



Disciplinary Board

26 September 2019, Time: 13:00-17:00

Holborn Gate, London

Attending:	Stephen Redmond (lay member and Chair) (SR) Athene Heynes (lay member) (AH) Velia Soames (lay member) (VS) Gordon Sharp (actuary member) (GS) (via video conferencing (vc)) George Russell (actuary member) (GR) Kevin Doerr (actuary member) (KD) Simon Martin (actuary member) (SM) Simon O'Regan (actuary member) (SO) Jim Webber (actuary member) (JW)
In attendance:	Ian Farr, Chair of Scheme Review Working Party (IF) (item 12 onwards)
Executive Staff:	Kirsten Mavor, Secretary to Board (KM) Michael Scott, Head of Disciplinary Investigations (MS) Julia Wanless, Judicial Committee Secretary (JSW, via vc) Sarah Borthwick, Case Manager (SB) 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 and there was one apology from Suzie Lyons, Head of Legal Services. Board Members were asked to raise any conflicts arising from the agenda. GR advised that he had previously raised conflicts in relation to two cases referred to in the Case Update Report at item 5. It was agreed that he would leave the meeting if the particular cases were discussed.	
1.	Chair's Update The Chair updated the Board on developments since the last meeting in June. This included the following: - <ol style="list-style-type: none">1. There has been further meetings of the Scheme Review Working Party and the high level recommendations will be presented at paper 12.2. SR has worked with the Executive on a blog which has now been published on the IFoA's website. The blog provides observations on SR's first six months as Chair of the Disciplinary Board and refers to the work of the Scheme Review Working Party. It was agreed that the link to the blog should be circulated to the Board Members.	KM

Item	Title	Action
	<p>3. SR will be commencing regular meetings with the Chair of the Lifelong Learning Board and the Chair of the Regulation Board. The first of these meetings takes place on 2 October.</p> <p>4. Des Hudson has been appointed as interim Chief Executive Officer of the IFoA. SR will have the opportunity to meet further with Des Hudson in his capacity as interim CEO at the meeting of all IFoA Chairs on 31 October.</p>	
2.	<p>Minutes</p> <p>The Board approved the draft minute of the meeting of 18 June 2019 and noted that the minute will be published in full.</p>	
3.	<p>Action List</p> <p>The Board noted the Action List and the updates provided by the Executive staff. KM confirmed that all of the actions from the last Board meeting were now complete with papers being presented at items 8, 9 and 10.</p> <p>The Board confirmed that it was satisfied with the action list.</p>	
4.	<p>2019 Objectives</p> <p>The Board noted the cover paper, project plan (Board priorities) and traffic light report. KM advised that the Board was on track for meeting its 2019 objectives with the two main priorities for the remainder of the calendar year being (i) rolling out the online training programme to panel members and (ii) progressing the Scheme Review.</p> <p>It was agreed that the Board should be provided with access to the training materials once they have been rolled out to panel members. Also, the Board would like to be provided with copies of all general communications to panel members and legal advisers.</p> <p>The Board noted progress and that there was a paper from the Scheme Review Working Party with its high level recommendations at paper 12.</p>	<p>KM/JSW</p>
5.	<p>Case Update Report</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 18 June 2019, seven new allegations have been received and there are 14 'live' investigations altogether. MS advised the Board that the Scheme Review had placed pressure on resources within the Disciplinary Investigations Team. Steps have been taken over the last two quarters to ensure that the public interest responsibility of carrying out full and thorough investigations in a timely matter is still being met. MS confirmed that he will continue to manage the caseload to ensure this remains the situation and will update the Board.</p>	

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	<p>GR left the room as MS provide an update to the Board on the public interest cases with the FRC. After this discussion was complete, GR returned to the meeting.</p> <p>JSW advised that 20 cases (16 of which relate to the same matter) had been considered at the Adjudication Panel stage in the reporting period. Of the 20 cases considered, one was dismissed, one referred to the Disciplinary Tribunal Panel and the remaining cases were either on hold or awaiting further investigation.</p> <p>JSW advised the Board that the next scheduled meeting of the Adjudication Panel was at the end of October and she expected seven cases to be considered. JSW noted that the new approach to setting Adjudications Panels had an impact on the six week timeframe from referral to the Adjudication Panel meeting being met. This was noted by the Board and it was agreed that it should be monitored and reported on at the next meeting.</p>	
	<p>The Board confirmed that they had accessed and reviewed the relevant determinations. SR encouraged Board Members to attend a Tribunal as an observer as this allows Board Members to see how the process works. It was agreed that when the next Tribunal is set the date should be circulated to the Board Members.</p>	KM
	<p>The Board considered the feedback from the panel members and legal advisers. It noted that some feedback had been received on how papers were provided for panels. Whilst the Board agreed that the most secure format for distributing papers should be used, the feedback provided should be acted on. It was agreed that JSW will provide 'user tips' on accessing the papers next time she sends panel papers out. No further actions were identified from the general feedback.</p>	
	<p>The Board noted that specific feedback had been provided by an individual who referred an allegation. After considering the correspondence, the Board was satisfied with the approach taken by the Judicial Committee's Secretary/Head of Legal Services and did not consider it was necessary to respond further. However, it was noted that the relevant determinations would be considered by the Determinations Review Sub Committee. Also, it was agreed that both the Board and the Executive should consider as part of its 2020 objectives how communication about the disciplinary process as a whole and, in particular, with the person who refers the allegation, could be improved.</p>	
	<p>There was a general discussion about the difficulties in obtaining independent expert to assist with investigations. It was noted that fewer actuaries are taking on this type of work. It was agreed that SR will discuss this with the IFoA's General Counsel when they meet next month.</p>	
	<p>It was noted that there were no referrals to the independent examiner during this reporting period.</p>	SR

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6	<p>FRC Oversight and Governance Reports</p> <p>MS presented this paper on behalf of Suzie Lyons, Head of Legal Services. MS advised the Board that the IFoA has now received the FRC's Private Oversight Report for the period ending 31 March 2019. This Report is provided by the FRC every year and is one of the inputs into the Actuarial Appendix of the FRC's Annual Report. MS confirmed that most of the points identified in the Private Oversight Report have been incorporated into the Scheme Review Project.</p> <p>The FRC also carried out a one off review of regulatory governance at all bodies for which it had oversight responsibility, including the IFoA and the paper resulting from this review is included in the papers. MS advised that the Regulation Board is presently looking into its regulatory governance arrangements and the Board will be kept apprised to ensure that any changes it proposes to its own governance arrangements were consistent. The Board will have the opportunity to discuss its own governance at its own strategy day on 19 November 2019. The Board asked for details of where the FRC reports on the public interest cases it is investigating. It also asked for details of the Bar Standards Board and Ofcom's governance arrangements as they are referred to by the FRC in its own Report.</p> <p>SR advised that he is meeting with the Chairs of the Regulation Board and Lifelong Learning Board on 2 October. He will discuss at this meeting arrangements for the Chairs to meet the FRC and the FRC's request to observe board meetings. SR will report back to the Board on this.</p> <p>MS provided an update on the Kingman Review. He advised that we had hoped to be in a position to provide an update on developments but the current political climate had affected the timetable and HM Treasury had not yet published its intended consultation paper. The IFoA has in place a Steering Group which is in regular discussions with HM Treasury and the Board will be advised when progress has been made on these discussions.</p>	<p>KM</p> <p>SR</p>
7.	<p>Member/Non Member Stakeholder Research</p> <p>SB presented this paper on behalf of Suzie Lyons. She advised that a 400 club Survey has been carried out about the disciplinary process. The 400 club is a group of IFoA member volunteers who are periodically asked for views on different actuarial matters. The Board was asked to note the particularly high response rate to this survey. It was noted that there were four key messages from the survey (1) 'lessons in avoidance' should be provided (2) there should be improved communications about the existing disciplinary process (3) improved communication on how the effectiveness of the disciplinary process is assessed and (4) guidance should be provided on the cultural and practical challenges of an international disciplinary process. It was agreed that these themes should be considered in more detail by the Board at its strategy day.</p> <p>SB advised the Board that the output from the 400 club survey had been fed into the Scheme Review and, in general, supported the approach of maintaining a misconduct regime.</p>	

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	<p>SB advised the Board that the Executive were currently carrying out a number of interviews with non-Member stakeholders about the disciplinary process. The output from these interviews will be considered by the Working Party and will also be reported to the Board.</p>	
8	<p>Public Interest Cases</p> <p>MS presented this noting paper on what arrangements may need to be put in place post Kingman in relation to disciplinary investigations. At its last meeting the Board had asked for the Executive to consider how public interest cases would be handled by the IFoA if the post-Kingman arrangements were for the IFoA to take back responsibility to investigate these types of cases. MS reminded the Board that the IFoA currently investigates non-UK public interest cases. MS said that more resources would be required both in the Executive and the Investigation Actuary Pool. MS stressed that the paper only sets out possible options and no firm steps can be taken until the oversight arrangements are confirmed by HM Treasury. More widely the IFoA had in place a Steering Group which was scenario planning for the impact of HMT recommendations based on a range of possible outcomes.</p>	
9	<p>Board Collective Appraisal</p> <p>SR presented this paper. He advised that as part of his role as Chair of the Board he will be appraising both the effectiveness of the Board as a whole and also individual Board Member's contributions. SR thanked all the Board Members for completing the collective appraisal survey. The anonymous results have been included in the papers for the Board Members to consider. A further, more detailed discussion, will take place at the Board's strategy day on 19 November. SR will carry out individual appraisals in Q1 of 2020.</p>	
10.	<p>Costs Guidance Policy</p> <p>MS referred the Board to the fact that this matter was initially considered at the June Board Meeting and further information had been requested. A table has now been provided setting out the costs sought by the IFoA and those recovered at the Disciplinary Tribunal Panel stage.</p> <p>MS advised that he was seeking approval of an amendment to the Costs Guidance Policy to ensure that the Disciplinary Tribunal Panel is provided with enough information to make an informed decision about costs. The Board made some suggestions to the wording of the Costs Guidance Policy. Subject to these minor amendments being made, the Board is willing to approve the revised wording. It was agreed that the revised wording would be circulated to the Chair for final approval, before publication.</p> <p>It was agreed that a copy of the standard letters that are sent to Respondents at both the Adjudication Panel and Disciplinary Tribunal Panel stage will be circulated to the Board Members.</p> <p>MS confirmed to the Board that recovery of costs is one area that was being considered in more detail as part of the Scheme Review project.</p>	<p>MS</p> <p>MS</p>

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11	<p>JSW provided an update to the Board on the work of the Disciplinary Appointments Committee (DAC). In particular, JSW asked the Board to note:</p> <ol style="list-style-type: none"> 1. That the current Chair, James McNeill QC was retiring at the end of September. The Board wished to convey it's gratitude to the current Chair for his contribution to the work of the DAC over the last six years. 2. A new Chair, Richard Jones QC has been appointed to the role of Chair of the DAC. SR will meet with the new Chair shortly and he will also be asked to attend the Board's Q1 meeting. 3. There is currently a vacancy for an actuary member on the DAC. 4. Any assistance the Board is able to provide to the DAC in highlighting vacancies, in particular Investigation Actuary vacancies, to Members would be appreciated. 	
12	<p>Scheme Review</p> <p>Ian Farr FFA (IF), Chair of the Working Party joined the meeting to present the paper on the Scheme Review. IF introduced himself to the Board and provided details of his background and experience as a Chair and panel member for the IFoA. He also summarised why he was interested in chairing the Working Party.</p> <p>All those present introduced themselves to IF and advised what their role was. IF noted he had already met the members of the Board who are also members of the Working Party. IF recognised that the Working Party also benefited from the contributions of two lay members who had valuable experience and insight from other regulators.</p> <p>IF confirmed that he had worked closely with both the Executive and the Working Party to ensure that the Working Party was in a position to present its recommendations on high level principles to the Board for approval. IF advised that the purpose of today is to seek Board approval of the recommended high level principles rather than delve into the detail of how these principles would operate in practice. IF asked the Board to note that more detail on the process, rules and policies would be provided at the December Board meeting.</p> <p>IF referred the Board to paper 12.2 and the table which summarised the principles examined by the Working Party, the recommendation made and the rationale behind each recommendation. IF presented each of the 22 principles covered by the Working Party and answered questions from the Board on why the particular recommendation had been reached. After a thorough discussion the Board reached the following conclusions: -</p> <ol style="list-style-type: none"> 1. The Board was pleased to note the level of work and research behind the Working Party's high level recommendations. It was noted that the Board at its June meeting had, in principle, agreed with the Working Party's initial recommendation to retain a misconduct regime. After considering all of the high level recommendations, the Disciplinary Board remained of the view that a misconduct regime was the appropriate fit for the membership of the IFoA. 	

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	<p>2. The Board discussed and agreed with the principles identified at the start of paper 12.2 as summarising the key priorities when reviewing the disciplinary process. It was noted that the Working Party was committed to ensuring that all process documents were presented in a clear and accessible manner.</p> <p>3. After considering the table at paper 12.2 in detail and questioning the explanation behind the rationale for each individual principle, the Board agreed that it was in a position to approve each of the 22 high level principles. The principle relating to seeking costs at the Adjudication Panel stage was approved by the majority of the Board but one member expressed some reservations about this recommendation.</p> <p>4. With regard to the international aspect of the disciplinary process, it was the Working Party's view that this was something the Disciplinary Board should examine further. The Board noted the Working Party's suggestions on how awareness and application of the disciplinary process could be developed internationally and said they would consider this further at their strategy day in November 2019.</p> <p>It was further noted that recommendations about the governance section of the Scheme will be considered by the Working Party at the next scheduled meetings with a report to the Board on this subject in December.</p> <p>The Board thanked both IF and the rest of the Working Party for all their hard work so far.</p>	
13.	<p>AOB</p> <p>KM advised that the Regulation Board Update will be circulated when available.</p> <p>KM also advised that the professional skills videos have now been published. These are a useful tool for messaging about key areas that are relevant to the disciplinary process. It was agreed that this is a useful resource and access to these videos should be provided to the lay members.</p> <p>The Board meeting dates for 2020 are close to being finalised and will be circulated to the Board Members shortly.</p> <p>There was a general discussion about the use of BoardPacks for distributing board papers. It was agreed that a training session should be offered to all board members when they are in Edinburgh in November.</p>	<p>KM</p> <p>KM</p>
14.	<p>Management Board updates for Chairs</p> <p>The Board noted that there was no update on this occasion.</p>	
15.	<p>Regulation Board update for Chairs</p> <p>The Board noted that an update will be circulated when it is available.</p>	
16.	<p>Lifelong Learning Board Update</p> <p>The Board noted this update.</p>	

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17.	<p>Board Remit</p> <p>The Board noted its own terms of reference</p>	
18.	<p>Schedule of term times</p> <p>The Board noted this and there are two upcoming retireals.</p> <p>There being no further business the meeting closed at 17:10.</p>	

Dates of next meetings: 19 Nov (strategy day) and 11 Dec.