



Mr Patrick Lee

29 April 2021

By email only to: patrick.lee@cantab.net

Dear Mr Lee

Letter to IFoA Disciplinary Board 25 Feb 2021 with concerns

Thank you for your email dated 25 February 2021 raising concerns with the disciplinary process. The Disciplinary Board discussed your comments in detail at a recent meeting.

The Board would like to pass on its gratitude to you for taking the time to raise your concerns about the IFoA's disciplinary process.

The Board noted that some of the concerns relate to a matter that is still "live." It would not be appropriate for the Board to comment further on a matter which will be subject to an independent decision making process. Also, it is not appropriate for the Board to comment on other cases you refer to on the basis that these matters are confidential and have also been independently determined.

The Board is able to provide a more general response in relation to the concerns raised as follows.

Concern 1

The Board's Annual Reports for 2018 and 2019/2020 (which were presented to Council before publication), referred to measures to improve cost recovery so as to mitigate the exposure of the wider membership to costs incurred where misconduct has taken place. In light of your comments the Board does intend to consider, at its next meeting, whether further steps need to be taken to communicate these changes to relevant stakeholders. It is important to note that the decision to award costs, and the amount, is a matter for the Tribunal's discretion having regard to the circumstances of individual cases and the interests of justice. It is not bound by the Board's guidance. Costs awards are made subject to the relevant case law, having regard to proportionality and the ability of the Respondent to pay.

Concern 2

The Board does not consider that any significant change has taken place. The extract from the published minute you included in your letter simply clarifies that complaints that are not in the nature of disciplinary allegations should not be investigated under the Disciplinary Scheme, unless the Executive Referral process identifies that the complaint may involve individual professional misconduct.

Concern 3

As with other professional bodies and regulators, the IFoA takes a blended approach in using in-house legal resource combined with, where appropriate, its external legal panel. The use of external legal support is always a deliberate decision, balancing capacity, cost, efficiency, risk mitigation and conflict management.

Concern 4

As stated, it is not appropriate for the Board to comment on decisions in other cases reached by the independent Tribunal. In general terms, how a case is pled is a matter of prosecutorial discretion having regard to the circumstances in each individual case. However, please be assured that feedback from previous cases is often taken into account when exercising this prosecutorial discretion.

Concern 5

Similarly, it is not appropriate for the Board to comment on the cases referred to in concern five however it has long been the case with the Actuaries' Code (as set out in the scope section), as with professional regulation more widely, that conduct outside work may be relevant if it reflects upon the reputation of the profession.

Concerns 6 and 7

In so far as it relates to publication, the guidance makes clear that it is a matter for the relevant Panel, not the IFoA, to consider and direct the form of publication. In cases where there is no finding of misconduct and a Respondent does not wish the determination to be published then a Tribunal will have regard to this in deciding on whether or not the determination should be published. For the avoidance of doubt, the decision with regard to publication is always made by the Tribunal.

Concern 8

It is not appropriate for the Board to comment on Concern 8, as this relates to a matter that has been independently determined.

Concern 9

The number of days for which cases are scheduled is based on experience of past cases bearing in mind the need to allow adequate time. If, in the event, a Tribunal runs for a shorter duration then the costs claimed will be reduced accordingly. It would not be appropriate for the Board to comment on the specifics of the Tribunal you refer to.

Concern 10

There was no intentional exclusion of any individuals from being able to view the hearing. The majority of Tribunals are open to the public and in the case you refer to it is the Board's understanding that the individual was unable to attend due to logistical reasons.

Please note that once the allegations raised against you are determined you will be provided with the opportunity to provide feedback on the overall process which will also be considered by the Disciplinary Board.

Yours sincerely

A handwritten signature in black ink that reads "Stephen Redmond". The signature is written in a cursive style and is enclosed within a thin black rectangular border.

Stephen Redmond
Chair of the Disciplinary Board