



Institute  
and Faculty  
of Actuaries

# Annual Report

of the Disciplinary Board of  
the Institute and Faculty of Actuaries

Year to 31 December 2018

February 2019

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## Chair's Report

At the conclusion of 2018, I am pleased to present the Institute and Faculty of Actuaries' ("IFoA") Disciplinary Board Report.

The role of the Disciplinary Board ("the Board") is to guard the independence of the disciplinary process and to ensure it operates effectively and efficiently. The Board is supported by the Executive, Legal Advisers and members of the Investigation Actuary and Disciplinary Pools.

Midway through 2018 we welcomed to the Board two new members, Kevin Doerr FIA and Simon O'Regan FIA. Both Kevin and Simon have already demonstrated that their breadth of experience and skills will be of great value to the Board.

Jacqui Reynolds, Chair of the Investigation Actuaries' Pool and Jules Griffith, Convener of the Adjudication Panels both attended Board meetings. They both made observations resulting from their practical experience as well as answering challenges from the Board on the operation of the Investigation Actuary and Adjudication Panels system.

The key development in 2018 was the introduction of the Capacity for Membership Scheme which became operational from 1 February 2018. This new process implemented a different approach to cases where the Respondent's health may have been materially impaired at the time of the alleged misconduct and continues to be a significant factor. The first cases under this separate process were considered in November 2018. The Board has responsibility for oversight of this process and will review any learning points from the first cases under the Capacity for Membership Scheme.

Training on the new Capacity for Membership Scheme was delivered at the IFoA's training days for members of the Investigation Actuary and Disciplinary Pools, with legal advisers also attending. The training also provided a session on investigation and judicial skills with a particular focus on the clarity and reasoning in determinations. The Board has examined feedback from the training sessions and is satisfied that they

were well attended and useful to the attendees. From 2019, panel members will be provided with annual training.

During 2018 the Board agreed to set up a Determinations Review Group, the membership of which will include two Board members; this is part of the continuing development of the disciplinary process. Further details on this initiative is provided on page 2. This internal initiative is separate from the Appeals Process available to Respondents.

The number of new cases referred during 2018 was at a similar level to the previous two years. Section 3 of this Report provides the relevant details of the 2018 caseload. The Board will continue to monitor the level of cases as well as the time taken to reach a decision. During 2018 the Board discussed and approved a more proactive approach to recovering costs associated with the disciplinary process.

The focus for the Board in 2019 will be a substantive review of the Disciplinary and Capacity for Membership Schemes ("the Scheme"). The Board will set up a Working Party to examine the current Scheme to ensure it remains fit for purpose. The Board will provide strategic input throughout the Scheme Review and will report on progress in its 2019 Annual Report.

When carrying out the Scheme Review, the Board will take into account any relevant recommendations of the Kingman Review<sup>1</sup> and how the changing regulatory environment impacts on the IFoA's disciplinary process.

As with many areas of the IFoA's operations, both actuary and lay appointees play a key role in the disciplinary process. The Board would like to express its gratitude for their ongoing commitment and contribution to our public interest work.

As always, the Board is keen to hear from both Members and the public, particularly users of actuarial services and/or the disciplinary process. Please contact the Secretary to this Board at [Disciplinary.Board@actuaries.org.uk](mailto:Disciplinary.Board@actuaries.org.uk).

**Keith Oliver OBE,**  
Lay Chair of the IFoA Disciplinary Board

<sup>1</sup> The Kingman Review was set up in April 2018 to look at whether the FRC, and the current regulatory structure around what the FRC does, are effective

# 1. Review of the Year

## 2018 Objectives

The Board is pleased to report on its activities in 2018. We have made progress on a number of matters, consistent with the IFoA's published Regulatory Strategy<sup>2</sup>, where it relates to the Disciplinary and Capacity for Membership Schemes<sup>3</sup>. The following table sets out each objective, what has been achieved and what the next steps are.

**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 the 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.**

### What we have achieved

- In preparation for the first application under the Capacity for Membership Scheme, a training session for a group of panel members took place on 19 February 2018.
- Three further training sessions were held in June 2018. These covered the Capacity for Membership process, judicial and investigation skills and provided an update on the Board's work.
- Training sessions for panel members have been supplemented by enhanced guidance notes on a number of topics, including guides which focus on how determinations should be set out and the importance of determinations being well reasoned.
- The Board established a Determinations Review Group, the purpose of which is to consider and review all determinations focusing on the clarity of the decisions and reasoning and whether rules/policies have been applied appropriately. This Group will report to the Board and feedback will be passed on to panels.
- A Legal Adviser Roundtable was held in Q1 2018 with the focus of this meeting being on the Capacity for Membership Scheme. Many Legal Advisers also attended the Q2 training sessions. Training sessions are supplemented by regular newsletters highlighting key developments to legal advisers, in addition to all disciplinary pool members.

### What next

- The Determinations Review Group will report to the Board on an ongoing basis, feedback will be passed on to panels and key themes included in the training programme.
- A panel training event will be delivered in 2019 to further develop the skills of panel members, particularly new members and those undertaking chairing roles. From 2019, panel members will be provided with annual training.

<sup>2</sup> <https://www.actuaries.org.uk/documents/professional-regulation-executive-committee-2012-regulatory-strategy-institute-and-facul-0>

<sup>3</sup> <https://www.actuaries.org.uk/documents/disciplinary-and-capacity-for-membership-schemes>

**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.**

#### **What we have achieved**

- Following a preparatory exercise, the Terms of Reference for the Scheme Review Working Party have been agreed and a high level project plan was presented at the December Board meeting.
- Feedback from the FRC's 2017 oversight visit has been added to the issues to be considered by the Scheme Review Working Party and, where appropriate, several process improvements have already been implemented.
- In preparation for the introduction of the Disciplinary and Capacity for Membership Schemes on 1 February 2018, guidance notes for both panel members and the public were approved by the Board and published. Existing information notes and policies were amended to reflect the new process.
- Guidance notes for the judicial stage of the disciplinary process were reviewed and updated. Three new guides have been introduced to assist panel members with the clarity of decision making.
- Amended Costs Guidance was published in April 2018 clarifying that the IFoA will take a proactive approach to recovering all costs associated with a Tribunal.
- A revised approach to obtaining more formalised and comprehensive feedback about the disciplinary process was approved by the Board and will be implemented in 2019. A report on this feedback will be provided to the Board and, where appropriate, acted upon to ensure the disciplinary process is as effective as possible.
- The Board introduced criteria for setting timescales for investigations and process which includes external oversight by the Chair of the Investigation Actuaries' Pool. Parties to the process are advised of the likely timescales.

#### **What next**

- A comparative exercise in respect of the disciplinary processes of other regulators will be completed in early 2019.
- An external independent scrutiny of the disciplinary process from a user perspective will be carried out and fed into the Scheme Review.
- The revised feedback process will commence in January 2019 and the Executive will report back to the Board.
- A substantive review of the Scheme will be initiated in 2019.

**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<sup>4</sup> 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<sup>5</sup>, 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.**

#### **What we have achieved**

- The disciplinary videos were used at international events and our Membership can access these videos on the IFoA's website.
- Members of the Executive provided the Board with regular updates after attending information sharing meetings with the Scottish Regulatory Forum, UK Regulatory Forum and directly with other regulators including the Pensions Regulator and Lloyd's.
- The Board submitted a response to the Actuaries' Code consultation, fed into an IFoA review in relation to the work of experts and liaised with the Chair of the Regulation Board in relation to the Kingman Review and the IFoA's monitoring review.
- The IFoA's General Counsel attended the Professionalism Committee of the International Actuarial Association in Berlin in May 2018 and delivered a presentation on the Disciplinary Scheme.

#### **What next**

- We will deliver a week long communication programme in March 2019 which will launch the Annual Report and raise awareness of the disciplinary process.
- The Executive will continue to engage with members and provide information about the disciplinary process at member events, both in the UK and internationally.

<sup>4</sup> <https://www.actuaries.org.uk/upholding-standards/complaints-and-disciplinary-process>

<sup>5</sup> <https://www.actuaries.org.uk/about-us/governance-and-structure/other-boards-and-committees/regulation-board>

## 2. Looking forward to 2019

The Board's strategic priority for 2019 is to initiate a substantive review of the Disciplinary and Capacity for Membership Schemes. While the main focus of 2019 will be the Scheme Review, the Board will continue with its core role of overseeing the management and effective operation of the disciplinary process.

**Process Improvement.** We will initiate a substantive review of the Disciplinary and Capacity for Membership Schemes in 2019 and report on progress in the Board's Annual Report for 2019.

- We will complete a comparative exercise with other regulators and explore alternative approaches to professional discipline.
- We will consider the purpose and benefits of regulatory discipline and will keep an open mind as to what approach is the best fit for the IFoA and its global membership.
- We will set up a working party to review all the processes in the current Scheme and make appropriate recommendations to the Board.
- We will engage with the profession and other stakeholders on any proposals for change.

**Continuing to Oversee the Operation of the Scheme.** We will continue to oversee the management and effective operation of the disciplinary process focusing on engagement with Members, improving our ability to monitor the effectiveness of the Scheme and ensuring the independence of the process.

- The Board will continue to support the Executive with raising awareness of the Disciplinary and Capacity for Membership Schemes.
- We will receive more information about how the disciplinary process is operating in practice by obtaining feedback from users of the process and from the work of the Determinations Review Group. We will scrutinise this information and, where appropriate, act upon it.
- We will review the way in which the Board is held to account to ensure that the Board, and the processes it oversees, is transparent and independent.

**Training and Skill Development.** We will continue to develop the skills, training and capacity of the Investigation Actuary and Disciplinary Pools, ensuring they carry out their functions effectively.

- Annual training events will be delivered to panel members from 2019 onwards.
- We will continue to develop the Legal Adviser community through roundtable events so they are well positioned to support and advise panels.
- Training events will be supplemented by regular newsletters which will highlight key developments to Legal Advisers, all Disciplinary Pool members and Investigation Actuaries.

### 3. Statistical Report on Casework

#### Disciplinary Process Outline

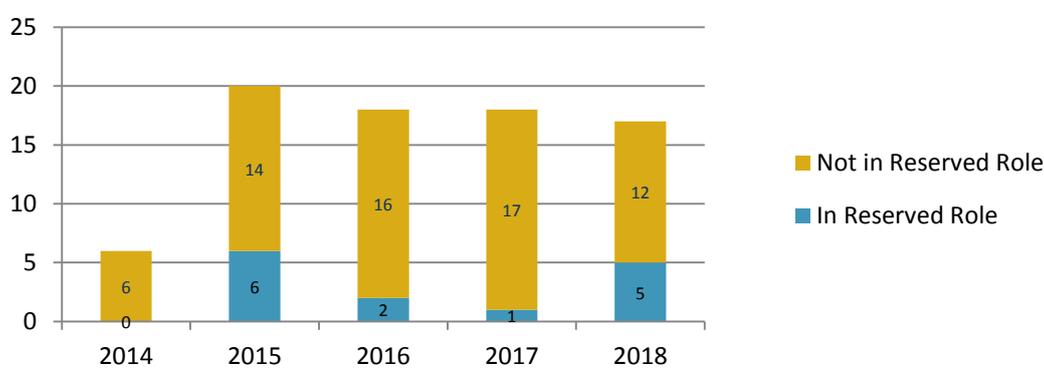
A flowchart outlining the disciplinary process can be seen at **Appendix 3**. There are also a number of information notes available on the IFoA website which set out the disciplinary process<sup>6</sup>. The following statistics provide an insight into the 2018 caseload.

#### 3.1 ANALYSIS OF ALLEGATIONS RECEIVED IN 2018

**Table 1** below shows the number and types of allegations received between 1 January 2014 and 31 December 2018. In 2018 17 allegations were received.

Details of the issues raised in the allegations can be found at Table 4 on page 7.

Table 1



**Table 2** below shows the number of Respondents who work in a Reserved Role, which means they must hold a valid Practising Certificate.<sup>7</sup>

Table 2

Number of Respondents	2014	2015	2016	2017	2018
In reserved role	0	6	2	1	5
Not in reserved role	6	14	16	17	12

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

Table 3

All Respondents	2014	2015	2016	2017	2018
Consultancy	-	-	1	-	-
General Insurance	1	1	4	2	4
Life Insurance	1	-	3	2	2
No information recorded	-	3	1	2	3
Other actuarial	-	1	-	1	-
Pensions	4	10	6	5	5
Risk Management	-	-	-	-	1
Student	-	4	1	6	2
Student – Actuarial Analyst	-	1	1	-	-
Unknown	-	-	1	-	-
<b>Total</b>	<b>6</b>	<b>20</b>	<b>18</b>	<b>18</b>	<b>17</b>

<sup>6</sup> <https://www.actuaries.org.uk/upholding-standards/complaints-and-disciplinary-process>

<sup>7</sup> <https://www.actuaries.org.uk/upholding-standards/practising-certificates>

**Table 4** below outlines the main issues raised in the allegations made in 2018. Cases routinely contain more than one allegation and so the numbers shown do not correspond to case levels.

Table 4

Issue	Number of instances
Breach of confidentiality	2
Breach of Technical Actuarial Standards	1
Conflict of Interest	3
Continuing Professional Development non-compliance	2
Dishonesty	6
Failure to hold practising certificate	3
General incompetence	1
Inadequate communication	2
Non cooperation with investigation	2
Role of Scheme Actuary <sup>8</sup>	1
Technical incompetence	3
Unreasonable behaviour	3

**Table 5 below** shows the sources of allegations received between 2014 and 2018. The Executive Referral process referred to at Table 5 is the process which allows the IFoA to formally instigate a case investigation in the absence of an individual/organisation raising an allegation against a Member. Each referral request is independently reviewed by the IFoA General Counsel (or appropriate senior deputy) and the Chair of the Investigation Actuaries' Pool before a decision is taken to instigate a formal investigation. This is also the approach followed where a member self-refers in relation to their own possible misconduct.

Table 5

Source of allegations	2014	2015	2016	2017	2018
Executive Referral	1	11	13	13	7
Members of the public	4	2	2	3	3
Other actuaries	1	7	3	1	7
Other regulator	-	-	-	1	-
<b>Total</b>	<b>6</b>	<b>20</b>	<b>18</b>	<b>18</b>	<b>17</b>

## 3.2 INVESTIGATION STAGE

3.2.1 The investigation process includes a degree of inbuilt flexibility to reflect the issues in every case and to allow case progression in a fair and appropriate manner. The current Board policy<sup>9</sup> (effective from November 2017) outlines how long it expects an investigation to take, categorised on a straightforward (up to six months), intermediate (up to nine months) and complex (up to 18 months) basis. Categorisation is agreed with the Investigation Actuary and the Chair of the Investigation Actuaries' Pool and 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.

3.2.2 The Disciplinary Investigations Team completed the investigation stage in 16 cases during 2018. Eleven of these were finalised within six months and the remaining five within 12 months. Nine of these were Case Reports to be heard at Adjudication Panel, six of these were Applications to the Convener to be referred directly to a Disciplinary Tribunal Panel and one was an Advisory Report asking for an investigation to be discontinued. In limited circumstances, as set out in the Scheme, the Case Manager

<sup>8</sup> An actuary appointed to give advice to trustees in a pension scheme.

<sup>9</sup> <https://www.actuaries.org.uk/documents/guidance-time-frames-investigations-and-proceedings-under-disciplinary-scheme>

and Investigation Actuary can submit an Advisory Report to an Adjudication Panel seeking agreement to discontinue the investigation.

The Board is satisfied that timescales were met in the majority of cases. Where additional time was required, the Board’s assessment is that this was necessary and proportionate for those specific cases having regard to principles of natural justice.

### 3.2.3 Ongoing Investigations

As at 31 December 2018, there were 14 ongoing investigations.

## 3.3 ADJUDICATION PANELS

Adjudication Panels meet in private and are comprised of at least three Panel members, one of whom is always a lay member<sup>10</sup>. 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.<sup>11</sup> It is a 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.

The Adjudication Panel determines, by simple majority, whether any of the matters contained within the Case Report disclose a *prima facie*<sup>12</sup> 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 11). 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.

### 3.3.1 Cases Heard at Adjudication Panels in 2018

During 2018 there were eight Adjudication Panel meetings at which a total of 12 Case Reports were considered.

Of those 12 cases considered, one related to allegations received in 2014, one from 2016, four from 2017 and six from 2018.

### 3.3.2 Outcomes of Cases Heard at Adjudication Panels in 2018

**Table 6** below details the outcomes of the cases considered at Adjudication Panels in 2018.

Table 6

Determinations	Number of Cases
Allegations dismissed	2
Misconduct – sanctions accepted by Respondent	8
Misconduct – one Respondent did not accept the finding and one did not respond so referred to Disciplinary Tribunal Panel	2
Panel referred the case to Disciplinary Tribunal Panel	0

<sup>10</sup> lay member – not a Member of the IFoA

<sup>11</sup> Investigation Actuaries are appointed to all investigations to conduct investigations in conjunction with IFoA Case Managers.

<sup>12</sup> *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.

In both of the cases that were dismissed, the Adjudication Panel did not consider there was *prima facie* evidence of misconduct. 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 in dismissed cases is not otherwise published and remains confidential.

Misconduct was found and sanctions accepted by the Respondent in eight cases:

- Five cases where the Respondent failed to comply with the IFoA's CPD Scheme (three of which were also found to have failed to engage with the IFoA).
- Two cases where the Respondent acted as a Chief Actuary without the required practising certificate<sup>13</sup>.
- One case where the Respondent had failed to communicate appropriately and had not acted competently or with care.

Details of all cases where the Adjudication Panel made a *prima facie* finding of Misconduct, which was accepted by the Respondent can be found at the [determinations](#) page on our website.<sup>14</sup> A summary of each determination is also published in *The Actuary* magazine.<sup>15</sup>

**Table 7** below details sanctions applied in determinations of Adjudication Panel Hearings in 2018.

Table 7

Sanctions accepted by Respondent	Number of Cases
Reprimand	1
Reprimand and fine (fines imposed ranged from £350 to £7,500)	7

### 3.3.3 Adjudication Panel Timeframes

The Disciplinary Board has set the following timeframes in relation to the Adjudication Panel stage:

- Adjudication Panels should normally be held within six weeks from when the Judicial Committees Secretary receives the Case Report;
- Where a sanction is offered, determinations should be issued within six weeks of the Adjudication Panel; this includes 21 days for the Respondent to consider and respond to the invitation. If a sanction is not offered, determinations should be issued within three weeks of the Adjudication Panel.

Eight cases heard at Adjudication Panels were held within the six week prescribed time frame but four were not. Following enquiry, the Board was satisfied that in each of these cases the excess time was minimal and was due to operational efficiencies to hear multiple cases before one Adjudication Panel. The Board did note that some logistical difficulties were experienced in obtaining panel availability and is pleased to report it has been advised that the Disciplinary Appointments Committee has recently recruited more lay panel members and will recruit for actuary panel members in 2019. Eleven determinations were issued within prescribed timeframes and one was not; this was due to the Panel requiring additional time due to the complexity of the subject matter.

As at 31 December 2018, there were two cases awaiting an Adjudication Panel hearing.

<sup>13</sup> <https://www.actuaries.org.uk/upholding-standards/practising-certificates>

<sup>14</sup> <https://www.actuaries.org.uk/upholding-standards/complaints-and-disciplinary-process/determinations>

<sup>15</sup> <http://www.theactuary.com/>

### 3.4 DISCIPLINARY TRIBUNAL PANEL HEARINGS

Disciplinary Tribunal Panels are comprised of three Panel Members. 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. Disciplinary Tribunal Panel Hearings are held in public with the notice of the hearing published on the IFoA website.

#### 3.4.1 Hearings Held in 2018

During 2018, four Disciplinary Tribunal Panel Hearings were held, at which seven cases were considered. Of those seven cases, one related to an allegation received in 2013, one from 2015, two from 2016 and three from 2017. One additional hearing was held in relation to an Application for Readmission following exclusion from membership in 2016, where the application was refused.

#### 3.4.2 Hearing Outcomes

**Table 8** below details the outcomes of the seven cases concluded at Disciplinary Tribunal Panels in 2018. Published [determinations](#) can be found in the disciplinary section of our website.<sup>16</sup>

Table 8

Determinations	Number of Cases
Charge dismissed	0
Findings of misconduct	5
Transfer to Capacity for Membership Scheme relating to same Respondent (see page 12)	2

Misconduct was found in five cases; these concerned:

- Two cases where the Respondent failed to comply with the IFoA's CPD Scheme and failed to cooperate with the investigation.
- One case where the Respondent failed to apply the correct standards, and went beyond the scope of instruction in preparing an expert report for the Kenyan pension regulatory authority.
- Two cases where the Respondents were found to have cheated in an IFoA exam.

**Table 9** below details the sanctions imposed at Hearings in 2018 for the five findings of misconduct.

Table 9

Sanctions	Number of Cases
Expulsion	1
Exclusion <sup>17</sup> – 30 months	2
Reprimand, one year exclusion, £2,000 fine	1
Reprimand	1

<sup>16</sup> <https://www.actuaries.org.uk/upholding-standards/complaints-and-disciplinary-process/determinations>

<sup>17</sup> 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.

### 3.4.3 Disciplinary Tribunal Panel Timeframes

All Disciplinary Tribunal Panel Hearings should take place within six months of a referral to a Tribunal. Of the seven cases heard at a Hearing in 2018, only three were held within the Board timescales. During the course of the year, the Board challenged the Executive on the four cases that did not meet the Board timescales. The Board concluded from the information provided by the Executive that the extra time was necessary for the specific cases having regard to the principles of natural justice. The Board is conscious that the accepted timescales should be complied with, wherever possible, so as to ensure the prompt conclusion of cases which is in the interests of all parties.

At the end of 2018 there were seven tribunal cases awaiting a Disciplinary Tribunal Panel Hearing. Four of these have scheduled dates in January and March 2019.

## 4. Cost Awards at Disciplinary Tribunal Panel Hearings in 2018

Unlike earlier stages of the disciplinary process, it is possible at the Disciplinary Tribunal Panel stage for either the Respondent or the IFoA to make an application to recover their reasonable costs at the conclusion of the hearing. The Panel will consider any such application and decide whether to award costs. In 2018 costs were recovered by the IFoA in four cases (two awards of £100, two awards of £3,996). No costs awards were made against the IFoA.

## 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 for review if the grounds set out in the Scheme are met. There were no applications to the Independent Examiner during 2018.

## 6. Interim Order Panels

The Scheme allows for an urgent application to impose provisional restrictions on a Member's ability to practice, on cause shown. No Interim Order applications were made during 2018.

## 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 clarifications in respect of the appeal process came into effect on 1 February 2018. During 2018 no Appeal Tribunal Panels were held and no applications for appeal were received.

## 8. Capacity for Membership Hearing

The Capacity for Membership process was introduced in 1 February 2018. This new process provides an alternative route for cases where the current capacity of the Respondent is impaired and this impairment is relevant to the allegation or charge. An information note which helps explain how this process works can be found on the IFoA website.<sup>18</sup>

During 2018, an application was granted for a transfer to the Capacity for Membership process; this application related to two separate cases involving the same Respondent. At the hearing the Panel found that it was appropriate to place conditions on the Respondent's membership.

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<sup>18</sup> <https://www.actuaries.org.uk/upholding-standards/complaints-and-disciplinary-process/disciplinary-and-capacity-membership-schemes>

## 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 filled two actuary vacancies in June 2018.

The Board's lay members during 2018 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 2018 were:



### **Kevin Doerr FIA (from June 2018)**

Kevin joined Commercial Union in 1983. After completing his actuarial exams in 1986 he worked in various roles as part of the finance team and, for two years, as manager of the regional administration centre for Scotland and Northern Ireland. He moved to Scottish Widows in 1999, initially as part of the project to implement its demutualisation and then becoming with-profits actuary in 2005. He retired in May 2017 but continues to be a trustee director of the Scottish Widows Retirement Benefits Scheme.



### **Simon Martin FIA**

Simon has recently retired, having been a pensions specialist for nearly 40 years. Simon 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.

Before he retired, Simon was a Partner in the Retirement and Investment Business at Aon, specialising in delivering investment advice to defined benefit pension schemes.



### **Simon O'Regan FIA (from June 2018)**

Simon qualified as an actuary in 1984. His global career has covered a wide range of financial services areas, including life and health insurance, pensions and investments. Simon was educated in South Africa, and worked for a number of life insurance companies in Ireland, Zimbabwe and the UK before joining Mercer in 1988. Simon became CEO of Mercer in Australia in 2001, then CEO of Mercer UK, Mercer Europe and finally Mercer US/Canada, retiring in 2017. Simon is now an active non-executive director of a number of organisations, public, private and governmental.



### **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 qualified as an actuary in 1982 while working in the life insurance business of GRE. He then moved into consulting, becoming a partner of Tillinghast Towers Perrin (now part of Willis Towers Watson). He joined Norwich Union in 1991 and worked in a number of senior actuarial roles including Group Actuary and Chief Risk Officer for Aviva plc. Before retiring in 2018, Jim worked in education for several years, most recently leading the Actuarial programmes at Queen Mary University of London. Jim joined the Disciplinary Board in 2015, after acting as an Investigation Actuary for several years.

The Disciplinary Board met four times during 2018. The minutes of these meetings can be found on the [Disciplinary Board](#) pages of our website.<sup>19</sup>

The number of meetings each Board Member attended in 2018 (as compared to the number they were eligible to attend) is shown in the table below. The Board was quorate at all of its meetings.

Board Member	Number of meetings attended
Keith Oliver OBE, Chair	4/4
Kevin Doerr	2/2
Athene Heynes	4/4
Simon Lofthouse QC	2/4
Simon Martin	2/4
Simon O'Regan	2/2
George Russell	4/4
Gordon Sharp	4/4
Jim Webber	3/4

<sup>19</sup> <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)<sup>20</sup> is comprised of six members, four of whom are Fellows and the remaining two, including the Chair, are lay members.

The lay members in 2018 were:

- James McNeill QC (Chair)
- Kim Maidment

The actuarial members in 2018 were:

- Jane Curtis FIA
- Brian Duffin FFA
- Stuart Leckie FIA/FFA
- Fiona Morrison FIA

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. The DAC meets four times a year. The DAC is mindful to ensure that the Disciplinary Board, Disciplinary Pool<sup>21</sup> and Investigation Actuary Pools have a diverse skill set and, when vacancies arise, is keen to receive applications from candidates with a range of backgrounds. Vacancies<sup>22</sup> 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.

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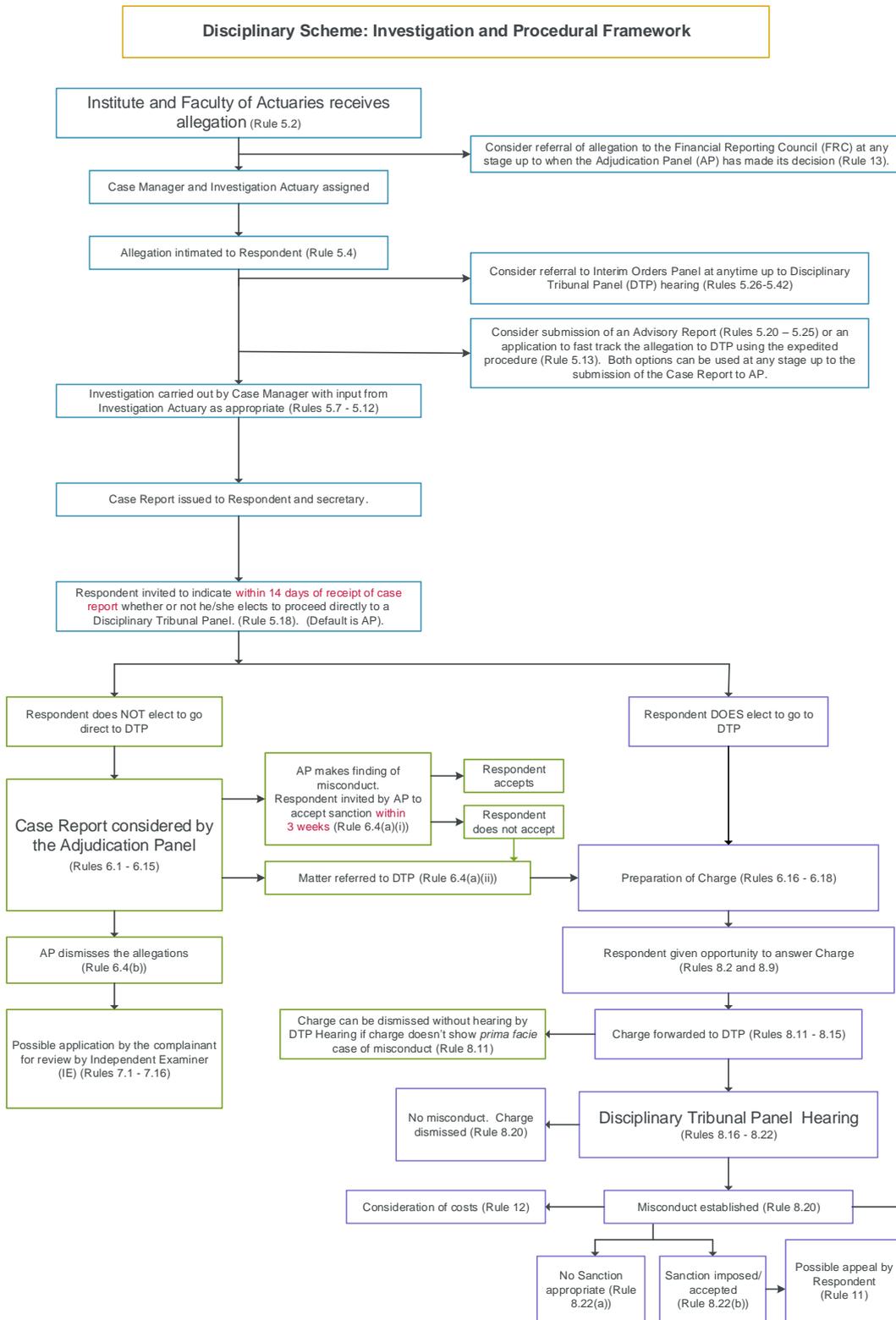
<sup>20</sup> <https://www.actuaries.org.uk/about-us/governance-and-structure/other-boards-and-committees/disciplinary-appointments-committee>

<sup>21</sup> <https://www.actuaries.org.uk/documents/disciplinary-pool-members>

<sup>22</sup> <https://www.actuaries.org.uk/get-involved/volunteering-ifo/volunteer-vacancies>

# Appendix 3

## Disciplinary Framework



Note: The Capacity for Membership process provides an alternative process where the Respondent’s health may have been materially impaired at the time of the alleged misconduct and continues to be a significant factor. An Application for transfer to the Capacity for Membership process can be made at any stage up until when the final determination is issued.

## Appendix 4

### Board Remit<sup>23</sup>

- 2.41 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.
- 2.42 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.
- 2.43 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.

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<sup>23</sup> From the [Disciplinary and Capacity for Membership Schemes](#), effective 1 February 2018.

## How to contact the Board

### To contact the Board:

**By email:** [disciplinary.board@actuaries.org.uk](mailto:disciplinary.board@actuaries.org.uk)

**By Post:** Ms Kirsten Mavor  
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 1320

For further information on the Disciplinary Board and to see the published minutes of each Board Meeting, 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>