



## Disciplinary Board

27 March 2019, Time: 10:30-15:00

Exchange Crescent, Edinburgh

<b>Attending:</b>	Stephen Redmond (lay member and Chair) (SR) Athene Heynes (lay member) (AH) Gordon Sharp (actuary member) (GS) George Russell (actuary member) (GR) Kevin Doerr (actuary member) (KD) Simon O'Regan (actuary member) (SO) (via video conferencing) Jim Webber (actuary member) (JW)
<b>Apologies:</b>	Simon Martin (actuary member)
<b>Executive Staff:</b>	Kirsten Mavor, Secretary to Board (KM) Suzie Lyons, Head of Legal Services (SL) Michael Scott, Head of Disciplinary Investigations (MS) Julia Wanless, Judicial Committee Secretary (JSW) Jenny Higgins, Case Manager (JH) (items 6, 7 and 8) Sarah Borthwick, Case Manager (SB) (item 11) Catherine Mouat, Disciplinary Investigations Coordinator (CM) (note taking)

Item	Title	Action
	<b>Welcome, apologies and conflict check</b>	
	<p>SR introduced himself as the new Chair and was welcomed to the Disciplinary Board. SR also introduced JSW who was attending her first board meeting in her role as the Judicial Committees Secretary. Prior to this meeting SR has met with most of the board members individually and will make arrangements to meet with the remainder shortly.</p> <p>An apology has been received from Simon Martin, actuary member, who is unable to attend today's meeting.</p> <p>GR and GS advised that they had potential conflicts in relation to cases referred to in the Case Update Report. They confirmed that they would leave the meeting if the particular cases were discussed.</p>	
1.	<b>Introductions</b>	
	<p>All of the attendees introduced themselves to SR and JSW and provided a brief summary of their background.</p> <p>SR advised that he had met with the previous Chair, Keith Oliver and recognised the contribution he had made to the Board's work over the last four years. In particular, his involvement in the introduction of the Capacity for Membership process and his interest and passion for broadening the diversity of volunteers and Board Members involved in the disciplinary process. SR referred to the fact that Keith's contribution to</p>	



Item	Title	Action
	(f) The Board asked that guidance on the Actuaries' Code and other regulatory developments discussed on this meeting's Agenda be flagged to the disciplinary pools in the next disciplinary newsletter.	SL
5.	<p><b>2019 Objectives</b></p> <p>The Board noted the cover paper, project plan (Board priorities) and traffic light report. KM provided specific updates on the following objectives:</p> <ul style="list-style-type: none"> <li>The main project for 2019 is the Scheme Review. A full paper updating the Board on the Scheme Review is included in the papers.</li> <li>It was agreed that the project plan should be updated to include the communications project and a paper be presented at the June meeting on what the impact has been in raising awareness of the disciplinary process.</li> <li>Recruitment for a lay Board Member is currently taking place and the new Board Member will be attending the June meeting.</li> <li>A paper on the training programme for panel members will be presented at the June meeting.</li> </ul> <p>The Board discussed the Scheme Review and challenged the Executive on both the scope of the project and likely timeframe for completion. The Executive referred the Board to the draft Terms of Reference which has been agreed by the Board in principle. At its first meeting the Working Party will discuss the scope of the Scheme Review and likely timescales. The Working Party will report back to the Board with a more detailed project plan.</p>	<p>KM</p> <p>KM/JSW</p>
6.	<p><b>Report on first Capacity for Membership Hearing</b></p> <p>SL presented a paper summarising the process learning points from the first Capacity for Membership Hearing. The key areas that the Board is being asked to appraise are timescales, the approach to publication and communication with the person who referred the allegation. The Board was also asked if it wished to provide a response to the concerns raised by the person who made the allegation.</p> <p>The Board discussed the correct balance between protecting the public and the interests of the Respondent in the context of its role of providing guidance to Panels. The Board agreed that steps should be taken to ensure that the process is as quick as possible and noted that process improvements had already been implemented with this in mind.</p> <p>The Board discussed the feedback from the person who made the allegation. It was agreed that a letter should be sent on the Board's behalf.</p> <p>No further comment on the detail of the matter was considered appropriate noting that a review hearing on the case was being scheduled. The Board asked for a further report on the review process, once completed.</p>	<p>SL/SR</p> <p>SL</p>

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7.	<p><b>New information note – Application for Readmission</b></p> <p>JH presented this item and advised that this paper follows up the feedback provided by the Chair of the Tribunal which was considered at the December Board meeting. JH has prepared an application form and information note for the Board to consider and approve. The Board suggested some minor amendments to both documents. The Board also suggested that applicants should be encouraged to provide a personal statement on why they consider they should be readmitted to membership. It was agreed that the application form should be adapted to make sure that it is suitable for an international audience as the current draft refers to UK legislation.</p> <p>The Board agreed that the documents should be updated, in line with discussions, and circulated before publication on the IFoA's website. It was noted that the Application for Readmission process would be discussed further in the context of the publication policy.</p>	JH
8.	<p><b>Review of Publication Policy</b></p> <p>JH advised that the Publication Guidance Policy had been reviewed in light of feedback and learning points from the first Application for Readmission and the first Capacity for Membership Hearing. In particular, the wording had been expanded to deal more explicitly with these particular proceedings.</p> <p>The Board considered the proposed changes and agreed with all the recommended changes with regard to the Application for Readmission process.</p> <p>With regard to the section within the Publication Guidance Policy that relates to Capacity for Membership hearings, it was agreed that the wording should be amended. The Board agreed that all notices of Capacity for Membership hearings will normally be published as it was usually in the public interest to do so. It was also of the view that the guidance should be amended to record a presumption in favour of publishing the non-health related outcomes from a Capacity for Membership hearing. The Board wanted to ensure that the final arbiter of what was appropriate to publish in the circumstances of the case lay with the Panel, with all decisions in this regard being reasoned within the decision.</p> <p>The Board agreed that the Publication Guidance Policy should be updated in line with discussions. The Board would like a copy of the final version to be circulated to the Board before publication on the IFoA's website.</p>	JH

Item	Title	Action
9.	<p data-bbox="292 264 552 293"><b>Case Update Report</b></p> <p data-bbox="292 338 1310 667">MS presented the Case Update Report. MS advised that a different system had been used to generate the report. For the benefit of the new attendees, MS explained that the purpose of the Case Update Report is to provide the Board with information to enable it to carry out its function of monitoring the disciplinary process. The Case Update Report provides details about the number and progress of investigations and also reports on the post investigation stage. The new style Case Update Report provides further detail about the legal costs, location of the Respondent and classification of the complexity of the case. The Board considered this new approach was an improvement on the previous style of Case Update Report.</p> <p data-bbox="292 712 1294 779">MS provided an update on cases at the investigation stage explaining that, since the last Board Meeting on 4 December 2018, eight new allegations had been received.</p> <p data-bbox="292 824 1326 1037">The Board discussed the timescales for the investigations and agreed that MS should keep an eye on the level of cases referred and resourcing. The Board queried whether the Investigation Actuary pool was adequately resourced in terms of numbers and expertise. MS advised that there was a currently a recruitment campaign for Investigation Actuaries and hopefully this will bolster numbers. Care would be taken to ensure that there is expertise from all practice areas in the Investigation Actuary pool.</p> <p data-bbox="292 1081 1321 1373">MS advised that two cases had been considered at the Adjudication Panel stage in the reporting period and one Tribunal had been held where three cases had been heard together. The Board had confirmed that they had accessed the relevant determinations. The Board queried the level of reasoning in one determination. MS advised that in this determination the panel was considering an Advisory Report and the same level of detail would not usually be expected. The Board was satisfied with the fact that the determination in question would be considered in more depth by the Determinations Review Sub-Committee.</p> <p data-bbox="292 1417 1321 1563">The Board referred to the costs recovered in the Tribunal cases. The Board wanted to ensure that the Executive is taking a consistent approach to recovering costs and this is in line with the Costs Guidance policy. It was agreed that JSW would review the template for recovering costs to ensure that a consistent approach is taken.</p> <p data-bbox="292 1608 1305 1675">The Board considered the feedback from the Adjudication Panel and did not consider there was anything within this feedback that required further attention.</p> <p data-bbox="292 1720 1246 1787">It was noted that there were no referrals to the independent examiner during this reporting period.</p>	<p data-bbox="1334 1417 1401 1447"><b>JSW</b></p>

Item	Title	Action
10.	<p><b>Report from Determinations Review Sub-Committee</b></p> <p>GS presented this item as Chair of the Sub-Committee. KM confirmed that at the first meeting there was discussion about how the Sub-Committee would operate and it was agreed that it would be reviewed in one year. The Sub-Committee also agreed to use a template when reviewing decisions for its next scheduled meeting. The Board agreed that the template would be a useful tool.</p> <p>The Sub-Committee was pleased to report that it was satisfied with the quality of the determinations it had reviewed and there were only a few minor points of clarification identified. It was agreed that this constructive feedback would be passed on to the Convenor of the Adjudication Panels to whom the comments related and in response to her most recent presentation to the Board.</p> <p>The Board agreed with the Sub-Committee's recommendation that the Regulation Team should be approached for its view on how the communication principle should be applied in CPD cases. This followed an inconsistent approach being identified by the Sub-Committee in CPD cases. This advice will be passed on to both the Sub-Committee and the Board at the next scheduled meetings.</p> <p>The Board noted the suggestions made with regard to training and agreed that these points should be considered for the training programme paper in June.</p> <p>It was noted that the next meeting of the Determination Review Sub Committee will be in May and a report will be provided to the Board for its June meeting.</p>	<p>KM</p> <p>KM</p>
11.	<p><b>Scheme Review</b></p> <p>SB presented her paper which summarised the preparatory work that has been undertaken including research into the approaches taken by different regulators. SB confirmed that the next stage would be to set up the Working Party. It is anticipated that the Working Party will be recruited in the next 4-6 weeks and the first meeting will be held in May. SB confirmed that after the first meeting of the Working Party the project plan will be updated to include more detail about each stage and record likely timescales.</p> <p>The Board considered the paper on alternative approaches to regulatory enforcement. It agreed that the key question was what type of approach would best suit the IFoA's global membership. It was noted that this was a fundamental question for the Working Party and the Board expected the Working Party to come back with a recommendation after considering this key question.</p> <p>The Board would like to see more information about how the ACCA approach and ICAS approach works in practice. It was agreed that SB will contact these regulators and will provide more information to the Board and Working Party on their approach. SB will also circulate the Principles of Good Regulation paper for the Board to consider.</p> <p>The Board asked SB to review the last 3-5 years of cases to establish what type of cases may have benefitted from a different approach such as mediation or having a filter.</p>	<p>SB</p> <p>SB</p>

Item	Title	Action
	It was agreed that a report on progress of the Scheme Review will be provided at each Board meeting with sufficient time in the Agenda for full discussion. Board members who are interested in joining the Working Party should contact SB.	
12.	<p><b>Disciplinary Appointments Committee update</b></p> <p>SL advised the following in relation to the DAC's programme of work: -</p> <ul style="list-style-type: none"> <li>The recruitment process for the new Chair of the Disciplinary Board is now complete and the public announcement of SR's appointment has been made.</li> <li>The DAC is currently recruiting for a lay member of the Disciplinary Board. The Board will be advised when this appointment has been made.</li> <li>The recruitment of lay panel members is now complete. The quality of applicants was very high and the successful candidates come for a diverse range of backgrounds.</li> <li>Currently recruiting for actuary panel members and Investigation Actuaries.</li> <li>The term for the Chair of the DAC finishes later this year.</li> <li>The Chair of the DAC will be invited to attend one of the upcoming Board meetings.</li> <li>The DAC will be undertaking diversity training in June to ensure that its processes for appointment take appropriate consideration of this aspect.</li> </ul>	
13.	<p><b>AOB</b></p> <p>KM advised that there had been a delay in the rolling out of boardpacks and egress. The IT programme supporting these packages is currently being implemented internally and will be rolled out to Board Members before the June meeting.</p>	
14.	<p><b>Management Board updates for Chairs</b></p> <p>The Board noted the update.</p>	
15.	<p><b>Regulation Board update for Chairs</b></p> <p>The Board noted the updates from the December 2018 and January 2019 meetings.</p>	
16.	<p><b>Lifelong Learning Board Update</b></p> <p>The Board noted that this was the first time this update had been included in the papers and noted the contents. It was also noted that a representative from this Board would be asked to attend an upcoming meeting.</p>	
17.	<p><b>Revised Speaking Up Guidance</b></p> <p>The Board noted this updated document.</p>	
18.	<p><b>Board Remit</b></p> <p>The Board noted its own terms of reference</p> <p>There being no further business the meeting closed at 15:00.</p>	

**Dates of next meetings:** 18 June, 26 Sept and 11 Dec.