



Disciplinary Board

11 December 2019, Time: 10:00-15:00

Holborn Gate, London

Attending:	Stephen Redmond (lay member and Chair) (SR) Athene Heynes (lay member) (AH) Velia Soames (lay member) (VS) Kevin Doerr (actuary member) (KD) Simon Martin (actuary member) (SM) Simon O'Regan (actuary member) (SO) George Russell (actuary member) (GR) (via video conferencing (vc)) Gordon Sharp (actuary member) (GS) Jim Webber (actuary member) (JW)
In attendance:	Ian Farr, Chair of Scheme Review Working Party (IF) (item 5)
Apologies:	None
Executive Staff:	Kirsten Mavor, Secretary to Board (KM) Suzie Lyons, Head of Legal Services (SL via vc) Michael Scott, Head of Disciplinary Investigations (MS via vc) Julia Wanless, Judicial Committee Secretary (JSW, items 1 – 4 and 6 onwards) Sarah Borthwick, Case Manager (SB) (items 1 – 5) Jenny Higgins, Senior Disciplinary Lawyer (items 9 and 10) Catherine Mouat, Disciplinary Investigations Coordinator (CM) (note taking, via vc)

Item	Title	Action
	Welcome, apologies and conflict check The Chair opened the meeting and welcomed the Board Members. All Board Members were in attendance. Board Members were asked to raise any conflicts arising from the agenda. GR advised that he had previously raised conflicts in relation to cases referred to at item 6. It was agreed that GR would leave the meeting when the Case Update Report was discussed.	
1.	Chair's Update The Chair updated the Board on developments since the Strategy Day in November. This included the following: - 1. A further discussion between the Chairs of the Lifelong Learning Board, Regulation Board and Disciplinary Board on 28 November 2019 regarding observer attendance at regulatory board meetings. A standardised approach was agreed in principle between the Chairs. SR will keep this Board updated and notify the Board in advance of any agreed observers, and the associated arrangements.	SR

Item	Title	Action
	<p>2. SR noted that an introductory meeting has been arranged for 16 December 2019 with Richard Jones, QC the recently appointed Chair of the Disciplinary Appointments Committee (DAC) to discuss forthcoming business and ways of working. The Chair will report back to the Board.</p> <p>3. The Board discussed the opportunity to meet informally today with the Regulation Board to discuss topics of mutual disciplinary/ regulatory interest.</p>	
2.	<p>Minutes</p> <p>The Board approved the draft minute of the meeting of 26 September 2019 and agreed that no redactions were required.</p>	
3.	<p>Action List</p> <p>The Board discussed the action list, noting the related agenda items (principally papers 7 and 8). The Board confirmed that it was satisfied with progress against the action list.</p>	
4.	<p>2019 Objectives</p> <p>The Board reviewed progress against its 2019 objectives as reported. KM reminded the Board the reporting period was extended until 28 February 2020 to correspond with the IFoA corporate year and other annual publications.</p> <p>Each objective was reviewed and Board feedback was provided. The Board challenged the Executive, in particular, on progress made on the training objective. The Board raised questions in relation to the time taken to deliver material and whether it had been tailored sufficiently for panel members.</p> <p>The Board had been provided with access to the panel member training materials that had been rolled out so far. KM advised that further training material on unconscious bias and panel member skills will be added before the next Board meeting and this particular material will be tailored sufficiently for panel members. The roll out of the training programme was later than anticipated due to a prioritisation of case work by the Executive. The Executive acknowledged that the Board should have been provided with an interim update on the timeline of the roll out in the autumn and undertook to keep SR closely updated on the final steps to completion of this objective.</p> <p>The Board also asked the Executive to prepare an agenda item on how to assess the effectiveness of hearings. JSW to provide statistical analysis information on the panel pool at its next meeting. This will assist the Board to appraise this objective and to identify the training agenda for 2020.</p>	<p>KM</p> <p>JSW/KM</p>
5.	<p>Scheme Review Update</p> <p>Ian Farr FFA (IF), Chair of the Scheme Review Working Party joined the meeting to present the recommendations on the Scheme Review. IF thanked SB for the excellent paper and asked SB to provide an update to the Board.</p>	

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	<p>SB confirmed to the Board that the high level principles approved by the Board at the September meeting were shared with Investigation Actuaries, Disciplinary Pool Members and Legal Advisers. Their comments have been received and are currently being considered as the Working Party prepare detailed proposals. Overall there has been support for the recommendations.</p> <p>The FRC has also been kept informed and advised that <i>“the recommendations are supported by the rationales set out and that the review has been comprehensive so far.”</i> The Board noted with approval this positive feedback from the FRC and other stakeholders.</p> <p>SB advised that the second phase of the timetable has been revised after discussions with the Scheme Review Working Party and General Counsel. The Board will be provided with a full set of rules and regulations for approval at their September 2020 Board meeting with a view to being presented to Council in February 2021. The Board agreed the revised timetable.</p> <p>IF advised that there were three proposals for the Board to consider.</p>	
	<p>1. Appointments and Governance</p> <p>It was recommended by the Working Party that the governance arrangements of this Board and the DAC should be separate to the Disciplinary Scheme as a corporate governance matter. The Board reviewed the proposal and after consideration approved the recommendation of the Working Party. An agenda item on resulting next steps will be presented at the next meeting.</p> <p>The Board approved the recommendation that the appointments process for panels and tribunal should be within the Scheme.</p>	SL/KM
	<p>2. Definition of Misconduct</p> <p>IF advised that the Working Party considered alternative definitions of Misconduct to the current definition contained in Rule 4.2 of the Disciplinary Scheme. The Working Party proposed a more simple definition, but which provides a broadly unchanged principle. The Board considered the detail of the recommendation and agreed with the rationale behind the proposed wording. It asked the Working Party to reflect on its feedback relating to an aspect of the draft wording. It was agreed a revised proposal should be returned to the Board.</p>	SB
	<p>3. Filter</p> <p>The Board considered the proposal and approved the proposal for the introduction, in principle, of a filter system, based on grounds of natural justice. It provided feedback on the proposed process and agreed with the proposal put forward by the Working Party.</p> <p>SB advised that it was anticipated that proposals on costs, the Independent Examiner and Appeals process and Compliance Orders will be presented at the next Board meeting.</p> <p>SR thanked both SB and IF for attending and for all the work they and the Working Party have carried out.</p>	

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6.	<p>Case Update Report</p> <p>GR left the room at the start of this item.</p> <p>MS presented the Case Update Report. The Case Update Report provides details about the number and progress of investigations and also reports on the post investigation stage.</p> <p>Since the last Board Meeting on 26 September 2019, eight new allegations have been received and there are 15 'live' investigations. The Board noted that there were three ongoing cases with the FRC where the outcome was awaited. MS advised that he was in regular contact with the FRC regarding these cases and he would keep the Board updated.</p> <p>It was noted that two Advisory Reports had been referred back to the investigation stage for further information. It was agreed that MS would have a discussion with the Convener of the Adjudication Panels to identify learning points. MS is to report back to the Board on these discussions.</p> <p>JSW advised that seven cases had been considered at the Adjudication Panel stage in the reporting period. Of the seven cases considered, four were dismissed and in three cases the Panel made a prima facie finding of Misconduct.</p> <p>A Capacity for Membership Review Hearing took place on 25 November 2019, concluding the case. At the February meeting, the Board will be provided with a Report on the learning points this first Capacity for Membership process.</p> <p>There were no Tribunals within the reporting period for the Case Update Report. The outcome of the 10 December 2019 Tribunal will be included in the next Case Update Report.</p> <p>JSW advised the Board that the next scheduled diet of Adjudication Panel hearings is at the end of January.</p> <p>The Board confirmed that they had accessed and reviewed the relevant determinations. It was noted that there was a paper from the Determinations Review Sub-Committee at item 9.</p> <p>The Board reviewed associated feedback from the panel members and legal advisers. It did not consider that any action was required over and above steps already being taken by the Convener.</p> <p>GR returned to the meeting.</p>	<p>MS</p> <p>SL</p>

Item	Title	Action
7	<p>2020 Objectives</p> <p>SL presented this paper and advised that it has been updated following discussions at the November Strategy Day. The purpose of this paper was to approve the Board's objectives for 2020. SL confirmed that the 2020 objectives would be included in the draft Annual Report, which will be published when approved by the Board.</p> <p>The Board was in overall agreement with the three broad objectives of (1) phase 2 of the Scheme Review (2) communication initiatives and (3) oversight of the disciplinary process, including maintaining and further improving the quality of hearings and providing further training support. These were approved in principle.</p> <p>Feedback on the breakdown of each objective was provided. This will be incorporated into the draft Annual Report wording. JW offered support in addition to SR in the drafting of the objective section of the Report.</p>	<p>SR/JW/ KM/SL</p>
8.	<p>Transparency</p> <p>The Board concluded its consideration of governance by agreeing a number of changes to enhance the transparency of its work, using the following guideline principle: -</p> <p><i>This Board follows the principles of good regulation, consistent with the IFoA regulatory strategy. In doing so, the Board is committed to dealing with all matters falling within its terms of reference in as transparent a way as is appropriate, to demonstrate its public interest rationale, its independence, and its adherence to each of the principles of good regulation. Further, the Board notes the wider benefits of the principle of transparency to encourage engagement on its policy work from members, stakeholders and the public. The sensitive and confidential nature of the work of this Board means that the principle is qualified, balanced against considerations of confidentiality, privacy and data protection. Any decision based on the principle of transparency, to publish the work of this Board or other, must balance these considerations in the public interest.</i></p> <ul style="list-style-type: none"> • The Board will continue to publish profiles of Board Members in its Annual Report, also now available on the website and with additional detail supplied. (Board Members to approve draft profiles before publication). • Board Minutes to continue to be published, together with publication of forthcoming meeting dates. Draft agendas to be circulated to regulatory boards in advance for comment and consideration to be given to more contemporaneous publication of minutes. • The terms of reference of sub committees and working parties of this Board to be published in addition to the terms of reference of this Board. A summary of the purpose of and the work carried out by sub committees/working parties will be given in the Annual Report and consideration will be given to whether an Actuary article would be of value. • A standing item to be added to meetings as routine, to give active consideration as to whether any additional items from the meeting should be published, in the public interest. <p>The Board noted the key role of its Annual Report in recording a fair appraisal of the Board's work as demonstrating transparency.</p>	<p>All</p>

Item	Title	Action
9.	<p>Report from Determinations Review Sub-Committee</p> <p>GS presented this item as Chair of the Sub Committee. Eight determinations were reviewed.</p> <p>The Board was pleased to note that, in general, the Sub Committee considered that the determinations were of a high standard.</p> <p>The Board agreed with the Sub-Committee's recommendations regarding feedback to the relevant Conveners and Chairs, including the proposal to use the public written determinations as training tools; where the matter is fully concluded.</p> <p>JH thanked GS for his contribution as Chair of the Sub Committee.</p> <p>It was noted that the next meeting of the Determination Review Sub Committee will be in May 2020. A new Chair will need to be appointed prior to the meeting due to GS's retiral from the Board. SR asked for an actuary member of the Board to volunteer to the Sub Committee.</p>	<p>JSW</p> <p>GR/KD/ SOR/JW</p>
10	<p>Professional Skills</p> <p>JH presented this noting paper and advised that she has been working with the Professional Skills Team to include a section on the Disciplinary Scheme. It is expected that the materials will be rolled out in July 2020.</p> <p>The Board was pleased to note the progress in this area.</p> <p>JH to put JW in touch with the Head of Professionalism for further information.</p>	<p>JH</p>
11.	<p>Disciplinary Appointments Committee update</p> <p>JSW provided an update to the Board on the work of the DAC. The Board was asked to support the DAC in its work by promoting interest in the forthcoming vacancies (actuary and lay), and to continue to its ongoing regular communication regarding necessary skills sets with the DAC. The new DAC Chair will attend an upcoming meeting of the Board to allow the Board to discuss the work of the DAC.</p>	<p>All</p>

Item	Title	Action
11	AOB	
	The following matters were discussed under AOB: -	
	<ul style="list-style-type: none"> KD and AH provided their positive feedback from observing the Tribunal on 10 December. It was agreed that a bespoke feedback template for Board feedback on tribunals should be created. 	JSW/SR/AH
	<ul style="list-style-type: none"> The provisional telephone meeting on 22 January 2020 will be cancelled as not required. 	
	<ul style="list-style-type: none"> The Board noted the upcoming retirements of GS and SM. SL agreed to look into current plans for transitional arrangements and update SR in advance of his meeting with the DAC Chair. 	SL
	<ul style="list-style-type: none"> The Board was reminded that 2020 meetings could be attended via videoconference attendance, with meeting rooms in both London and Edinburgh available. CM to circulate guidance on effective hosting for meetings held via videoconference. 	SL/CM
14.	Management Board updates for Chairs	
	The Board noted that there was no update on this occasion.	
15.	Regulation Board update for Chairs	
	The Board noted this update.	
16.	Lifelong Learning Board Update	
	The Board noted this update.	
17.	Board Remit	
	The Board noted its own terms of reference	
18.	Schedule of term times	
	The Board noted this and there are two upcoming retirements.	
	There being no further business the meeting closed at 15:00	

Dates of next meetings: 11 February, 5 May, 30 September and 9 December (Oxford).