



Institute
and Faculty
of Actuaries

Adjudication Panel Meeting

13 August 2018

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

Respondent: Ciaran Eunan James Deeney AIA

Category: Associate since 25 December 1989

ARN: 2857

Panel Members: Jules Griffiths (Chair/Lay member)
Andy Scott FFA (Actuary member)
Pamela Charlwood (Lay member)

Legal Adviser: Elaine Motion

Judicial Committees Secretary: Pauline Wharton

Allegation:

The allegation against the Respondent is:

- 1 He failed to comply with the CPD requirements of the 2016/2017 CPD reporting year in that he failed to demonstrate that he undertook the appropriate minimum amount of CPD, or apply for an exemption, his actions being in breach of;

(a) The integrity principle of the Actuaries' Code (version 2.0)

(b) The compliance principle of the Actuaries' Code (version 2.0)

His actions, in all or any of the above, constituted Misconduct in terms of Rule 1.6 of the Disciplinary Scheme of the Institute and Faculty of Actuaries (effective 1 June 2016).

Panel's determination:

The Panel considered the Case Report and appendices submitted by the Case Manager and Investigation Actuary. The Panel also considered the Case Manager's Supplementary Note dated 6 August 2018 and Mr Deeney's responses dated 30 July 2018 and 9 August 2018. The Panel had sight of the Disciplinary Scheme, the 2016/2017 CPD Scheme and the Actuaries Code. The Panel considered the advice of the Legal Adviser who advised of the distinction between honesty and integrity. 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
- £1,500 fine to be paid within 28 days of the Respondent's acceptance of the Panel's invitation.

Background:

Mr Deeney (the Respondent) was admitted as an Associate of the Institute and Faculty of Actuaries (IFoA) on 25 December 1989. During 2016/2017 he was subject to the Continuous Professional Development (CPD) scheme which was effective from 1 July 2016 until 30 June 2017. He was classed as a Category 2 member and was required to complete at least 15 hours of CPD and record this CPD activity in the online CPD record by 31 July 2017, unless he had applied for, and been granted, an exemption under section 11.2 of the scheme.

Mr Deeney had not complied with a similar requirement that had applied in the previous CPD year (2015/2016); on that occasion the IFoA informed him that they had decided not to refer the matter to the Disciplinary Scheme, but reserved the right to take account of this in the context of considering any further breach.

From 15 June 2017 the IFoA Membership team sent Mr Deeney various emails, advising, and reminding him of the requirements, the deadlines, and the possible consequences of non-compliance. All emails were sent to the Respondent's preferred email address registered with the IFoA. Despite this he still failed to comply by the deadline of 31 July 2017. On 31 July and 11 August 2017 Mr Deeney requested to be categorised as retired; on both dates he was invited to confirm details about his current and planned work to enable the IFoA to proceed with his request to be classified as a retired member. He was asked to confirm the date of his retirement so that records could be updated. He was also invited in an email dated 4 August 2017 to apply for an extension to 30 September 2017, subject to a fee of £50.

When prompted by the IFoA referring the matter to the Disciplinary process, on 26 January 2018 he informed the IFoA that *"for the past 5+ years, whilst being open to any suitable mathematical temporary/ contract work, I have only actually worked on a personal software development & coding project"*.

On 4 February 2018 Mr Deeney provided further details of his current work, which he described as *"a personal unique quantitative fixed income investment analytics project"*; he said that *"lately... I have notified a number of contractors of my availability for basic mathematical projects, for up to 6 months terms, in order to finance and complete..."* the project on which he was working. As he had been making himself available for paid work (albeit apparently without success) Mr Deeney could not have been categorised as retired.

On 28 June 2018 Mr Deeney applied to be categorised as a retired member for the purposes of the 2017/2018 CPD year, because he had not been in paid work which relied upon his actuarial training and experience, in the widest interpretation, or on his membership of the IFoA, for the past five years and was now not holding himself out for any contract work. The IFoA subsequently agreed that it was appropriate for Mr Deeney to be classified as retired for the 2017/2018 CPD year.

Decision and Reasons on the Allegation:

The Panel noted that Mr Deeney had accepted that he had failed to comply with the CPD requirements of the 2016/2017 CPD reporting year in that he failed to demonstrate that he undertook the appropriate minimum amount of CPD, or apply for an exemption. The Panel was therefore satisfied that Mr Deeney had breached the compliance principle of the Actuaries' Code.

The Panel was of the view that Mr Deeney's actions in failing to comply with the CPD requirements of the 2016/2017 CPD reporting year or apply for an exemption, did not meet the highest standards of integrity expected of an Actuary. However, the Panel was not satisfied that this departure from the highest standards was so serious as to amount to a breach of the integrity principle of the Actuaries' Code.

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 Scheme, 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.

Compliance with the CPD scheme by Members of the IFoA is important for the maintenance of public confidence in the profession and the upholding of the profession's reputation. The Respondent had been an Associate for many years and should have been aware of the requirements of the CPD scheme. The Panel noted that Mr Deeney had not complied with the CPD requirements in the previous year, but was fully aware of such requirements.

Undertaking and recording CPD is important, particularly as the CPD scheme is expressly linked to the obligation of competence under the Actuaries' Code. The Panel noted that Mr Deeney had stated on 30 June 2017 that all communications from the IFoA had been placed in a spam folder. The IFoA advised him that there is normally an option to mark emails as non-spam. The Panel is of the view that from that date Mr Deeney should have taken steps to ensure that he could receive all further communications from the IFoA or check his spam email.

In the 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 Scheme.

Decision and Reasons on Sanction:

In reaching its decision, the Panel had regard to the Indicative Sanctions Guidance (August 2016) and the CPD Infringement Supplementary Guidelines (December 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 Panel first considered whether this was a case that warranted no sanction, but was satisfied that any failure to comply with the requirements of the CPD scheme is too serious to impose no sanction. In addition, the Panel was of the view that a period of education, training or supervised practice was not appropriate in this case given that Mr Deeney is now a retired member and it would not address the nature of the Misconduct.

The Panel considered that a Reprimand and a fine of £1,500 were the appropriate and proportionate sanctions in this case. In reaching its decision, the Panel had regard to the seriousness of the Misconduct in addition to the aggravating and mitigating factors.

The Panel considered the following to be aggravating factors:

- failure to comply in the previous year;
- failure to comply in 2016/2017 despite having received a warning letter from General Counsel at the IFoA dated 23 December 2016;
- delays in responding to the IFoA when matters were brought to Mr Deeney's attention, at least after 30 June 2017 when he became aware that correspondence had gone into a spam folder.

The Panel did not consider there to be any mitigating factors although the Panel noted that Mr Deeney argued that he should be categorised as retired as he had not gained any paid work; however, he would not have been considered to be retired under the CPD scheme for 2016/2017 as on 26 January and 4 February 2018 he said he had been available for work during that year.

The level of fine imposed by the Panel reflects the failure by the Respondent to undertake the appropriate minimum CPD activity or apply for an exemption in the appropriate way, despite prompting by the IFoA. The Panel considered that this was a breach of the Respondent's obligations.

Publication:

Having taken account of the Disciplinary Board's Publication Guidance Policy (April 2018), 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.

Date of Publication: 18 September 2018