



Institute
and Faculty
of Actuaries

Annual Report

of the Disciplinary Board of
the Institute and Faculty of Actuaries

Year to 31 December 2017

February 2018

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Chair's Report

At the conclusion of 2017, it gives me great pleasure to present the Institute and Faculty of Actuaries (IFoA) Disciplinary Board Annual Report.

The role of the Disciplinary Board ("the Board") is to safeguard the independence of the disciplinary process, to ensure it operates effectively and efficiently, as well as to support the Executive, Legal Advisers and members of Investigation Actuary and Disciplinary Pools in the discharge of their functions.

This year the Board has, at its regular meetings, benefitted from the insight of Jacqui Reynolds, Chair of the Pool of Investigation Actuaries; Paul Housego, Lay Convener of the Disciplinary Tribunal Panels and James McNeill QC, Chair of the Disciplinary Appointments Committee. These opportunities to review the detailed operation of the Disciplinary Scheme ("the Scheme") with those working within the process have proved of great assistance to the Board.

The Board has focused on the effective operation of the disciplinary process in the public interest and to that end has developed new Publication and Writing Determinations Policies and refreshed the timeframes expectation under which cases should be dealt with. We will continue this work into 2018.

The Board recognises its commitment to the public interest. A small but key development in 2017 was the improved functionality in the 'Find an Actuary' section of the IFoA website. This allows the public to search against any Member of the profession and to see if there is any relevant regulatory information, such as a disciplinary determination finding of misconduct.

In 2017 Council approved, and the IFoA Membership voted to enact, the Capacity for Membership Scheme. This welcome development denotes a new approach to those rare cases, where misconduct is alleged but there are also issues of significant ill health. The new process will become operational on 1 February 2018 and will balance a restorative approach in respect of

Members who are unwell, whilst also maintaining regulatory rigour in the public interest.

The number of cases in 2017 remained at a modest level, resulting in the Board commissioning independent, qualitative research into the level of cases investigated under the disciplinary process. This work is expected to be completed in early 2018, the lessons from which will be used to prepare for a review of the Disciplinary Scheme Rules to ensure the process is fit for purpose with a changing and increasingly international Membership.

In 2017 the Board made a considered recommendation to Council in respect of its composition. Although a majority of Council was in favour of an increase to the lay membership of the Board, we failed to achieve sufficient support to pass the recommendation. Whilst this Board respects that decision, we do believe that there is merit in keeping the Board's composition under review, to ensure diversity of perspective, from both actuary and lay members, and to ensure that the Board is in a strong position to continue to command the confidence of the public.

In 2018, the Board will focus on delivering training to Members of the Investigation Actuary and Disciplinary Pools, ensuring they are well versed in the new Capacity for Membership Scheme. We are also planning on making skills development a key aspect of the training.

The Board is grateful to the IFoA Member volunteers and lay appointees for their commitment to the disciplinary process.

The Board is always mindful of the experience of users of the disciplinary process, either as those who refer issues to the IFoA or as Respondents. We intend to review our feedback system in 2018 to ensure we capture feedback from all aspects of the process in advance of a review of the rules of the Disciplinary Scheme (planned for 2019).

As always, and in all areas of our work, the Board is keen to hear from Members, as well as from the public, including in particular users of actuarial services.

You will find details as to how to contact the Secretary to this Board on page 23.

Keith Oliver OBE

Lay Chair of the IFoA Disciplinary Board

1. Review of the Year

2017 Objectives

The Board is pleased to take this opportunity to report on its achievements in 2017. We have made tangible progress on a number of matters, consistent with the IFoA's published Regulatory Strategy¹, insofar as it relates to the Disciplinary Scheme².

The following table provides a summary of what has been done in relation to each objective and, where relevant, an explanation of the work which the Board still has to do.

<p>Efficacy. We will continue to review the Disciplinary Scheme to ensure the fair, effective and efficient operation of the disciplinary process and, where necessary, propose improvement.</p>
<p><i>We will work with Council to introduce a Capacity for Membership Scheme and to establish a process to deal appropriately with Members who are suffering ill health.</i></p> <ul style="list-style-type: none">• The Capacity for Membership Scheme allows for cases that allege misconduct, but also disclose significant and continuing ill health, to be dealt with in a restorative manner whilst maintaining and upholding the public interest.• This new process was approved by Council in February and by the Member vote in December 2017. It will become operational on 1 February 2018 with the publication of the updated Disciplinary and Capacity for Membership Schemes.• A communication programme has been developed with full information notes on the IFoA website, alongside some Actuary Magazine articles, to explain the process and when it applies.• The Capacity for Membership Scheme will form a key part of the disciplinary training that will take place in 2018.
<p><i>We will review our investigation and judicial stages to ensure compliance with changes in data protection legislation.</i></p> <ul style="list-style-type: none">• The Board is satisfied that the Executive has contributed to the IFoA organisation wide General Data Protection Regulation (GDPR) compliance project and that the disciplinary process has been fully considered and integrated.• The Board has overseen an interim review of data protection in the management of investigation and judicial stages to ensure that any practical improvements that can be made now are done. The Board has noted improved practice in relation to the management of data such as improved security and destruction of files at the conclusion of cases.• The Board noted with approval that all related observations by the Financial Reporting Council (FRC) arising out of its 2016 oversight visit have been addressed.

¹ <https://www.actuaries.org.uk/documents/professional-regulation-executive-committee-2012-regulatory-strategy-institute-and-facul-0>

² <https://www.actuaries.org.uk/documents/institute-and-faculty-actuaries-disciplinary-scheme-effective-1-august-2010-amended-18>

We will continue to review disciplinary practice by learning from other professional regulators with the aim of ensuring that the IFoA reflects best practice.

- The Board continues to benefit from active engagement from the Executive with fellow regulators through a variety of forums and conferences.
- In drafting key policy documents, the Board routinely reviews other regulator practice. This review informed the development of the 2017 policy review on how disciplinary outcomes should be published and to clarify the process for drafting determinations.
- The Board will carry forward part of this objective to conduct a full review into how feedback is dealt with throughout the disciplinary process.
- The Board has also provided a full response to the Independent Review into the FRC Sanctions policy that will relate to cases under the FRC jurisdiction. The Board has noted the publication of the Independent Review report and awaits the FRC response with interest which the Board will then consider.

Accountability. We will examine the Board's monitoring capabilities and develop proposals for proportionate improvement. Improvements will be designed to target identified risk and to assure public trust in the Disciplinary Scheme process.

We will review the current monitoring undertaken by the Board, recognising the importance of the independent decision making of the Adjudication and Disciplinary Tribunal Panels.

- The Board's main focus throughout 2017 has been the active review of cases. The Board has implemented improvements in relation to a number of areas, notably management of Disciplinary Tribunals, as follows:
 - More active management of cases that reach the Disciplinary Tribunal stage is welcomed by the Board as an efficient way to focus the issues and make progress. Disciplinary Tribunal Information Forms, served alongside the Charge to the Respondent, have been redrafted to ensure that more practical information is obtained at an early stage.
 - 2017 has also seen increased use of in-house capability in the prosecution of cases with those internal costs being recouped from Respondents (in the same way as if external legal advisers had been used) where the Disciplinary Tribunal Panel considers it appropriate. The Board welcomes this development as a proportionate way of managing the costs of the disciplinary process for the profession.
- The Board has refreshed the timeframes policy that monitors how long cases should take at various stages of the process. The Board included timescale expectations in relation to Appeals and refreshed the timescales in relation to Disciplinary Tribunal Panels.
- Investigations under the Disciplinary Scheme are categorised as being "simple, intermediate and complex". The Board has ensured there is increased oversight as to how cases are classified.

We will work with the Regulation Board to ensure that any monitoring proposals fit within the wider IFoA regulatory framework and strategy.

- The Chair of the Board has regular engagement with the Regulation Board on behalf of the Board on this project.

We will develop our 2016 work on the evaluation of case levels by commissioning independent research.

- The publication of the outcome of this work has not been possible before the issue of this report as the work is ongoing. A report of the research findings will be made available however, as an interim update in 2018, and the outcomes will be incorporated into the 2018 programme.

We will, with the Disciplinary Appointments Committee (DAC)³, make a recommendation to Council in respect of our composition. See page 17 for current composition of the Disciplinary Board.

- The Board made a recommendation to Council to move to parity of Actuary and Lay members with a Lay Chair. There was an insufficient majority to pass the recommendation.
- The Board, whilst disappointed with the outcome, respects this decision and will continue to work with Council and the DAC to ensure appropriate diversity of the Board's composition, within the current framework.

Accessibility. We will ensure that all changes to the Scheme are well communicated to the Membership and the public and that the process is accessible to users.

We will develop guidance around any changes to the Scheme and take responsibility for raising awareness of the Scheme.

- The Board approved a new Publication Policy for the disciplinary process. The new policy allows Panels to consider publication broadly and recommends that findings of misconduct should be published for five years, with the Panel retaining its own discretion to increase or decrease that time frame.
- The Board has also improved transparency of determinations published on the website, linking determinations and other regulatory information more clearly to the public "Find an Actuary" search function.
- The Board also reviewed and redrafted the Drafting Determinations Policy. This new policy makes it clear that the determinations in relation to Adjudication and Disciplinary Tribunal Panels are the responsibility of the Panel and, in particular, the Chair and provides principles for how to approach the drafting of determinations.
- The Board reviewed and approved changes to the timeframes policy, as noted on page 3.

We will continue to produce plain English guidance notes on the disciplinary process, to assist users, Members and the public.

- In preparing for the launch of the Capacity for Membership Scheme (see page 2), all disciplinary information notes have been reviewed and improved to ensure consistency and accessibility. The information notes are otherwise unchanged and will be updated on the IFoA website to coincide with the commencement of the new process.
- Specific plain English notes have been produced in relation to the Capacity for Membership Scheme.
- As noted above, the Board has also overseen improved access to disciplinary findings, under the 'Find an Actuary' on the IFoA website.

³ <https://www.actuaries.org.uk/about-us/governance-and-structure/other-boards-and-committees/disciplinary-appointments-committee>

We will ensure that relevant learning points and identified risks arising from disciplinary cases are incorporated into broader IFoA initiatives to support Members with their professional responsibilities.

- Disciplinary cases have continued to inform the development and content of the IFoA's professionalism work.
- Issues arising during the scrutiny of the IFoA caseload at the Board's quarterly meetings have been fed back by the Board to the IFoA, and to those working within the disciplinary process. Conveners/Chairs of the DAC, Disciplinary Tribunals, Adjudication Panels and Investigation Actuary Pool all attend meetings of the Disciplinary Board on a rotational basis to exchange feedback and views.
- Legal Advisers participate twice yearly in roundtable events, and along with the Pools, are kept informed through quarterly newsletters, regular appraisals conducted by the DAC, and training events.
- The Board has noted an increase in the number of cases that allege cheating in examinations and the Executive has ensured that issues arising from these allegations are relayed to the relevant teams within the IFoA.

We will continue to ensure that disciplinary issues are regularly referred to at conferences, employer forums and regional societies.

- The Board has supported the Executive in the development of three online videos, intended to reach a wide audience to convey the key relevant and high level facts about the disciplinary process and Member regulatory requirements. These videos are now online and will form the basis of the communication work of the Board in 2018.
- Disciplinary issues have formed part of IFoA conferences, with ethical standards a key part of the IFoA's work in relation to professionalism.

We will develop our Legal Adviser community to ensure that our Pool members are up to date on case law and the Disciplinary Scheme and are well supported in their work.

- The Legal Adviser community has developed and consolidated in 2017, with the IFoA facilitating and hosting training and information sharing sessions with the legal advisers.
- The DAC has recruited two new Legal Advisers this year, following a competitive recruitment process.

We will use the independent case level review as a means to tackle any identified barriers to access to the Scheme.

- The case level review was not completed in 2017, however this work will be continued into 2018.
- The Board will conduct scoping work on potential changes to the rules of the Disciplinary Scheme in 2018 in order to ensure that all issues are captured and reviewed. This work will form the basis of a full Scheme review in 2019.

Reach. We will continue to communicate about Members' responsibilities under the Scheme, with particular focus on international Members. We will seek cooperation and collaboration with other actuarial regulators.

We will develop online communications through our website to ensure ease of access. We will contribute to the IFoA's work on professionalism to provide life long learning for Members on discipline related topics.

- In addition to the three short videos explaining the disciplinary process referred to on page 5, the Board has supported the Executive in the development of online professionalism awareness tests to ensure that disciplinary issues are sufficiently reflected.

We will work with other IFoA Boards to ensure that the international application of the Scheme works in harmony with the overall work of the IFoA.

- The Chair of the Board attended Council on two occasions this year; firstly to present the annual review of the Board's work, as well as to discuss the Disciplinary Scheme rule change proposals outlined above and secondly in respect of the proposed change to the Board composition.
- The Chair has, on behalf of the Board, taken the lead on IFoA broader engagement and interaction to both inform the Board in its work and to feed back. In this regard, the Chair also attended a meeting of the Management Board this year to provide opportunity for question and scrutiny of its work.
- In recognition of the limits of its terms of reference, it is more appropriate that other parts of the IFoA take the lead on international engagement and that the Board's role is to facilitate those leads with content and support on disciplinary issues. The Board continues to take an active review of the Scheme's practical application overseas and will continue that work in 2018.
- In light of the Board's direct interest in the Actuaries' Code review, it has taken the view that this is one area where direct consultation response is appropriate. A response on disciplinary aspects of the review has been submitted accordingly.

We will be a key contributor to the development of the International Actuarial Association (IAA) work in respect of sharing knowledge and learning on disciplinary issues.

- The Board has supported the Executive in the ongoing international disciplinary debate taking place within the Professionalism Committee of the IAA.

2. Looking forward to 2018

The Board's strategic priorities for 2018 focus on the core role of the Board: to oversee the management and effective operation of the disciplinary process. In doing so, it recognises that the Rule changes, in particular in connection with the Capacity for Membership Scheme (see page 2), recently introduced require time to "bed in" with the Membership and those working in the disciplinary process.

Training and Skills Building. The Board will seek to build the skills, training and capacity of the Investigation Actuary and Disciplinary Pools, ensuring they are well placed to deliver their key judicial, investigatory and advice functions.

- The Board will support the Executive in facilitating training for the entire Disciplinary and Investigation Actuary Pools, focusing on building skills, knowledge and understanding of the distinct nature of the Capacity for Membership Scheme.
- The training will focus on (a) good regulatory decision making, (b) what Panels are looking for from Case Reports and the presentation of cases to facilitate their decision making and (c) producing well reasoned decisions.
- The Board will support the Executive to continue to develop the Legal Adviser community so that they are well versed on the work of Adjudication and Disciplinary Tribunal Panels and share learning and experiences.
- All of the training will include key messages that this Board considers relevant to the Disciplinary and Investigation Actuary Pools, based on its own work, and will also include an opportunity for the Pool to feed back directly to Board Members who will be in attendance at the training events.

Process Improvement. The Board will seek to ensure that the disciplinary process operates as efficiently and as clearly as possible. We will review the operation of the Disciplinary Rules to ensure that the Board is well placed to deliver a full Disciplinary Scheme Rules review in 2019.

- We will undertake a preparatory scoping exercise for a Disciplinary Scheme Rules review in 2019. We will also engage in a comparative exercise with other regulators to identify any useful learning.
- We will concentrate separately on the investigation and judicial stages of the process to identify and bring into immediate effect, where possible, practical improvements that can be made in advance of a full review of the Disciplinary Scheme Rules.
- We will complete the review of the guidance documents for the judicial phase of the disciplinary process to ensure the Panels are fully supported in their work.
- We will review the way in which costs and outlays are dealt with under the disciplinary process.
- We will collate learning and feedback from the 2017 case level review and the FRC oversight visit.
- We will build on the work of 2017 and introduce a revised feedback process for the investigation and judicial stages of the disciplinary process.

Communication. The Board will focus on engagement with Members to build understanding of the Disciplinary Scheme and prioritise Membership awareness of fundamental disciplinary issues.

- The Board will support the use of the disciplinary videos created during 2017 to engage with our global Membership.
- The Board will support the Executive in its enhanced programme of regular engagement with UK professional regulatory bodies from a variety of disciplines, including, but not restricted to, the financial services industry.
- Through our relationship with the Regulation Board, we will continue to inform, and be informed about, the work of the FRC in the discharge of its regulatory oversight role in the UK, and the work of the Joint Forum on Actuarial Regulation (of which the IFoA is a member).
- This Board will seek to contribute views on disciplinary matters to all relevant consultations.
- We will continue to support the Executive to contribute proactively to the IAA Professionalism Committee on disciplinary and regulatory issues to share learning and insight on best practice across the globe.

3. Statistical Report on Casework

Disciplinary Process outline

A flowchart outlining the basic disciplinary process can be seen at **Appendix 3**. There are also a number of information notes available on the IFoA website which set out the disciplinary process in plain English, primarily intended for people who have made allegations and Respondents⁴.

The process includes a degree of inbuilt flexibility to reflect the issues in every case and to allow case progression in a fair and just manner. The current Board policy (effective from November 2017)⁵ outlines how long it expects an investigation to take, categorised on a “simple” (up to six months), “intermediate” (up to nine months) and “complex” (up to 18 months) basis. The Board policy defines the basis and setting of such categorisation, that categorisation is reviewed throughout the investigation. The Board scrutinises not only the IFoA’s compliance with these timescales, but also how the IFoA manages expectations of all individuals involved in relation to timescales.

The following statistics provide an insight into the 2017 caseload.

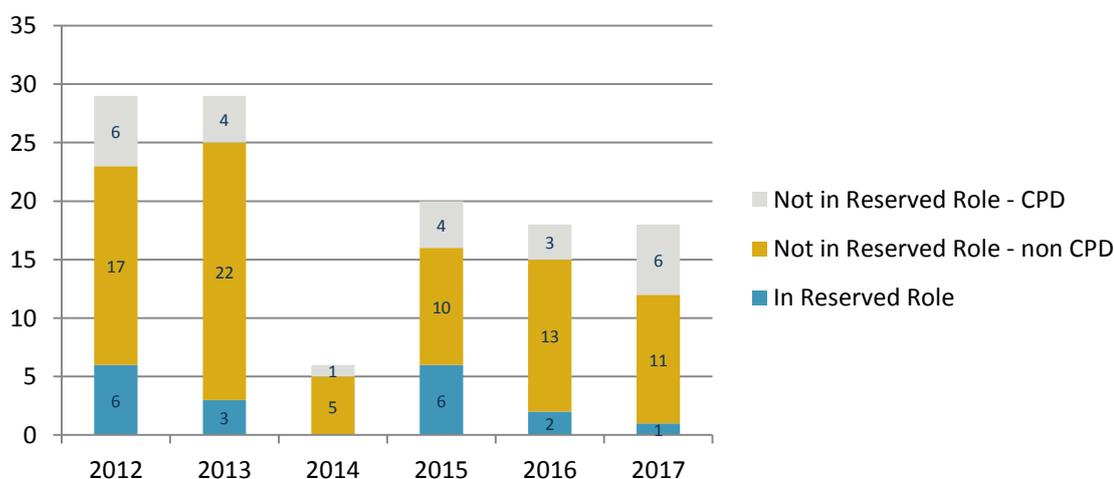
3.1 ANALYSIS OF ALLEGATIONS RECEIVED IN 2017

Table 1 below shows the number and types of allegations received (otherwise referred to as “case levels”) between 1 January 2012 and 31 December 2017. In 2017 18 allegations were received six of which were CPD related allegations. One of the 12 non CPD allegations was in relation to a holder of a Practising Certificate, who works in a Reserved Role⁶

Two of the six CPD related allegations concerned Members who failed to comply with their obligations under the CPD Scheme for 2015/2016; the remaining four concerned Members who failed to comply with their obligations under the CPD Scheme for 2016/2017.

Details of the issues raised in the other allegations can be found at Table 4 on page 10.

Table 1 –



⁴ A Respondent, for the purposes of the IFoA’s Disciplinary Scheme, means an IFoA member against whom an allegation is made.

⁵ <https://www.actuaries.org.uk/documents/guidance-time-frames-investigations-and-proceedings-under-disciplinary-scheme>

⁶ <https://www.actuaries.org.uk/upholding-standards/practising-certificates>

Table 2 – Analysis of Respondents 2012-2017

Table 2

Number of Respondents	2012	2013	2014	2015	2016	2017
In reserved role	6	3	0	6	2	1
Not in reserved role	23	26	6	14	16	17

Table 3 below reflects the practice areas of Respondents over the last six years. The allegations considered in these cases may not, however, relate to technical work carried out in that area.

Table 3

All Respondents	2012	2013	2014	2015	2016	2017
Consultancy	-	-	-	-	1	-
General Insurance	1	2	1	1	4	2
Investment Banking	1	1	-	-	-	-
Investment Management	1	-	-	-	-	-
Life Insurance	14	2	1	-	3	2
No information recorded	-	2	-	3	1	2
Other actuarial	2	1	-	1	-	1
Other Non-actuarial	1	2	-	-	-	-
Pensions	6	13	4	10	6	5
Student	-	6	-	4	1	6
Student – Actuarial Analyst	-	-	-	1	1	-
Retired	3	-	-	-	-	-
Unknown					1	-
Total	29	29	6	20	18	18

Table 4 below outlines the main issues raised in the allegations made in 2017. Cases routinely contain more than one allegation and so the numbers shown do not correspond to case levels. The five cases alleging collusion/cheating relate to two separate incidents. It is recognised that the IFoA's internet delivered examinations require further security measures. These are being investigated as part of the procurement exercise for a new exam platform led by Learning Operations. The new system is planned to be launched during 2019.

Table 4

Issue	Number of instances
Breach of confidentiality	1
Conflict of Interest	1
CPD non-compliance	6
Criminal charge/conviction	2
Exam cheating	5
Inadequate communication	1
Role as volunteer	1
Role as expert	1
Technical incompetence	3
Total number of issues raised	21*

*See narrative above this table – some cases raise more than one issue.

Table 5 below shows the sources of allegations between 2012 and 2017. The Executive Referral process referred to below is the process adopted in 2013 to formally instigate a case investigation by the IFoA in the absence of an individual/organisation raising an allegation of misconduct against a Member. Each referral request is independently reviewed by the IFoA General Counsel and the Chair of the Pool of Investigation Actuaries before a decision is taken on whether to instigate an investigation. All CPD allegations come into the disciplinary process as Executive Referrals. If a member self refers any potential misconduct, such as a criminal conviction, this is also dealt with under the Executive Referral process.

Table 5

Source of allegations	2012	2013	2014	2015	2016	2017
Chairman - Board of Examiners	-	4	-	-	-	-
Employee of the Actuarial Profession/IFoA	7	4	-	-	-	-
Executive Referral (including self referrals)	-	1	1	11	13	13
Former employer	1	-	-	-	-	-
Members of the public	6	3	4	2	2	3
Other actuaries	15	10	1	7	3	1
Other regulator	-	2	-	-	-	1
Other	-	2	-	-	-	-
Trustees of pension schemes	-	3	-	-	-	-
Total	29	29	6	20	18	18

3.1.1 Ongoing Investigations

As at 31 December 2017, there were 11 ongoing investigations. All but one of these cases originated in 2017. The case ongoing from late 2016 involves a number of complex allegations and ongoing international court proceedings.

There are a further two cases which have been put on hold by an Adjudication Panel due to concurrent court proceedings. These cases are under periodic review.

3.2 ADJUDICATION PANELS

Adjudication Panels meet in private and are comprised of at least three Panel members, one of whom is always a “lay member”⁷. All Panel Members are selected from the Disciplinary Pool. Adjudication Panels meet to consider the outcome of the initial investigation, which is presented in a Case Report. The Case Report is drafted by the Case Manager (a member of the IFoA’s Disciplinary Investigation Team) with assistance from an appointed Investigation Actuary.⁸ It is a neutral, comprehensive document which sets out the allegations against the Respondent and includes all the relevant facts and information obtained during the investigation. Adjudication Panels make the initial decision on the allegations against a Respondent. An Independent Legal Adviser is available to the Adjudication Panel to provide advice if required.

⁷ lay member – not a Member of the IFoA

⁸ Investigation Actuaries are appointed to all investigations to conduct investigations in conjunction with IFoA Case Managers.

The Adjudication Panel determines, by simple majority, whether any of the matters contained within the Case Report disclose a *prima facie*⁹ case of misconduct. If an Adjudication Panel determines that a Case Report does not disclose a *prima facie* case of misconduct, it will dismiss the case and the matter will be at an end (unless the Independent Examiner process is successfully initiated – see page 16). If the Adjudication Panel determines that the Case Report discloses a *prima facie* of misconduct, it may:

- invite the Respondent to accept that misconduct occurred and, if appropriate, a sanction; or
- refer the matter to a Disciplinary Tribunal Panel.

3.2.1 Cases heard at Adjudication Panels in 2017

During 2017, nine Adjudication Panels sat, at which a total of 19 Case Reports were considered.

Of those 19 cases heard, two related to allegations received in 2015, 11 from 2016 and six from 2017. None of the cases were in respect of Members in a reserved role.

3.2.2 Investigation times for cases heard at Adjudication Panels in 2017

The Board updated its policy in November 2017 outlining how long it expects for the investigation stage to be completed from start to finish. For the purpose of this reporting year however the previous policy applies, in terms of which simple and intermediate cases should take between six to 12 months to investigate, with more complex cases expected to take up to a maximum of 24 months.

Of the 19 Case Reports considered by Adjudication Panels, eight were submitted to Adjudication Panels within six months. A further seven were submitted within a 12 month period.

The remaining four cases took more than 12 months to get to an Adjudication Panel but were within the maximum time frame for complex cases in accordance with Board guidelines then in place;

- two of the cases concerned the same Respondent and it was therefore appropriate that they be sent to the same Panel. Due to the circumstances of the cases additional time was given to the Respondent to respond to the matters alleged, seek assistance for support and provide the information required;
- a third case raised complex technical issues in relation to an overseas insurance company valuation which took time to investigate fully and to evaluate the information received;
- the fourth case concerned comments arising from a Court of Session judgment which again required careful evaluation of a considerable amount of documents.

The Board's scrutiny of cases has given it confidence that investigation timescales are broadly met. Where additional time was incurred, the Board's assessment is that this was necessary and proportionate for those specific cases.

⁹ *Prima facie* –Adjudication Panels do not conduct a full hearing with witnesses, nor do they determine the facts on the balance of probabilities. Instead, they consider whether, on the face of it, there appears to be sufficient evidence to proceed to a Tribunal if required.

3.2.3 Outcomes of cases heard at Adjudication Panel hearings in 2017

Table 6 below details the outcomes (determinations) of the cases considered at Adjudication Panels in 2017.

Table 6

Determinations	Number of Cases
Allegations dismissed	7
Misconduct – sanctions accepted by Respondent	6
Misconduct – Respondents did not accept the finding and referred to Disciplinary Tribunal Panel.	2
Panel referred the case to Disciplinary Tribunal Panel	4

In all of the cases that were dismissed, the Adjudication Panel did not consider there was *prima facie* evidence of misconduct.

Misconduct was found and sanctions accepted by the Respondent in six cases; these concerned:

- two self reported criminal convictions for drink driving;
- one self reported conviction for driving a motor vehicle without insurance;
- one failure to meet appropriate standards, and/or use appropriate assumptions, in the pricing of product plans and valuations for an insurance company.
- one breach of the Actuaries' Code principle of Integrity by falsely entering time in their employer's time recording system for work for clients which was not carried out leading to dismissal for gross misconduct;
- one failure to provide adequate reasoning and analysis on the risks and implications when advising a client on the transfer of a final salary pension scheme as required by the Financial Conduct Authority's Conduct of Business Sourcebook.
- There were four cases where Adjudication Panels considered that the conduct of the Respondents fell significantly below the standard expected of Members and were referred directly to Disciplinary Tribunal Panels in accordance with the Scheme Rules. .

Details of all cases where the Adjudication Panel made a finding of Misconduct can be found at the [determinations](#) page on our website.¹⁰

Where an Adjudication Panel has dismissed a case, the Respondent and the person who made the allegation both receive the Panel's full determination. The determination is not published and remains confidential.

¹⁰ <https://www.actuaries.org.uk/upholding-standards/complaints-and-disciplinary-process/determinations>

Table 7 below details sanctions applied in determinations of Adjudication Panel Hearings in 2017.

Table 7

Sanctions accepted by Respondent	Number of Cases
Reprimand	5
Reprimand and £3,500 fine	1

3.2.4 Adjudication timeframes

The Disciplinary Board has set timeframes within which Case Reports should be considered by Adjudication Panels, following the conclusion of the initial investigation, and timeframes within which Adjudication Panels should issue determinations. These are;

- Adjudication Panels should normally be held within six weeks from when the Clerk to the Adjudication Panels, receives the Case Report;
- Determinations should normally be issued within six weeks of the Adjudication Panel where a sanction is offered, including four weeks for the Respondent to consider the offer.

Nine cases heard at Adjudication Panels were held within the prescribed time frames but 10 were not. Of the 10 cases that were held outside of the timeframes, four of them were significantly over the timeframes expectation having taken more than double the length of time to reach Adjudication Panels. The Board were aware of this difficulty that arose due to internal Executive resource changes. This has now been rectified. The Board will continue to monitor timescale compliance in 2018 but is confident that the Executive is now well resourced to comply with expectations. Only one determination was issued outwith prescribed timeframes.

As at 31 December 2017 there were three cases awaiting Adjudication Panel hearings in early January 2018. Unlike Tribunal and Appeal Panels, Adjudication Panels do not make awards of costs.

3.3 DISCIPLINARY TRIBUNAL PANEL (DTP) HEARINGS

Disciplinary Tribunal Panels are comprised of three Panel Members. Disciplinary Tribunal Panel Hearings are held in public with the notice of the hearing published on the IFoA website. All Panel Members are selected from the Disciplinary Pool. At least one Panel Member is a Fellow of the IFoA and at least one Panel Member is a lay member. The Panel is at all times advised by an independent Legal Adviser who ensures that the decision making process is fair and just, within the boundaries of the law and good regulatory practice.

3.3.1 DTP Hearings held January to December 2017

During 2017, two DTP Hearings were held, at which two cases were considered. Of those two cases, one related to an allegation received in 2015 and the other received in 2017. The Members were not in reserved roles.

3.3.2 DTP Hearing Outcomes

Table 8 below details the outcomes of the two cases concluded at Disciplinary Tribunal Panels in 2017. The [determinations](#) can be found in the disciplinary section of our website.¹¹

Both cases concerned criminal convictions; one was an assault offence and the other concerned sexual offences.

Table 8

Determinations	Number of Cases
Charge dismissed	0
Finding of misconduct	2

Table 9 below details the sanctions Imposed at DTP Hearings in 2017¹²

Table 9

Sanctions	Number of Cases
Expelled for three years	1
Reprimand	1

3.3.3 DTP timeframes

All DTP Hearings should take place within six months of a referral to a Tribunal.

At the end of 2017 there were three tribunal cases awaiting a Disciplinary Tribunal Panel Hearing. Two of these are scheduled for February 2018 and the third will be arranged once the Charge has been served.

Of the two cases heard at the DTP in 2017, one was held within the Board timescales. This was due to internal resource changes and the Board is satisfied that there was no prejudice caused to the Respondent. The Board will continue to review these timescales and compliance with them throughout 2018.

4. Cost Awards of DTP Hearings in 2017

Unlike earlier stages of the disciplinary process, it is possible at a DTP hearing for either the Respondent or the IFoA to make an application to recover their reasonable costs at the conclusion of the hearing. The DTP will consider any application for costs together with any opposition and decide whether to award costs. In 2017 the Board asked for enhanced visibility of costs incurred and recovered by the IFoA at this stage of process, including further information on the prosecutorial efficiencies. During 2017, both Tribunal cases were prosecuted by IFoA staff without recourse to external legal representation. Contributions towards the IFoA costs were awarded in both Tribunal cases; this totalled £4,960. The Board continues to receive and monitor information regarding the IFoA's external and internal legal costs and is content with the way in which the Executive is approaching costs recovery.

¹¹ <https://www.actuaries.org.uk/upholding-standards/complaints-and-disciplinary-process/determinations>

¹² Exclusion (as opposed to being expelled) from membership occurs when the Respondent is no longer a member of the IFoA at the time of the Disciplinary Tribunal Panel.

5. Applications to the Independent Examiner

If an Adjudication Panel decides that there is no *prima facie* case of Misconduct, the person who made the allegation is entitled to refer the case to an Independent Examiner (IE) for review on the following grounds:

- that the determination of the Adjudication Panel was manifestly unreasonable, inconsistent with the evidence or wrong in law; and/or
- that there was injustice because of a serious procedural or other irregularity in the proceedings before the Adjudication Panel; and/or
- that significant and relevant new evidence has come to light which was not previously available and could not reasonably have been made available during the investigation.

These grounds have been clarified this year to align more closely to natural justice judicial review grounds. These changes will be effective from 1 February 2018.

The Independent Examiner facility is not available to Respondents. If a Respondent decides to challenge the findings of an Adjudication Panel, he/she can reject the finding of that Panel and have the matter referred to a Disciplinary Tribunal Panel Hearing for a full hearing on facts and evidence.

No applications to the Independent Examiner were made during 2017.

6. Interim Order Panels

The Scheme allows for an urgent application in advance of a full Disciplinary Tribunal Panel Hearing to impose provisional restrictions on a Member's ability to practice, on cause shown.

No Interim Order applications were made during 2017.

7. Appeal Tribunal Panels

In the event that a Respondent wishes to dispute the findings of a Disciplinary Tribunal Panel, the Scheme allows a right to appeal, on cause shown. Some minor process clarifications for the appeal process come into effect on 1 February 2018.

No Appeal Tribunal Panels were held in 2017.

Appendix 1 Membership of the Board

The Board operates independently of the Council of the Institute and Faculty of Actuaries and members of Council may not be members of the Board.

The Board is composed of three lay members, including the Chair, and six Fellows. All are appointed by the Disciplinary Appointments Committee (DAC), which also operates independently of the Board and of Council. [See Appendix 2]. The Board had two actuary vacancies in 2017, but was quorate at all of its meetings.

The Board's lay members during 2017 were:



Keith Oliver OBE - Chair

Keith is a Scottish solicitor with almost 40 years of professional experience, 15 of which are at board level across a range of sectors. He has extensive experience of governance and constitutional matters from his time as Governor of Fettes College, Chair of Cricket Scotland and the Board of the International Cricket Council; he was awarded an OBE for his services to cricket in 2014.



Athene Heynes

Athene is a solicitor and was in private practice for many years, becoming a Partner and heading the Family Law division of her firm. In 1993, Athene was appointed by the Lord Chancellor to the Judiciary as a full time Chair in the Tribunal Service. In 1996, the President of the Tribunal Service appointed her as National Chair of the newly formed Child Support Appeal Tribunal.

In 2005, Athene decided to retire early from full time work. Since then, she has chaired many and varied professional regulatory committees and held chairmanships and directorships of professional disciplinary boards.



Simon Lofthouse QC

Simon Lofthouse QC was called to the Bar in 1988, appointed a Recorder in 2003 and took silk in 2006. Simon is widely recognised as a leading domestic and international lawyer. He also sits as an international arbitrator, often acting as keynote speaker on international arbitration, IT, construction and energy disputes. He was Chairman of the Bar Standards Board's (BSB) Professional Conduct Committee and Board member from January 2011- August 2015, having previously been a prosecutor for the BSB. Simon is a member of the Commercial Bar Association and served on its Equality and Diversity Committee for many years. He is also a member of the Technology and Construction Bar Association.

The Board's actuarial members during 2017 were:



Simon Martin FIA

Simon is a pensions specialist and has made a valuable contribution to the profession in a variety of posts, including involvement in the design and delivery of CPD and professionalism courses for new and experienced members. He has been an IFoA Staff Actuary, and an Investigation Actuary under the Discipline Scheme.

Simon was appointed Head of the Technical and Research Team, before accepting his current role as a Partner in the Retirement and Investment Business at Aon Hewitt, specialising in delivering investment advice to defined benefit pension schemes.



George Russell FIA

George joined the Government Actuary's Department (GAD) in 1994, following qualification with Bacon & Woodrow. He led the GAD pensions policy and demography team between 1998 and 2009, being seconded over this period to the Department for Work and Pensions and to the Pensions Regulator. He then served as Deputy Government Actuary until 2015, responsible for the oversight and operational management of the pensions teams in GAD's London and Edinburgh offices. He currently heads up GAD's Edinburgh office, leading the coordination of GAD support to the Scottish Government and to the Northern Ireland Executive.



Gordon Sharp FFA

Gordon joined Scottish Widows in 1974 and qualified as an FFA in 1979. He spent most of his career in pensions and investment consultancy, with Godwins Ltd (now part of Aon Hewitt) and with KPMG. He retired from KPMG in 2013, where he was the senior professional actuary in the pensions practice. He has served in several roles in the profession, including Chairman of the Pensions Board and Chairman of the Continuous Mortality Investigation, and was a member of the Council of the Faculty.



Jim Webber FIA

Jim is the Programme Director for the Actuarial undergraduate programme at Queen Mary University of London. He has worked for over 30 years as a life actuary, both in the corporate sector and in a large consultancy. In a 19 year career with Norwich Union/Aviva he worked in the UK business, before acting as Group Actuary and then Group Chief Risk Officer. Jim has served as an Investigation Actuary for the IFoA for a number of years, prior to being appointed to the Disciplinary Board.

The Disciplinary Board met four times during 2017. The minutes of these meetings can be found on the [Disciplinary Board](#) pages of our website.¹³

The number of meetings each Board Member attended in 2017 (as compared to the number they were eligible to attend) is shown in the table below.

Board Member	Number of meetings attended
Keith Oliver OBE, Chair	4/4
Athene Heynes	4/4
Simon Lofthouse QC	1/4
Simon Martin	4/4
George Russell	2/4
Gordon Sharp	4/4
Jim Webber	4/4

¹³ <https://www.actuaries.org.uk/about-us/governance-and-structure/other-boards-and-committees/disciplinary-board>

Appendix 2

The Disciplinary Appointments Committee

The Disciplinary Appointments Committee (DAC)¹⁴ is comprised of six members, four of whom are Fellows and the remaining two, including the Chair, are lay members.

The lay members in 2017 were:

- James McNeill QC (Chair)
- Val Timlin

The actuarial members in 2017 were:

- Jane Curtis
- Brian Duffin
- John Hylands
- Stuart Leckie

The DAC operates independently of the Disciplinary Board and Council. The DAC's role is to oversee all appointments, renewals and appraisals for individuals involved in the disciplinary process. Like the Disciplinary Board, the DAC meets four times a year. The DAC is mindful to ensure that the Disciplinary Board, Disciplinary¹⁵ and Investigation Actuary Pools have a diverse skill set and when vacancies arise, is keen to receive applications from a range of backgrounds. Vacancies¹⁶ for the Disciplinary Board are advertised as and when they arise. Expressions of interest in the Disciplinary Pool and Investigation Actuary Pool are invited from individuals with the necessary skills and experience and are advertised on the IFoA's website all year round.

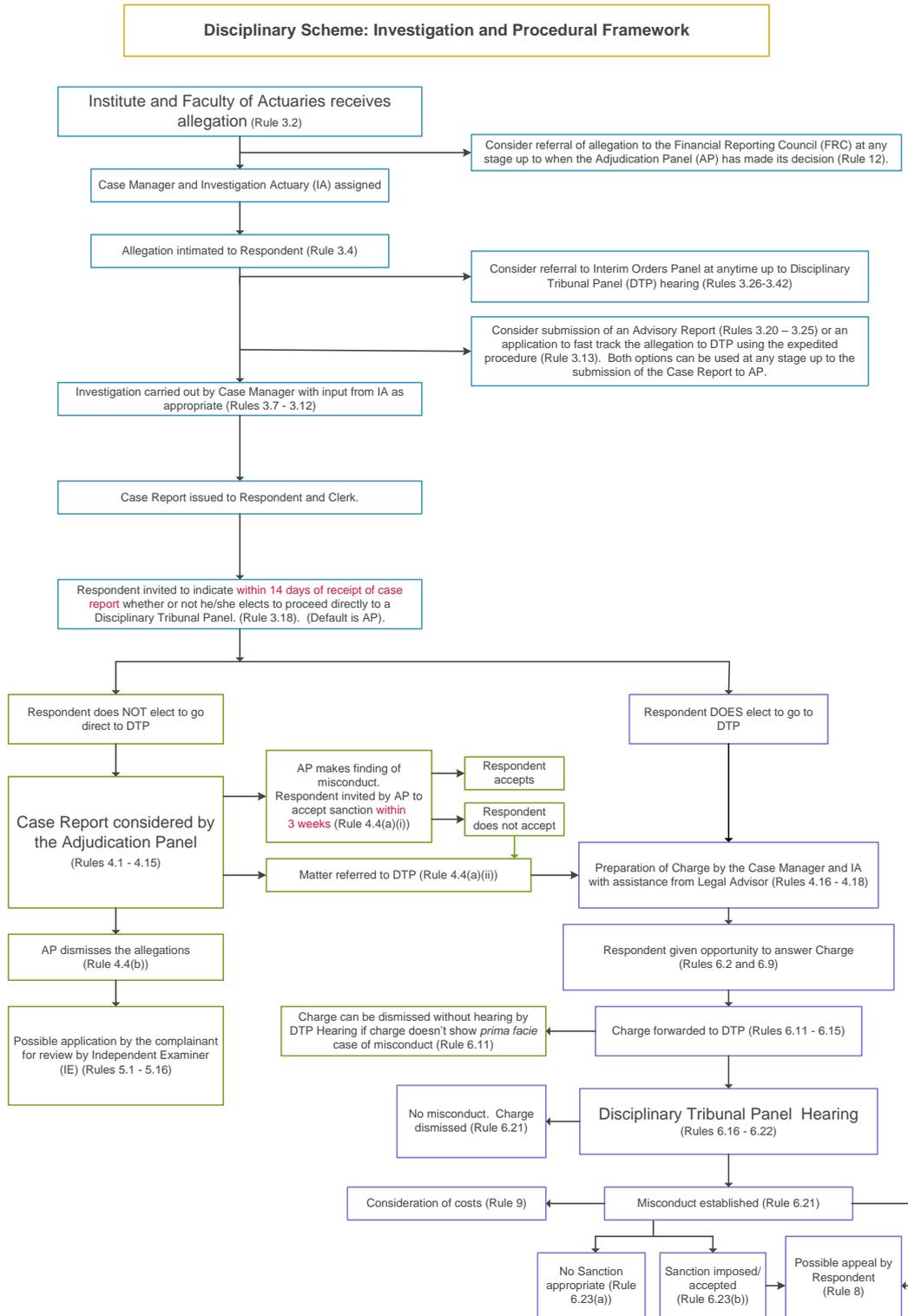
¹⁴ <https://www.actuaries.org.uk/about-us/governance-and-structure/other-boards-and-committees/disciplinary-appointments-committee>

¹⁵ <https://www.actuaries.org.uk/documents/disciplinary-pool-members>

¹⁶ <https://www.actuaries.org.uk/get-involved/volunteering-ifo/volunteer-vacancies>

Appendix 3

Disciplinary Framework



Appendix 4

Board Remit

10.1 The functions of the Disciplinary Board shall comprise:

- (a) overseeing the management and operation of this Scheme;
- (b) deciding the maximum fine which an Adjudication Panel may invite a Respondent to pay under rule 4.6(b);
- (c) providing bi-annual reports to the Council and such other interim reports on specific issues as it deems necessary;
- (d) producing an annual report to the Institute and Faculty of Actuaries;
- (e) setting and monitoring time frames for investigations and proceedings under this Scheme;
- (f) organising training of those involved in this Scheme;
- (g) receiving and considering reports from the Independent Examiner, from any Chairman, committee, panel or tribunal appointed under this Scheme, from the FRC regarding allegations considered under the FRC Scheme and from the Chief Executive of the Institute and Faculty of Actuaries on the operation of this Scheme;
- (h) making and varying such regulations (not being inconsistent with the provisions of the Charter, the Bye-laws, Rules or this Scheme) as it may consider necessary for the implementation of this Scheme and for the performance by Investigation Actuaries, Interim Orders Panels, Adjudication Panels, Disciplinary Tribunal Panels and Appeal Tribunal Panels of their respective functions under this Scheme;
- (i) providing guidance on procedure it considers appropriate not being inconsistent with this Scheme for the performance of functions under this Scheme;
- (j) giving feedback to the Council, and/or the FRC and/or any of its operating bodies on lessons learned from any proceedings conducted under this Scheme, in respect of any standards, advice, guidance, memorandum or statement on professional conduct, practice or duties issued by them;
- (k) providing such guidance on procedure as it considers necessary for the performance by the Institute and Faculty of Actuaries of functions under rule 1.23;
- (l) providing advice and guidance to the Council about entering into mutual disciplinary agreements with actuarial regulatory bodies outside the UK who are members of the International Actuarial Association; and
- (m) such other functions as shall be agreed from time to time by the Council.

10.2 The Disciplinary Board may at any time, subject to the agreement of the Council or such other body delegated by them for the purpose, arrange for a review of the provisions and operation of this Scheme or any aspect of it to be undertaken.

10.3 The Disciplinary Board shall from time to time provide guidelines for the manner in which sanctions involving education, retraining and/or supervised practice under this Scheme may be imposed. Such guidelines shall be published by the Institute and Faculty of Actuaries.

How to contact the Board

To contact the Board:

By email: disciplinary.board@actuaries.org.uk

By Post: Ms Fiona Burrough
Secretary to the Disciplinary Board
The Institute and Faculty of Actuaries
Level 2, Exchange Crescent
7 Conference Square
Edinburgh
EH3 8RA

By telephone: +44 (0)131 240 1827

For further information on the Disciplinary Board, please visit our web pages at:

<https://www.actuaries.org.uk/about-us/governance-and-structure/other-boards-and-committees/disciplinary-board>

For further information on the Disciplinary process, please visit our web pages at:

<http://www.actuaries.org.uk/upholding-standards/complaints-and-disciplinary-process>