



Disciplinary Board

30 September 2020, Time: 10:00 – 13:00

By video conference

Attending:	Stephen Redmond (lay member and Chair) (SR) 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) Gordon Sharp (actuary member) (GS) (from 11am onwards) Jim Webber (actuary member) (JW)
In attendance:	Jacqui Reynolds, Chair of Investigation Actuary pool (JR)(item 6) Hemal Naran, Trustee of the IFoA Foundation (HN) (item 11)
Absent:	Athene Heynes (lay member) (AH)
Executive Staff:	Kirsten Mavor, Secretary to Board (KM) Michael Scott, Head of Disciplinary Investigations (MS) Julia Wanless, Judicial Committee Secretary (JSW) Sarah Borthwick, Case Manager (SB) (item 7) Catherine Mouat, Disciplinary Investigations Coordinator (CM) (note taking)

Item	Title	Action
	Welcome, apologies and conflict check	
	<p>The Chair opened the meeting and welcomed the Board Members. The Chair advised that the following individuals would be joining the meeting (i) Jacqui Reynolds, Chair of the Investigation Actuary pool (item 6 and 12) (ii) Hemal Naran, Trustee of the IFoA Foundation (item 11) and Sarah Borthwick, Project Manager of the Scheme Review (item 7).</p> <p>GS will be joining the meeting at 11am. There were no other apologies from Board Members but it was noted that AH would not be joining the meeting.</p> <p>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.</p>	

Item	Title	Action
1.	<p>Chair and Executive Updates</p> <p>The Board noted the Chair’s Update on activities since the last meeting in July. SR also provided an update on the recent meeting between the Chair of the Regulation Board, Chair of Lifelong Learning Board and SR. One of the main topics of this meeting was the proposed changes to the IFoA’s regulatory governance. SR advised the Board that it would be provided with a further report from the Executive by November and suggested a further short meeting should be arranged to discuss the report.</p> <p>The Board Members discussed the recent resignation of AH. SR expressed regret regarding AH’s resignation as her valuable contributions to the Board’s discussions and work will be missed. It was noted by the Board that AH had indicated that the regulatory governance review had been one of the factors in her decision to resign. SR confirmed that he would be writing to AH and he would provide a copy of the letter to the Board. SR is also meeting with the Chair of the Disciplinary Appointments Committee to discuss the approach to recruitment.</p> <p>The Board noted the Executive’s Update and commented on Board Member attendance at upcoming Tribunals. It was noted that the operational oversight objective in the Annual Report refers to increasing the number of Tribunals observed “<i>to identify any opportunities to improve the efficiency and fairness of the process</i>”. It was agreed that, where possible, one Board Member will attend all Tribunals and will provide formal feedback to the rest of the Board. A questionnaire will be issued immediately after the hearing to facilitate this.</p> <p>It was noted that the test to be applied by Disciplinary Tribunals when considering an application for costs against a regulator had been clarified following a recent Court case. KM referred to a recent blog from the IFoA’s solicitors on this and advised that she would circulate it to the rest of the Board.</p>	<p>KM</p> <p>SR</p> <p>KM</p>
2.	<p>Minutes</p> <p>The Board approved the draft minute of the meeting of 1 July 2020 subject to some minor changes being made to the wording of section 4. It was agreed that after these amendments are made, the minutes should be published. No redactions are necessary before publication.</p>	
3.	<p>Action List</p> <p>The Board discussed this and confirmed that it was satisfied with progress against the action list.</p>	
4.	<p>2020/21 Objectives</p> <p>The Board noted the cover paper, project plan (Board priorities) and traffic lights report. KM advised that due to the impact of Covid-19 some areas of the traffic lights report had been marked as amber. Further detail would be added to the project plan once the timeframe for the Scheme Review project had been finalised.</p> <p>The Board’s proposed plan to put forward a proposal for lay parity on the Board has been put on hold due to the regulatory governance review and this should be reflected in the traffic lights report.</p>	

Item	Title	Action
5.	<p>Risk Register</p> <p>The Board considered the updated Risk Register and suggested the following amendments: -</p> <ul style="list-style-type: none"> • The classification of the overall risk relating to the quantity and quality of volunteers should be changed to high and the residual risk to medium. The Board noted that the IFoA was in the fortunate position of having a high level of volunteer engagement but this is not guaranteed going forward. • For the risks related to the Scheme Review it was agreed that a further mitigation should be added “Explicit consideration of risks associated with key changes to the Scheme, including consideration of potential adverse consequences”. <p>Otherwise the Board was content with the risks identified and the steps being taken to mitigate these risks as referred to in the Risk Register.</p>	
6	<p>Case Update Report</p> <p>GR left the meeting at the start of this item. JR joined the meeting to observe the presentation of the Case Update Report and to provide her observations as Chair of the Investigation Actuary pool.</p> <p>Before considering the Case Update Report, MS provided the following information: -</p> <ul style="list-style-type: none"> • There has been a small number of new cases relating to comments made by Members on social media. This is something that other regulators are also experiencing. The IFoA’s Professionalism Team is aware of this and is working on material for future professional skills training. • The Disciplinary Investigations Team is looking at ways of speeding up the investigation process including producing a more concise and focussed investigation report. <p>MS and JSW presented the Case Update Report. Since the last Board Meeting on 1 July 2020, three new allegations have been received and there are 17 ‘live’ investigations. With regard to the three ongoing cases with the FRC, MS had been advised by the FRC Executive that these cases would be considered by the Conduct Committee in October. MS confirmed that he will keep the Board updated.</p> <p>JSW advised that five cases had been considered at the Adjudication Panel stage in the reporting period. No Tribunals were held during the reporting period.</p> <p>The Board asked for the Case Update Report to include commentary on how the timescales compared to the last reporting period or some alternative indicator of trends in timescales.</p> <p>JSW confirmed that three linked determinations at the Adjudication Panel stage were referred to the Independent Examiner with the outcome being that the referrals were not accepted and the matters have now concluded.</p> <p>The Board confirmed that they had accessed and reviewed the relevant determinations and Independent Examiner Reports.</p>	MS/JSW

Item	Title	Action
	<p>The Board reviewed associated feedback from the panel members and legal advisers. It was noted that there were some comments relating to the role of the Investigation Actuary, the expertise of panel members and the use of experts at the Adjudication Panel stage. The Board was content that it was appropriate for Investigation Actuaries to provide their view on matters on the basis that no recommendations were being made in what is a factual report. This should not be treated as an expert opinion and experts would be instructed where it was proportionate and appropriate to do so. It was noted that it was more likely that experts would be appointed for cases referred to a full Tribunal hearing rather than at the Adjudication Panel stage. The Board was satisfied that the appropriate steps were being taken to ensure that the Adjudication and Tribunal panels had the appropriate and relevant expertise relevant to the area of practice raised in the allegations or charges it is asked to determine.</p> <p>The Board also noted the detailed feedback from an individual who had referred the panel determination of an allegation to the Independent Examiner. The Independent Examiner did not accept the referral. The Board agreed that the Executive had followed the appropriate processes in relation to this feedback and it would not be necessary for the Board to comment further.</p> <p>It was agreed that for future meetings a covering paper should be provided by the Executive providing commentary on feedback, where appropriate to do so.</p> <p>GR returned to the meeting and JR provided her observations as Chair of the Investigation Actuary pool. JR commented on the following:</p> <ul style="list-style-type: none"> Approximately 50% of cases the IFoA investigates involve Respondents based outside the UK. This presents challenges in terms of accessing information which can impact timescales. Access to information can be challenging in cases including those at the pre-investigation stage. This especially applies when you are trying to get information from a third party who is not a Member of the IFoA. This was discussed further under item 13. JR is aware of the changes to the CPD Scheme and would like more information on how this will impact on referrals to the Disciplinary Scheme. It was agreed that the Regulation Board be asked in what circumstance there may be disciplinary referrals in terms of the new CPD Scheme. JR questioned whether the IFoA was doing all it should be to recover costs. The Board referred to the recent changes made in this area and said that it was now possible to recover full investigation costs at the Tribunal stage. The Board assured JR that this was an area that it was closely monitoring. <p>The Board thanked JR for her contributions and her valuable input as Chair of the Investigation Pool. JR left the meeting at this point.</p>	<p>JSW/MS</p> <p>MS</p> <p>MS</p>

Item	Title	Action
7	<p>Scheme Review Update</p> <p>SB joined the meeting for this item and presented the update paper. Due to the impact of Covid-19, the Scheme Review was paused to allow for the Executive to focus on progressing public interest cases. This project has now been recommenced. SB confirmed that a revised timetable will be made available to the Board in October. SB also confirmed that Working Party meetings have been scheduled for October and November and the Chair of the Working Party will be attending the December Board meeting where some proposals will be presented for approval.</p>	SB
8.	<p>Training Programme</p> <p>KM presented this item and advised that the feedback from the 2019/20 training programme for panel members was positive overall. The feedback suggested panel members missed the networking and discussion opportunities that in-person training sessions provide. Whilst training will continue to be provided online, it was agreed that all steps should be taken to ensure that the training programme is as interactive as possible and, where appropriate, there is opportunity for group discussion.</p> <p>It was agreed that panel members should be encouraged to repeat the training on unconscious bias due to the importance of the subject. It was further agreed that the blog on the distinction between dishonesty and integrity should be updated and provide more context on how this is relevant to the panel members' role.</p> <p>The Board approved the list of topics put forward for the 2020/21 training programme. The Executive will work towards this training programme being delivered by the end of the corporate year.</p>	
9.	<p>Determinations Review Sub Committee</p> <p>GS advised that the Sub Committee met on 3 July 2020 and reviewed 18 determinations. Overall the level and quality of reasoning was high. The Sub Committee identified a couple of areas for training which have been included in the training programme for 2020/21.</p> <p>The Board agreed with the Sub Committee's recommendation that feedback should be provided to the panel in relation to a case that involved conduct in a Member's private life. It was noted that this area had been included in the training programme. The Board also agreed that the matters identified as relevant to the Scheme Review should be passed on to the Working Party.</p> <p>The Board discussed whether it was appropriate to review the Sanctions guidance given that the Sub Committee had identified that the level of reasoning for sanctions could be improved. It was noted that the Sanctions guidance alongside all other guidance will be reviewed once the Scheme Review is complete. It was agreed that Board Members could contact MS if they considered there were any immediate changes required to the Sanctions guidance before the post Scheme Review update.</p> <p>It was confirmed that VS will be joining the Sub Committee. It was further confirmed that GS would be leaving the Sub Committee after the next meeting and Board Members were asked to volunteer if they wish to join. An effectiveness review will be carried out at the Sub Committee's 13 November meeting and the Board was asked to provide any input on this by 14 October.</p>	<p>JSW</p> <p>KM</p> <p>AII/MS</p> <p>AII/KM</p>

Item	Title	Action
10	<p>FRC Annual Report and Private Oversight Report.</p> <p>A Noting paper had been prepared providing the Board with a copy of both these reports. If the Board has any questions on the content of either of these Reports they should contact MS or Suzie Lyons, Head of Legal Services.</p>	
11	<p>IFoA Foundation</p> <p>On behalf of the IFoA Foundation, HN (trustee of the IFoA Foundation) joined the meeting and provided a presentation on what the IFoA Foundation does. HN advised the Board that the IFoA Foundation had been recently established and it combined the work of three different charities. HN confirmed at the end of the presentation that he was happy to answer any questions the Board may have about the work of the IFoA Foundation.</p>	
12	<p>Discussion with Jacqui Reynolds</p> <p>This item was dealt with after the conclusion of item 6.</p>	
13.	<p>AOB</p> <p>JR had observed that while the IFoA could compel members to cooperate with any disciplinary investigation and provide such information as may be required, it had no powers to compel non-members to provide information. MS advised that regulators set up by statute often had this power but bodies set up by Charter did not. The Board asked whether there was any way that the IFoA could strengthen its powers to obtain information from non-members, such as by Charter amendment or otherwise. It was agreed that this should be considered further although MS cautioned that an amendment to the Charter was not a feasible option as it would not be binding on non-members and to get such powers would require primary legislation.</p> <p>SR advised that the Disciplinary Appointments Committee will shortly begin recruiting for a new lay member for the Disciplinary Board. If any of the Board have any suggestions about what experience and skill set they would like this Board Member to bring, they should contact SR.</p> <p>It was agreed that there were no papers before the Board where it would be appropriate to publish.</p>	<p>MS</p> <p>All/SR</p>
14.	<p>Regulation Board update for Chairs</p> <p>The Board noted this update.</p>	
15.	<p>Lifelong Learning Board Update</p> <p>The Board noted this update.</p>	
16.	<p>Board Remit</p> <p>The Board noted its own terms of reference</p>	
17.	<p>Schedule of term times</p> <p>The Board noted this and noted the two upcoming retirements had been extended until 31 December 2020.</p>	

Item	Title	Action
18	Forward Planning Schedule	
	The Board noted this and are to provide any comments to KM if there is anything to be added.	

Date of next meeting: 9 December 2020