



Institute
and Faculty
of Actuaries

Adjudication Panel Meeting

8 October 2018

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

Respondent: Makarim Adel Salman
(membership lapsed 10 January 2018)

ARN: 17679

Panel Members: Jules Griffiths (Chair/Lay member)
Graham Farren FIA (Actuary member)
Ken Price (Lay member)

Legal Adviser: Fergus Thomson

Clerk: Hinna Alim

Allegations:

The allegations against Mr Salman (the Respondent) are:

- 1 He failed to comply with the CPD requirements of the 2016/2017 CPD reporting year in that he failed to record online the appropriate minimum amount of CPD, or submit a written request 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)

- 2 He failed to engage with or respond to communications from the Membership Department of the Institute and Faculty of Actuaries on the matter of CPD for the 2016/2017 CPD reporting year, 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)
 - (c) The communication 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 allegations, Case Report and appendices submitted by the Case Manager and Investigation Actuary. The Panel received, and accepted, advice from the Legal Adviser. Mr Salman had submitted a written response (dated 21 September 2018) which the Panel also considered.

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 accept a Reprimand.

Background:

The Respondent was admitted as a Fellow of the Institute and Faculty of the Actuaries (IFoA) on 20 December 2005. He remained in membership until 10 January 2018. 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 a Category 2 member working in Japan 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 applied for, and was granted, an exemption under Section 11.2 of the Scheme). The Respondent's employment ended in 31 October 2016 but he took no action to update either his preferred email or preferred postal address both of which were associated with his employer. He had complied with the CPD Scheme in the two previous CPD years.

Between 15 June and 29 September 2017 the Head of Membership of the IFoA sent 10 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. She also sent two letters to Mr Salman at his preferred postal address on 11 August and 11 September 2017. The Respondent did not reply, nor did he take action to comply with the CPD requirements.

On 13 October 2017 a letter which the IFoA sent to an alternative postal address in the UK was signed for, but not answered. The first response from Mr Salman to the IFoA was in reply to a further letter dated 11 January 2018 when he was informed that the matter was being referred under the Disciplinary Scheme. In summary, he provided a new correspondence address and advised that he had not received any of the emails as he was longer working at that email address; he thought the IFoA would have received an email failure after the first one was sent. He also commented that he had not worked in an actuarial capacity since October 2016.

In further correspondence with the IFoA, Mr Salman said he had assumed the emails would bounce from his previous employer and that a gmail address was on file as backup contact. He gave his reasons for not having recorded the CPD as required as *"not working in an actuarial capacity since October 2016; not receiving correspondence from the Institute; change of my visa status in Japan; setting up a business; health concerns for my mother which trumped all other considerations; many international trips imposed on me for personal reasons; and other adverse personal circumstances during 2017"*.

On 17 March 2018 Mr Salman provided a CPD log to the IFoA, who has confirmed that, if submitted in time, would have met the requirements.

Decision and Reasons on the Allegations:

Allegation 1

The Panel was satisfied that the Respondent failed to comply with the CPD requirements of the 2016/2017 CPD reporting year in that he failed to record online the appropriate minimum amount of CPD. The Panel noted that the Respondent accepted that he failed to comply with the reporting requirement and that, when he did submit records they were deemed to meet the requirements. Nevertheless, the Panel is satisfied that this amounts to a breach of the CPD Scheme. The Panel considered the reporting requirement to be important, particularly as the CPD Scheme is expressly linked to the obligation of competence under the Actuaries' Code. In the circumstances, the Panel was satisfied that this amounted to a *prima facie* breach of the compliance principle of the Actuaries' Code.

In relation to the integrity principle of the Actuaries' Code, the Panel had no evidence of dishonesty on the part of the Respondent and accepted that his actions were by way of oversight rather than a deliberate act. The panel was not satisfied that this amounted to a *prima facie* breach of the integrity principle of the Actuaries' Code.

Allegation 2

The Panel was satisfied that the Respondent failed to engage with or respond to communications from the Membership Department of the Institute and Faculty of Actuaries on the matter of CPD for the 2016/2017 CPD reporting year.

In relation to the compliance principle of the Actuaries' Code, the Panel accepted the reasons given by the Respondent for his failure to communicate and engage with the Membership Department. He had accepted that failing to notify the IFoA of a change of both email and postal addresses was an oversight, but seemed to expect that the IFoA would receive a "*bounce back*" and then seek out alternative contact methods. Letters sent to his alternative postal address did not reach him as they were overlooked by one of his relatives. The Panel considered that it is an important professional requirement for Members to maintain contact with their professional regulator. In the circumstances, the panel was satisfied that Mr Salman's failure to provide current email and postal addresses amounted to a *prima facie* breach of the compliance principle of the Actuaries' Code.

The Panel had no evidence of dishonesty on the part of the Respondent and accepted that his actions were by way of oversight rather than a deliberate act. The panel was not satisfied that this amounted to a *prima facie* breach of the integrity principle of the Actuaries' Code.

The Panel considered the communication principle of the Actuaries Code was not relevant as it appeared primarily to focus on the method, content and manner of communication which was not the main issue in this case. In the circumstances the Panel was not satisfied that this amounted to a *prima facie* breach of the communication 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 constituted 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 was a Fellow of the IFoA for some time and was aware of the requirements of the CPD Scheme, having complied in previous years. He should also have been aware of the need to keep his contact details up the date.

Recording CPD is important, particularly as the CPD Scheme is expressly linked to the obligation of competence under the Actuaries' Code.

Engagement with, and responding to, communications with the Membership Department is also important to maintain public confidence in the profession. In this case, there were numerous unanswered communications, entirely due to Mr Salman's failure to provide accurate contact details. But in any event he should have been aware of his obligations without waiting for reminders.

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 Guideline (December 2016). The Panel also carefully considered the responses from Mr Salman and the material he sent to the Panel dated 21 September 2018. The Panel noted some mitigating factors, including an apology.

The Panel considered the nature and extent of the Misconduct and decided that whilst serious, the Respondent's actions were unlikely to be repeated as he is longer practising as an actuary.

Taking into account the mitigating factors, and in the absence of any aggravating factors, the Panel decided to invite the Respondent to accept that there had been Misconduct and accept a Reprimand.

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: 17 October 2018