



Institute
and Faculty
of Actuaries

Adjudication Panel Meeting

9 July 2018

Institute and Faculty of Actuaries, 7th Floor Holborn Gate, 326-330 High Holborn,
London, WC1V 7PP

Respondent: Hinal Sagoon Patel FIA

Panel Members: Jules Griffiths (Chair/Lay member)
David Ford FIA (Actuary member)
Andy Scott FFA (Actuary member)

Legal Adviser: Elaine Motion

Judicial Committees Secretary: Pauline Wharton

Allegation:

The allegation against Mr Patel (the Respondent) is:

From 25 November 2016 until 9 February 2018 he acted as Chief Actuary to an insurance company without holding the relevant Practising Certificate; such failure and conduct constituting:

1. A breach of Bye-Law 40 of the Bye-Laws of the Institute and Faculty of Actuaries.
2. A breach of the requirement of paragraph 3.1 of Actuarial Professional Standard G1 (effective 1 January 2016).
3. A breach of the requirement of paragraph 1.1 of the Institute and Faculty of Actuaries' Practising Certificate Scheme (2016/17 and 2017/18).
4. A breach of Compliance principle 4 of the Actuaries' Code (version 2.0).

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 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.

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

- Reprimand; and
- £7,000 fine to be paid within 28 days of the Respondent's acceptance of the Panel's invitation.

Background:

Mr Patel became a Fellow of the Institute and Faculty of Actuaries (IFoA) on 8 September 2003. During a review in 2017, the IFoA became aware that, despite being named as Chief Actuary to an insurance company regulated by the Prudential Regulation Authority, a post he had held since 25 November 2016, Mr Patel did not have a Practising Certificate. As a Chief Actuary he was required to have a Practising Certificate under paragraph 3.1 of Actuarial Professional Standard G1 (APS G1).

When this was brought to his attention in January 2018, Mr Patel explained that this was an oversight, for which he apologised. He then applied for a Practising Certificate, which was granted on 9 February 2018.

Decision and Reasons on the Allegation:

Mr Patel did not dispute that from 25 November 2016 until 9 February 2018 he acted as Chief Actuary to an insurance company without holding the relevant Practising Certificate.

The Panel had sight of Bye-Law 40 of the Bye-Laws of the Institute and Faculty of Actuaries which states *“The holding of certain actuarial roles or undertaking certain specified activities or kinds of activities may be limited to those members holding such Practising Certificates as may be specified and under such conditions and for such fees as may be prescribed in the Regulations.”*

The Panel also had sight of paragraph 3.1 of Actuarial Professional Standard G1 which states *“Members who are Chief Actuaries must hold either a Chief Actuary (non-life without Lloyd’s) Practising Certificate or, for a Chief Actuary within the Society of Lloyd’s or a Lloyd’s managing agent, a Chief Actuary (non-life with Lloyd’s) Practising Certificate.”*

The Panel also had sight of the relevant Practising Certificate Schemes which in summary require an actuary who holds the role of Chief Actuary to also hold a Practising Certificate.

In addition, the Panel noted the Compliance principle 4 in the Actuaries’ Code which states *“Members will comply with all relevant legal, regulatory and professional requirements...”*

The Panel agreed that by not applying for or holding a Practising Certificate until early 2018, Mr Patel was in breach of the above requirements at the material time.

Decision and Reasons on Misconduct:

The Panel then considered whether there was a *prima facie* case that the Respondent's actions 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 had no evidence to suggest that there were any concerns about Mr Patel's ability or competence to undertake the role of Chief Actuary and noted that his name is published on the Financial Services Register as approved for SIMF20 Chief Actuary Function for an insurance company from 25 November 2016.

Nevertheless, there was a clear requirement on him to apply for and obtain a Practising Certificate. The requirement of having a Practising Certificate is important to protect the public interest, as the role of Chief Actuary is a reserved role and therefore any person carrying out this role must demonstrate that they are fit and proper and have the necessary skills and experience to do so. Mr Patel should have been well aware of the requirement to hold a Practising Certificate, however, he failed to do so for over a year and only rectified his failure when it was highlighted as part of an IFoA review.

In the circumstances, the Panel was satisfied that Mr Patel's failure amounted to a *prima facie* case that was sufficiently serious as to constitute Misconduct under the Disciplinary and Capacity for Membership Schemes.

Decision and Reasons on Sanction:

In reaching its decision, the Panel had regard to the Indicative Sanctions Guidance (August 2016). 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 aggravating factors the Panel took into account in considering sanction included, but were not limited to, the following:

- Mr Patel was an experienced actuary having become a Fellow in 2003;
- Mr Patel recognised that the Chief Actuary role in this company was an important position and that the required regulatory work carried out in it should be seen as of strategic importance by the executive of the company. In taking this position the Panel accepted that he considered and understood the importance of his role as a Chief Actuary in this company;
- Mr Patel did not comply with the requirements of holding a Practising Certificate for over a year and only rectified his failure when a review identified it; and
- Mr Patel described his failure as an oversight, but did not elaborate further.

The Panel also took into account the following mitigating factors:

- Mr Patel apologised for his failure;
- Mr Patel applied for and was granted the appropriate Practising Certificate promptly; and
- there is no evidence of a lack of integrity or a lack of competence on the part of Mr Patel.

The Panel considered that this case was too serious, professionally and from the public interest, to warrant no sanction, but there was no reason to impose a sanction involving education or retraining.

The Panel considered that in this case a Reprimand and a fine would be appropriate and proportionate. In reaching this conclusion, the Panel had regard to the senior position and responsibilities of the role of a Chief Actuary that Mr Patel was undertaking and the need to protect the public, including investors, and maintain public confidence in the reputation of the profession. The requirement to comply with professional standards which are designed to demonstrate appropriate skills and ability to undertake such a role is an important part of the privileged position of holding a reserved appointment as a member of a professional body.

For the reasons outlined above the Panel felt that a Reprimand alone would not be a sufficient sanction. In considering the amount of fine to impose, the Panel had particular regard to the potential risk exposure and the responsibilities of the Chief Actuary in this case. In addition, the Panel noted that the cost of the Practising Certificate over the relevant period would have amounted to a total of £870.

Publication:

Having taken account of the Disciplinary Board's Publication Guidance Policy (April 2018), the Panel determined that, if the Respondent accepts 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.

Date of publication: 4 September 2018