authority (PRA) and Financial Conduct Authority (FCA) in July 2021, the commitments made in the [FCA's 21/22 business plan](#), the [DEI strategy](#) set out by The Pensions Regulator (TPR)

in June 2021 and the work of the [City of London Socio-Economic Taskforce](#) (a sub-stream of which the IFoA's CEO is directly involved in).

6. Delivery of the IFoA's DEI Strategy is being overseen by its Diversity Action Group (DAG) chaired by a senior volunteer, Chika Aghadiuno. The IFoA has several ongoing work streams to achieve its Strategy and the actions that were agreed, including a number with regulatory aspects. Other work across the IFoA to meet the Strategy commitments includes, for example, a DEI survey of Members and the [publication](#) within its [2021/22 annual report](#) of data on the composition and diversity of its key Boards and Committees, including this Board.

C: Regulatory commitments

7. Council previously asked the Regulatory Board to consider the IFoA's DEI strategy and recommended a review of the regulatory framework to ensure that the strategy is reflected in: (1) the way in which the IFoA regulates; and (2) the professional expectations of Members.
8. More specifically, the strategy anticipated that aspects of the IFoA's regulation would be reviewed in light of the IFoA's DEI commitments. Those include:
 - The addition of a DEI related outcome within the Quality Assurance Scheme (QAS).
 - Review of the regulatory framework, including the Actuaries' Code, to ensure the DEI Strategy is reflected in the expectations of Members.
 - Considering the publication of guidance and/or other forms of support to help Members with meeting DEI expectations.
 - Reviewing regulatory processes to ensure they align with the DEI Strategy, including CPD, Practising Certificates, and disciplinary processes.
 - A specific look at how the regulatory appointments process supports the DEI Strategy.
9. Several of those regulatory commitments have since been completed, including the review of the PC Scheme, the addition of a DEI outcome (and related specialist review) to the QAS, and conclusion of the review of the regulatory appointments process (with the new process approved by Council). Others are well underway.
10. The Board also introduced its own commitment in October last year when it updated its [Regulatory Policy Statement](#), which states:

'The IFoA's regulatory role will be carried out in a way that promotes diversity, equity and inclusion' (section 16)
11. The proposals within this paper specifically address the consideration of the DEI expectations within the IFoA's regulatory requirements as they apply to Members, including the Actuaries' Code, and set out some proposals for new measures to support the wider IFoA DEI Strategy.

D: Terminology and definitions

12. For the purposes of this paper and the proposals set out in it, the terminology used in relation to DEI is consistent with that used more generally within the IFoA. The definitions set out below mirror the definitions used in the QAS Handbook (DEI addendum).
13. Those definitions are:

- i. **Diversity:** means recognising differences and variety in people and their skills and experience, and appreciating these variations.
 - ii. **Equity:** means that individuals have access to the support and resources they need (as opposed to the same support and resources as each other) to succeed in their roles.
 - iii. **Inclusion:** means that all individuals will be valued in the workplace, that they will be encouraged and listened to, and that their individual contributions will be appreciated.
14. There are a range of legal protections against discrimination in place around the world. In the UK, those are set out in [the Equality Act 2010](#) which protects individuals from discrimination and unfair treatment on the basis of 9 prescribed 'protected characteristics'. The Act covers direct discrimination, indirect discrimination, harassment, and victimisation. The 'protected characteristics' under the Equality Act are:
 - i. Age
 - ii. Disability
 - iii. Gender reassignment
 - iv. Marriage and civil partnership
 - v. Pregnancy and maternity
 - vi. Race
 - vii. Religion or belief
 - viii. Sex; and
 - ix. Sexual orientation
15. It is important to note that, while the IFoA has legal obligations in terms of the Equality Act in the UK, these proposals are not about giving effect to the law, but about achieving the much wider and more ambitious commitments concerning the promotion of DEI principles, as set out in the IFoA's DEI Strategy.
16. As stated above, the Equality Act makes it illegal to, amongst other things, discriminate on the grounds of protected characteristics. This means that, as an employer, the IFoA must ensure that its employees are protected in the workplace from discrimination. The legislation also applies to the IFoA in its role as a regulator. This means that the IFoA needs to ensure that, in exercising its regulatory functions, it does so in a way that does not illegally discriminate – this would apply to matters relating to qualification and admission to the profession; to the drafting and interpretation of regulations and standards; and to the exercise of its disciplinary function.
17. These proposals however, seek to go further than the equalities legislation. The IFoA's DEI Strategy identifies that one way in which the organisation can make a positive difference in this field is in seeking to incorporate DEI principles within the IFoA's regulatory framework.

E: Summary of Proposals

18. In summary, this paper proposes the following:
 - i. To amend the Actuaries' Code in order to introduce specific requirements on Members to act in accordance with DEI principles and also to encourage DEI (the revised draft Code is included at **Appendix 1**), with an associated consultation (draft consultation paper is at **Appendix 2**).

- ii. To develop non-mandatory guidance (with case studies) to support Members in meeting their professional regulatory requirements in relation to DEI.
19. The detail of the proposals, along with an explanation of how they have been developed as well as alternative options considered, is set out below.

F: Scope of and approach to the review

20. An overview of the scope of the review project, including its objectives and the measures of success, is included within **Appendix 3**.
21. The review considered the existing requirements within the IFoA's regulatory framework (discussed at Section G below) and undertook the following:
 - i. A consideration of the requirements of the FRC and other relevant statutory regulators;
 - ii. A review of any DEI-related disciplinary cases which have come before the IFoA;
 - iii. An informal consultation with IFoA practitioners and the Diversity Action Group;
 - iv. A review of the DEI provisions applicable to QAS Accredited Organisations.

The requirements of relevant statutory regulators

22. Benchmarking work was carried out to look at the approaches being taken by other professional regulators, such as the Solicitors Regulation Authority, Law Society of England and Wales, Law Society of Scotland, the Royal Institute of Chartered Surveyors (RICS) and the accountancy professions. A copy of the full benchmarking report is included as **Appendix 4**.
23. In summary, while there is a mixed picture, most professions have ethical requirements that would support expectations around DEI, while a number of others have taken steps to introduce direct, more explicit requirements around discrimination and DEI. Some examples include:
 - **The Solicitors Regulation Authority:** provides ethical [principles](#) for all those that it regulates, which includes that they have a duty to act '*in a way that encourages equality, diversity and inclusion*'. The SRA have also published [guidance](#) to help firms and individuals that it regulates to comply with this principle.

Their Code of Conduct for Solicitors also states under Principle 1 'Maintaining trust and acting fairly' that '*You do not unfairly discriminate by allowing your personal views to affect your professional relationships and the way in which you provide your services*'.

- **The Law Society of Scotland:** Code of Conduct states that '*You must not discriminate on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation in your professional dealings with other lawyers, clients, employees or others*'.
- **RICS:** Rules of Conduct include a stand-alone Rule 4 '*Members and firms must treat others with respect and encourage diversity and inclusion*' with example behaviours including '*Members and firms treat everyone fairly and do not discriminate against*

anyone on any improper grounds, including age, disability, gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sex or sexual orientation.'

RICS also provide as an example behaviour that Members might '*develop an inclusive culture in their workplaces, support equal access and opportunity for all, and identify and address unconscious bias*'.

24. Consideration was given to a range of publications from the relevant statutory regulators, in particular the UK's Pensions Regulator and the joint PRA and FCA [discussion paper](#) on diversity and inclusion in the financial sector. Of particular note in the latter, was the statement around the value of DEI in terms of positive outcomes for consumers and markets:

'Together, diversity and inclusion can reduce groupthink, encourage debate and innovation and thereby improve outcomes for consumers and across markets, supporting financial stability....There is growing evidence that diversity of thought, when part of an inclusive culture, supports better decision making by firms. Diversity makes business sense – from both a financial and a consumer perspective. It can lead to better outcomes for firms, support their safety and soundness, and promote financial stability.'

Review of relevant disciplinary cases

25. Consideration was given to previous IFoA disciplinary cases involving issues related to DEI or discrimination and views were sought from IFoA enforcement colleagues about whether there were any aspects of the current regulatory requirements that made it more difficult to successfully pursue such cases. They were also asked if there were any potential changes that could assist with the enforcement of such cases.
26. A note describing previous discrimination cases and the basis upon which they were pursued is set out in **Appendix 5**. In summary, it was concluded that there have been successful disciplinary cases involving issues relating to discriminatory behaviour and although there were no issues identified with the current regulatory requirements, it could be helpful from a disciplinary perspective to have clearer, more specific requirements around expectations in terms of DEI.

Informal IFoA consultation

27. Some exploratory discussions also took place with practitioners to gauge views about the possible introduction of changes to the regulatory requirements. Each Practice Board was invited to take part in a discussion with members of the executive about their thoughts on DEI requirements for Members. Four of the Practice Boards took part in this exercise which gave individuals an opportunity to express their thoughts and opinions about possible regulatory changes. One of the participants is a member of the Diversity Action Group. The discussions explored measures such as updating the Actuaries' Code, developing supporting guidance and creating new professional standards.
28. Volunteers were supportive of Members being subject to specific DEI requirements and most believed these should be included in the Code, although some were cautious about how this could be achieved. A note of the informal feedback is included at **Appendix 6**.

DEI within the QAS

29. QAS Accredited Organisations are required to maintain and apply appropriate policies and procedures to achieve the outcome of “*foster[ing] a positive culture and working environment*” and the Sub-Outcome of being “*proactive about the promotion of Diversity, Equity and Inclusion (DEI)*”. The QAS Handbook notes that there is a “*clear link*” between Principle 1 of the Actuaries Code (Integrity) and these QAS Outcomes. It further states that an awareness of the meaning of DEI will assist QAS Accredited Organisations in supporting their employees to meet the obligations within Principle 1 of the Actuaries Code.
30. The proposals for changes to the Actuaries’ Code have been developed in a way that complements the QAS and its focus on the working environment for actuaries. They have also benefited from the initial insights from the first reports from the specialist reviews on DEI being carried out as part of the refreshed QAS.

G: Current IFoA requirements

31. This review considered to what extent DEI is currently reflected in the IFoA’s requirements for Members and whether any amendments or new requirements should be introduced. The aim of the review and proposals is to ensure that the standards for Members in this area continue to be high, to protect the public, as well as the reputation of the profession.
32. There are currently no specific IFoA standards or requirements relating to DEI, only general provisions in the [Actuaries’ Code \(the Code\)](#) that are supported in the [Actuaries’ Code Guidance](#) with some expectation set around discriminatory behaviour.

Actuaries’ Code

33. The current Code, last updated in 2018, applies to all Members, in all locations. It applies ‘at all times’ to their conduct in relation to an actuarial role but can also apply to other conduct (not related to an actuarial role) where that could reasonably be considered to reflect upon the profession.
34. This means, for example, that conduct outside of a Member’s actuarial professional life that demonstrates a lack of respect towards others (in breach of the integrity principle) may be caught by the Code, but only to the extent that it may reasonably be considered to have an impact upon the reputation of the actuarial profession. Such conduct by a Member in the course of carrying out an actuarial role would not need to meet that ‘reputational impact’ test.

Relevant principles

35. The principles in the current Code with most relevance to DEI, some of which have been relied upon in previous disciplinary cases involving discriminatory behaviours, are:
 - i. Integrity (Principle 1), which states:
 1. *Members must act honestly and with integrity.*

1.1 *Members must show respect for others in the way they conduct themselves.*

1.2 *Members should respect confidentiality.*

- ii. Impartiality (Principle 3) also contains relevant DEI principles relating to ensuring processes are unbiased and non-discriminatory, as well as encouraging diversity of thought. It states:
- 3. *'Members must ensure that their professional judgement is not compromised, and cannot reasonably be seen to be compromised, by bias, conflict of interest, or the undue influence of others.'*

Impartiality can be described as the principle that decisions ought to be based on objective criteria, rather than based on bias, prejudice, or preferring to benefit one person over another for improper reasons.

- iii. Compliance (Principle 4), which states:

4. *Members must comply with all relevant legal, regulatory and professional requirements*

There are laws and regulations related to DEI (such as the Equality Act noted above) depending on the jurisdictions in which Members are based or working.

- iv. Speaking up (Principle 5), which states:

5. *Members should speak up if they believe, or have reasonable cause to believe, that a course of action is unethical or is unlawful.*

- v. Communication (Principle 6), which states:

6. *Members must communicate appropriately.*

Actuaries' Code Guidance

36. The Actuaries' Code Guidance is the one aspect of the current regulatory standards framework where there is specific provision on matters related to DEI. Those are:

- i. At paragraph 3.6 – 3.7 on the ['integrity' section](#), there are expectations set on how to respect others and voice opinions. This includes an expectation that Members will not spread defamatory information about others or publicly ridicule the ideas of others. The guidance states specifically:

'The IFoA promotes equality and diversity and the development of an inclusive profession that incorporates people from a range of backgrounds. Members are encouraged to behave in a way that recognises and respects diversity and different cultures'.

- ii. Under Principle 6 (Communication), [the guidance](#) identifies at paragraph 8.9 particular risks associated with the use of social media, including that Members are expected to act in a manner in social media which is professional and not unlawful, including not bullying, threatening or posting comments that are discriminatory.

37. Also of potential relevance in the Actuaries' Code Guidance (although not directly on DEI matters) is the section on impartiality. Paragraph 5 of the guidance provides detail on expectations, including that Members should ask themselves whether there is any conflict between the advice which they are giving, or decisions which they are making, and their own personal interests.
38. At paragraph 5.9-5.11, guidance is also provided on 'Institutional bias or Group Think'. This recognises that Members should be aware of the "the tendency for one's own judgement to be influenced by the apparent consensus view of assumptions, methods, processes or approaches leading to a reduction in the variety of ideas in the market". It states that one of the dangers of Group Think is that it has the potential to result in poor conduct or systematic business failures brought on by working environments in which perspectives are not challenged and people act in the same way as others do without sufficient justification. This has obvious potential relevance in the area of DEI.

G: Analysis and conclusions

39. As described above, certain of the Code's existing high-level principles have relevance to DEI and some expectations are set through guidance as to the avoidance of behaviour that may be discriminatory or disrespectful.
40. However, more could be done to make those expectations clearer in the Code itself.
41. In addition, the current requirements and guidance stop short of requiring Members to take any proactive measures to promote or encourage diversity, equity and inclusion.
42. In light of the IFoA's commitments in its DEI Strategy and the current direction of travel amongst other professional bodies and statutory regulators, it is recommended that there should be changes made to the Code to introduce more explicit DEI requirements, including a positive obligation around diversity, equity and inclusion.
43. It is not recommended that an additional stand-alone principle on DEI be introduced, as this would risk duplicating or overriding the existing relevant principles. It would also be at odds with the structure of the current Code to have such a specific Principle. Instead, it is recommended that additional wording be added to the amplifications of the existing principles.

A positive obligation regarding DEI principles

44. Consideration has been given as to what such additional wording should be, and where it would be best placed within the Code.
45. It is considered that Principle 1 – Integrity is the most appropriate place within the Code to include a requirement either to '*respect*', '*encourage*' or '*promote*' DEI principles and thought has been given as to how best to express the responsibilities to be placed on Members.
46. '*Respect*', is an appropriate obligation in terms of diversity – Members should respect all people, regardless of their differences. Whilst the Code already states that Members "must show respect for others" it is considered that in changing "*others*" to "*everyone*" this would introduce the principle of respecting diversity.
47. However, it is not considered that an obligation of '*respect*' can be appropriately applied to the

principles of equity and inclusion. The aim within the IFoA's DEI Strategy goes beyond a desire for respecting diversity, and reflects a wider aspiration for a profession that attracts diversity. To establish a diverse profession, it is important that, as well as respecting diversity, Members must take positive steps towards ensuring equity and inclusion.

48. It is suggested therefore that to meet the aims of the Strategy, the DEI requirement on Members needs to be one of encouragement or promotion. The benchmarking exercise indicates that both terms are used by organisations who already refer specifically to DEI in their regulatory framework.
49. To 'encourage' suggests an obligation to spur on others, whereas to 'promote' suggests an obligation to advance or elevate. On balance, it was felt that an obligation to promote is more relevant to the development of a culture of DEI, rather than a requirement to take individual positive action regarding fairness and inclusion.
50. Finally, it was considered whether the obligation should be an absolute requirement, or whether it should be stated as something for Members to work towards. Whilst there is no desire to dilute the effectiveness of the requirement, there is some recognition that Members are of varying influence in their positions, and to reflect that, it may be preferable to frame the requirement as one to 'aim'.

Further considerations regarding non-discrimination

51. It was considered whether there should be specific provision on discriminatory behaviour, which would be consistent with the approach of other professional bodies. For example, there could be an additional amplification to the integrity principle that provides that Members must not discriminate.
52. However, any such provision would need to be clear that it covers only unjustified discrimination. Some forms of 'discrimination' (in the sense of recognising and understanding difference and favouring one 'thing' over another) are generally acceptable – for example around qualifications or competencies in a recruitment situation, so it cannot be a prohibition on discrimination without some qualification.
53. A possible option would be to prohibit 'unlawful' discrimination' but that seems unnecessary in light of the provisions of the compliance principle and would not be successful if the aim is to extend the duty beyond the legal requirements around discrimination.
54. One option would be to include examples of grounds of discrimination (such as those detailed in the Equality Act), for example:

'Members must not discriminate against anyone on the grounds of age, race, sex, gender reassignment, disability, religion or belief, sexual orientation, marriage or civil partnership, pregnancy or maternity'
55. However, this could lead to the Code losing its high level nature. There would also need to be clear agreement that each of the grounds were appropriate in terms of setting expectations for Members – including those outside of the UK. Members of the executive have consulted with colleagues in the IFoA Markets Development team to obtain some feedback and views on how the proposals might apply in relation to Members based outside of the UK where there are

different legal and cultural perspectives on certain matters that might form those grounds.. While no concerns have been raised so far that would prohibit proceeding with the suggested proposals, further work would need to be carried out to test this during the consultation period and to focus specifically on engaging with non-UK members based in locations where compliance with DEI provisions may be more complicated.

56. Additionally, if certain grounds are listed in the mandatory Code, this risks the permittance of discrimination on non-listed grounds, such as social class and associated characteristics like regional accent or dialect.

57. An alternative would be to include some expectations around non-discrimination in the Code guidance and to include in Principle 1 of the Code a provision regarding bullying behaviour such as:

“Members must not subject others to behaviour that may amount to bullying, victimisation or harassment.”

This language mirrors the language used in the Equality Act but in re-stating it in the Code, it would be made clear to Members that such behaviour is unacceptable in all jurisdictions and in respect of all.

58. It was also considered whether it was appropriate to amend the Impartiality principle within the Code by adding the following (such as is in the Code of Conduct for Solicitors by the SRA above):

‘Members must not discriminate against users of their work by allowing their personal views to affect the way in which they provide their professional judgement’

59. However, informal feedback suggested that DEI principles were implicit within the Impartiality principle and that the above wording is arguably covered sufficiently within the existing Principle 3. It may therefore be more appropriate to instead provide additional guidance for Members on this principle.

The requirement for Speaking Up

60. It is recognised that some of the barriers to achieving a positive culture of DEI result from a failure to challenge embedded prejudice or institutional bias. As highlighted at the start of this report, Principle 5 of the Code requires Members to challenge illegal or unethical behaviour.

61. It is considered appropriate to add to the existing amplifications on Speaking Up, a specific requirement to challenge others on any perceived breach of DEI principles. It is recommended that this wording places an obligation on Members to highlight if *others* appear to be being unfairly treated, rather than imposing a requirement on individuals who might be experiencing such exclusion or unfair behaviour.

Proposed amendment to the Code

62. It is proposed that the following wording (in **bold**) be added to Principle 1 ‘Integrity’:

1. Members must act honestly and with integrity.

1.1 Members must show respect for **everyone and treat others fairly**. ~~others in the way they conduct themselves.~~

1.2 **Members should [aim to] encourage diversity, equity and inclusion.**

1.3 **Members must not subject others to behaviour that may amount to bullying, victimisation or harassment.**

1.4 Members should respect confidentiality.

63. It is proposed that the following wording (in **bold**) be added to Principle 5 'Speaking up':

5. *Members should speak up if they believe, or have reasonable cause to believe, that a course of action is unethical or is unlawful.*

5.1 *Members should challenge others on their non-compliance with relevant legal, regulatory and professional requirements.*

5.2 Members should speak up if they believe that others are being excluded or treated unfairly.

64. These proposals aim to maintain the high level, principles-based nature of the Code, whereas at the same time using language that is clear and transparent as to the expectation. The aim of this additional wording is to make clear and help Members understand their obligations around DEI and what is expected of them.

Guidance for Members

65. It is considered that Members will require detailed non-mandatory guidance on how to apply in practice these requirements around DEI, as well as how the other principles of the Code are relevant to DEI. It is recommended that the development of this guidance considers setting out good practice suggestions and includes case studies.

66. It is proposed that the guidance be developed with input from a DEI specialist and that this process commences after the consultation on the Code amendments. This will allow the guidance to be drafted in light of the amended Code requirements.

H: Next Steps

67. If the Board is content to approve the recommendations, the proposed amendments will be shared with the FRC's oversight team for any final comments. Any alterations suggested will then be brought back to the Board in writing, with the intention to have a finalised proposal completed by the end of this year.

68. Following any necessary refinements, it is anticipated that the consultation will be launched on 16 January 2023.

69. The intention is to promote the consultation through IFoA publications, including the website, Actuary Magazine, blogs, newsletters and social media. Consultation webinars will be arranged and members of the executive will seek appropriate opportunities to highlight the consultation at (IFoA and other bodies') live events during the consultation period.

70. The consultation period will run for 3 months (until 15 April 2023) with final proposals being brought to the Board's May 2023 meeting.

71. Depending on the outcome of the consultation, implementation of the proposals will follow in Quarters 3 and 4 of 2023, when the Executive will engage with Members to ensure their understanding of what the changes mean and what is expected of them. It is anticipated this will be aligned with the associated guidance for members, with that drafting work starting during the consultation period for the proposed Code changes.
72. The Executive has produced a draft communications plan, detailing its current plans for engagement with internal and external stakeholders. This can be found at **Appendix 7**.

I: Discussion

The Board is asked to:

- a) approve the proposals to make changes to the Actuaries' Code (as set out in Appendix 1) to go out to consultation;
- b) approve the development of non-mandatory guidance, to be published once there is clarity around the Code changes; and
- c) note the draft plans around communication of the consultation

Appendices

APPENDIX 1: Draft revised Code

APPENDIX 2: Draft consultation paper

APPENDIX 3: Project overview

APPENDIX 4: Benchmarking report

APPENDIX 5: Note of disciplinary cases

APPENDIX 6: Summary of informal feedback

APPENDIX 7: Draft Communication Plan