

THE UK ACTUARIAL PROFESSION

ED6 ACTUARIAL PROFESSION STANDARD

CONFLICTS OF INTEREST

1. Application & status

- 1.1 This Standard applies to all members of the UK Actuarial Profession and sets out the mandatory approach to conflicts of interest in any circumstance where a member gives professional advice or services. For the purposes of the Actuaries' Code and this standard, Faculty Students and Affiliates are considered as members and within the Actuaries' Code all members are considered as actuaries.
- 1.2 Please note that those sections of this Standard denoted by "*For amplification*" are intended only to explain and qualify the main sections of this Standard. Compliance with a "*For amplification*" section may be evidence of compliance with the related requirement, but non-compliance with such a section is not of itself a breach of a Standard.

2. The Conflict principle

- 2.1 The Actuaries' Code states: "*Actuaries take reasonable steps to avoid conflicts of interest. Where conflicts do arise they manage these in a professional manner including the disclosure of those conflicts to all affected clients, or, if appropriate, their employer.*"

3. General approach to conflicts

- 3.1 A member must not knowingly enter into any transaction or engagement that is likely to result in a conflict in interest, unless it is treated as a conflict situation and managed accordingly throughout.
- 3.2 A member must take reasonable steps to avoid the creation of a real or perceived conflict of interest with any client. "Reasonable steps" means that they need to take those measures or precautions which are within their own control to reduce or eliminate the likelihood of a conflict of interest.
- 3.3 A member must not take any step which leads to that member acquiring any direct financial interest in any third party which would create a conflict with the interests of an existing client, the member's firm or employer, or would otherwise prevent the member from continuing with any existing assignment. Further, the member must put arrangements in place such as to make this conflict situation unlikely to arise.
- 3.4 *For amplification:* Section 3.3 is not intended to prevent the acquisition of shares or options arising as part of a normal remuneration package.
- 3.5 *For amplification:* A member may have many clients. From time to time clients' interests may be in conflict, especially where they are competitors, but this does not necessarily constitute a bar on the member working for those clients. However, the member should take reasonable steps to ensure that any conflict does not relate to the activity the member is performing. Reasonable steps to

avoid a conflict arising may include warning a client of the likelihood of acting for another firm in the client's industry.

- 3.6 *For amplification:* Some necessary appointments inherently involve situations where parties have conflicting interests within the single appointment, and a member who acts will be faced with conflicts to manage. This does not mean that the appointment cannot be filled, and it would not be reasonable to be obliged to avoid such an appointment.
- 3.7 *For amplification:* Working on a contingent fee basis carries considerable risks of creating conflicts of interest and is highly likely to contravene section 3.2 above where it relates to the provision of actuarial advice being remunerated on such a basis if there is a significant risk it might be seen as compromising the integrity of the advice.
- 3.8 *For amplification:* Members need to be aware when accepting gifts that this may lead to a conflict of interest, or a perception of such a conflict. Whilst there need be no general practice to refuse gifts, the recipient must not be, or be perceived to be, compromised towards their clients or employers. Care must be taken to ensure that the actions of a related party do not give rise to a real or perceived conflict of interest, and where they do the member will need to consider the appropriate action.

4 Management of conflicts

- 4.1 **Where a conflict of interest arises, a member must put in place a satisfactory conflict management plan. If it is not possible to do so, then the member must cease to work for such party or parties as would remove the conflict.**
- 4.2 **A member must obtain informed and clear consent to a conflict management plan from all relevant parties for it to be considered satisfactory. Relevant parties are those with whom the member either directly or through the member's firm is under a contractual obligation.**
- 4.3 **A member must disclose sufficient information about a conflict to ensure a consenting party to the conflict management plan is able to give informed and clear consent. If any necessary information cannot be supplied due to confidentiality constraints, then a satisfactory conflict management plan will not be achievable.**
- 4.4 *For amplification:* Informed and clear consent requires that
 - a. the consenting party has the capacity to consider the information supplied, and
 - b. has, without any pressure, agreed to the proposed course of action.
- 4.5 *For amplification:* The member is responsible for ensuring informed and clear consent has been obtained and it would be prudent to obtain this consent in writing. If such consent is not in writing, the member may be held to be in breach of the Standard unless the consent is acknowledged by the consenting party at all relevant times in the future. Reliance upon implied consent carries a significant risk that it proves invalid.
- 4.6 *For amplification:* Where two parties with conflicts are related it is particularly important that consent is obtained formally and in a way which does not leave doubt as to the completeness of the consent. Implied consent is not normally acceptable in this situation.

5. Conflict Management Plans

- 5.1 A conflict management plan must indicate the permitted gateways for the use and transmission of information, and the limitations on such use and transmission of information.**
- 5.2 A conflict management plan must contain sufficient detail to indicate how situations reasonably expected to arise will be managed, and what steps will be taken when unexpected events occur.**
- 5.3 *For amplification:* It is important that limitations on the use of information for the benefit of a party, or on the passing of information to a party, are clearly set out and understood by that party before informed and clear consent is sought. Further, where there is a gateway intended for the information supplied by a party to pass to another party, this gateway must be clearly and unambiguously disclosed.
- 5.4 *For amplification:* A conflict management plan will be unlikely to be satisfactory if it attempts to manage the use of information in a way which it is not practical to apply in practice, such as by requiring a member to advise as if the member did not know some material fact.
- 5.5 *For amplification:* It is also unlikely to be possible to offer advice to both parties on an issue at the heart of a conflict situation, and a conflict management plan which attempts to disregard the reality of this is unlikely to be satisfactory.

6 Non-compliance with this Standard

- 6.1 The Actuarial Profession is committed to enforcing the Code through disciplining members who do not meet the standards of behaviour, integrity, competence or professional judgement which other members or the public might reasonably expect of a member. Failure to comply with the Code or this Standard may result in a member becoming liable to disciplinary action.**