



Institute  
and Faculty  
of Actuaries

**Adjudication Panel Meeting**

**4 April 2022**

**Institute and Faculty of Actuaries**

**Held by Video Conference**

**Respondent:** Lachlan McLucas

**Category:** Student since 30 October 2020

**Region:** Surrey, UK

**Panel Members:** Stephanie Bown (Chair)  
Beatrice Male FIA (Actuary member)  
Julian Ellacott FIA (Actuary member)

**Legal Adviser:** Julian Weinberg

**Judicial Committees Secretary:** Hinna Alim

**Allegation:**

The allegation against Lachlan McLucas (the Respondent) is:

- A1 On 18 September 2020 he drove a motor vehicle on a road after consuming so much alcohol that the proportion of it in his blood, namely 157 milligrammes of alcohol in 100 millilitres of blood, exceeded the prescribed limit, contrary to section 5(1) (a) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988;
- A2 On 18 September 2020 he used a motor vehicle on a road, or other public place, when there was not in force in relation to that use such a policy of insurance or such a security in respect of third party risks as complied with the requirements of Part VI of the Road Traffic Act 1988, contrary to section 143 of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988;
- A3 On 18 September 2020 he drove a motor vehicle on a road otherwise than in accordance with a licence authorising him to drive a motor vehicle of that class, contrary to section 87(1) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988;
- A4 his actions in paragraphs A1, A2 and/or A3 above were in breach of the principle of compliance in the Actuaries' Code;
- 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 June 2021).

**Panel's determination:**

The Panel considered the Case Report and appendices submitted by the Case Manager and Investigation Actuary and the Respondent's response to the Case Report. The Panel also considered the advice of the Legal Adviser. The Panel determined that the Case Report disclosed a *prima facie* case of misconduct.

There was unequivocal evidence before the Panel that the Respondent had been convicted of three offences under the Road Traffic Act 1988. The conduct giving rise to the convictions arose prior to the Respondent's admission as a student member of the IFoA, but he was a student member of the IFoA at the time of his conviction. A criminal conviction inevitably means that the compliance principle in the Actuaries Code has been breached.

The Panel accordingly invited the Respondent to accept that there had been misconduct and the following sanction:

- Reprimand

There was evidence of a serious breach of the Actuaries' Code by way of a criminal conviction for three offences under Road Traffic legislation. However this was a single act for which there were significant mitigating factors, harm was limited and there is no sign of a deeper attitudinal problem. The Respondent has taken appropriate steps to remedy the underlying health issues which appear to have contributed to the conduct giving rise to the offences, the risk of repetition is low and harm to the profession is low. The Respondent has demonstrated insight and cooperated fully with the IFoA investigation and these proceedings.

**Background:**

The Respondent was admitted as a student member of the IFoA on 30 October 2020.

On 9 September 2021, the Respondent was convicted of a criminal offence in relation to his conduct which took place on 18 September 2020.

On 30 September 2021, the Respondent notified the IFoA that he had been convicted of a criminal offence. He asked for advice on what he needed to do.

A member of the IFoA's Disciplinary Investigation Team (the Case Manager), emailed the Respondent on 30 September 2021. She asked him for full details of the conviction, including any information he wished to give regarding the circumstances of the conviction, any mitigating factors he thought were relevant and for a certified copy of the Memorandum of Conviction. The Case Manager told the Respondent once the IFoA had this information

they would consider whether any further action was required and whether a referral to the Disciplinary Scheme was appropriate.

On 13 October 2021 the Respondent emailed the IFoA giving details of the three offences he was found guilty of and the penalties imposed. He also provided details of mitigating circumstances including details of his health at the time. The Respondent also confirmed he had asked the court for the Memorandum of Conviction and was waiting to hear from them.

On 13 October 2021 the Respondent also provided a copy of a letter submitted to the court from his health practitioner. The letter from the health practitioner, dated 4 September 2021, states [redacted] that the Respondent had been making significant progress. [redacted]

Between 28 October 2021 and 6 January 2022 the Respondent tried to get the Memorandum of Conviction from the court. The Respondent kept the Case Manager updated about his attempts to get this. The court sent the certified Memorandum of Conviction to the Respondent on 4 January 2022 and the Respondent sent it by email to the Case Manager on 6 January 2022.

The Memorandum of Conviction confirmed the Respondent was convicted of the following offences:

*“On 18/09/2020...drove a motor vehicle...on a road... after consuming so much alcohol that the proportion of it in your blood, namely 157 milligrammes of alcohol in 100 millilitres of blood, exceeded the prescribed limit. Contrary to section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.”*

*“On 18/09/2020... used a motor vehicle...on a road, or other public place...when there was not in force in relation to that use such a policy of insurance or such a security in respect of third party risks as complied with the requirements of Part VI of the Road Traffic Act 1988. Contrary to section 143 of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.”*

*“On 18/09/2020...drove a motor vehicle...on a road...otherwise than in accordance with a licence authorising you to drive a motor vehicle of that class. Contrary to section 87(1) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.”*

The Memorandum of Conviction confirmed the Respondent pleaded guilty and the penalties that were imposed. The Memorandum of Conviction also confirmed that the Respondent had previously pleaded Not Guilty.

On 4 January 2022 the General Counsel of the IFoA referred the allegation against the Respondent for consideration under the Disciplinary Scheme.

On 6 January 2022, the IFoA, sent a letter to the Respondent via email notifying him of the above allegation. The letter also asked the Respondent for the certified Memorandum of Conviction and for any further information he wanted the Adjudication Panel to be made aware of.

On 6 January 2022 the Respondent provided the Memorandum of Conviction. The Respondent did not provide any further comments on the conviction.

The Respondent has previously provided comments to the IFoA about his health at the time he carried out the offence as well as a letter from his health practitioner.

In light of the information about the Respondent's health, the Case Manager emailed the Respondent on 27 January 2022 to provide further information in relation to the Capacity for Membership Scheme. The Case Manager advised that she did not consider that the Respondent's case met the criteria for a transfer to a Capacity for Membership Panel on the basis that the Respondent's and the health practitioner's comments suggest there is no current issue with capacity. The Case Manager invited the Respondent to consider the information provided about the Capacity for Membership Scheme carefully and advise whether he considered that the criteria did apply.

On 31 January 2022 the Respondent emailed the Case Manager to advise that he did not think that his case met the criteria for a transfer to the Capacity for Membership Scheme. He advised [redacted] he did not consider that his current capacity to hold membership was affected by any health issues.

On 7 March 2022 the Respondent completed a declaration admitting all the allegations against him, A1 to A5 inclusive. He also returned to the IFoA a Statement of Fact Form indicating his agreement to all the facts set out in the Case Report.

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

### Allegations 1, 2 and 3

Rule 4.10 of the Disciplinary Scheme provides:

*“The fact that a member*

*(a) Has by a Court of competent jurisdiction in the United Kingdom, been convicted of a criminal offence...*

*Shall for the purposes of the Disciplinary Scheme be treated as conclusive evidence of the findings of fact upon which the conviction, determination, judgement or disqualification order is based.”*

Rule 4.12a of the Disciplinary Scheme provides:

*“In a hearing before a Disciplinary Tribunal Panel that involves the decision of a court or tribunal that relates to the Respondent:*

*(a) the fact that the Respondent has been convicted of a criminal offence may be proved by producing a certified copy of the certificate of conviction relating to the offence;*

The Panel has been provided with a certified Memorandum of Conviction relating to contravention by the Respondent of sections 5(1)(a), 87(1) and 143 of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.

The Panel finds that allegations 1, 2 and 3 arise from the Respondent's conviction as set out above

The Respondent has admitted Allegations 1, 2 and 3 and had indicated his agreement to the findings of fact in the IFoA case report.

In all the circumstances the Panel finds that there is a real prospect of finding allegations 1, 2 and 3 proved.

### Allegation 4

The compliance principle in the Actuaries' Code version 3 (effective 18 May 2019) is as follows:

*“Compliance:*

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

*4.1 Members must take reasonable steps to ensure they are not placed in a position where they are unable to comply.”*

If allegations 1, 2 and 3 were to be found proven, it would be inevitable that “relevant legal ...requirements” had not been met. The Panel concluded that there was therefore a real prospect of finding that the compliance principle had been breached.

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

The Panel then considered whether there was a *prima facie* case that the Respondent's actions amounted to misconduct, as set out in Allegation A5.

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 determined that there was a *prima facie* case that the Respondent's actions were sufficiently serious as to constitute misconduct under the Disciplinary and Capacity for Membership Schemes. The Respondent's misconduct arose before he was admitted as a student member of the IFoA. The misconduct was a serious breach of the Respondent's legal responsibilities as a citizen but did not arise from his professional practice. Overall the Panel was satisfied that there was sufficient evidence that the threshold for misconduct had been met, given the importance which the profession properly attaches to ensuring compliance with the Actuaries' Code. The Panel concluded, taking account of all the evidence available, that this was not so serious a matter as necessarily to require referral to a Disciplinary Tribunal Panel. The Panel concluded, taking account of all the evidence available, that this was not so serious a matter as necessarily to require referral to a Disciplinary Tribunal Panel.

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

In reaching its decision, the Panel had 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.

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.

Misconduct giving rise to a criminal conviction is serious. However this appears to have arisen from a single incident at a time when the Respondent was a student suffering from health issues. There is no evidence of the conduct being pre planned. The perceived harm to the reputation of the profession is low. There was no financial loss or requirement for remedial work. The risk of repetition / risk to the public is low. The Respondent has admitted the facts and the allegation of misconduct. The Respondent has taken steps to address his underlying health issues.

In considering sanction, the Panel took into account the following aggravating factor:

- The Respondent was convicted of driving a motor vehicle without a licence and insurance when approximately twice over the legal alcohol limit.

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

- The Respondent reported the fact of his conviction to the IFoA promptly and cooperated fully with the IFoA's investigation.
- The Respondent was suffering from health issues at the time of committing the offences.
- The Respondent has sought appropriate professional advice and support from an appropriate practitioner who reported significant progress [redacted]

The Panel considered whether this was a case that warranted no sanction but was satisfied that the seriousness of the professional breach required the imposition of a sanction in order that an appropriate message could be given to the Respondent, the profession and the wider public.



The Panel considered whether to impose a Reprimand and determined that this should form part of the sanction. There was evidence of a serious breach of the Actuaries' Code by way of a criminal conviction for three offences under Road Traffic legislation. However this was a single act for which there were significant mitigating factors, harm was limited and there is no sign of a deeper attitudinal problem.

The Panel considered whether to impose a fine and decided that it would not be an appropriate or proportionate punishment in this case. The Respondent's penalty for conviction included a fine in the sum of £300 as well as £150 court fees and £34 victim surcharge fee. The Respondent has taken responsibility for his conduct giving rise to the convictions; he has taken appropriate steps to remedy the underlying health issues which appear to have contributed to the offences; the risk of repetition is low and harm to the profession is low. The Panel therefore concluded with all the circumstances, imposing a financial penalty would be unduly punitive.

The Panel considered whether to impose a period of education, training or supervised practice and decided that it would not be appropriate in this case which concerned a breach of The Actuaries' Code in relation to conduct outside of the scope of his professional practice rather than any error or deficiency in the Respondent's work as an actuary. Given the Respondent's engagement with the disciplinary process, his admissions and his insight, the Panel did not consider that this was an appropriate sanction to impose.

### **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. The Adjudication Panel applied appropriate redactions to the published determination, to edit out reference to sensitive health information, in accordance with the Publication Guidance. A brief summary will also be published in the next available edition of *The Actuary Magazine*.

That concludes this determination.