

## **The Actuaries' Code and supporting Actuarial Practice Standards: a new approach to professional ethics**

In August we shared our thoughts on an early draft of The Actuaries' Code and invited feedback from the membership. We were delighted not only with the quality of the feedback but also the widespread support for much of the initial draft. In finalising the Code for formal exposure we took on board a lot of the suggestions but just as importantly we drew on the feedback on the 8 principles to help create the 8 supporting Actuarial Profession Standards. These are now exposed alongside The Actuaries' Code for your consideration.

As with the proposed Code, the supporting Standards seek to be principles-based and are drafted to be concise and easily comprehensible.

### **A new framework**

As we explained in the earlier consultation on the Code, we propose a new Actuarial Profession Standards framework comprised of;

- The Actuaries' Code (the Code),
- Actuarial Profession Standards (AP Standards), and
- Information and Assistance Notes (IANs).

The Code and the 8 AP Standards are intended to replace the current PCS and do not impose significant additional requirements on members. In due course, other related Standards will come forward to complement these initial Standards the first of which is a Standard dealing with specific Conflicts of Interest issues for pensions actuaries. The Chairman of the Pensions Board will issue a communication about this in the near future. Where required Standards will be further supported by IANs which will not be mandatory. We intend our framework to complement the conceptual framework for technical actuarial standards being developed by the Board for Actuarial Standards and will work cooperatively with them to achieve this.

### **The Actuaries' Code**

The Code has been drafted as a high level principles-based document which we hope captures the core principles of what guides us as professionals. We have identified 8 core principles, each supported by a Standard.

In the feedback received there has been a broad consensus on the 8 principles, although a small number suggested that we might merge one or other of the proposed principles. In particular, some people believed that Commencing Appointments was not useful of itself and might be "distributed" between Conflicts and Conduct, whilst others suggested that Confidentiality afforded too much leeway for actuaries to obviate their whistle blowing responsibilities and could be dispensed with altogether. We would particularly welcome views on these two issues both for and against.

A small number of respondents commented that they did not like what they saw as an artifice to make all of the principles begin with C but probably more people welcomed it as an attempt to make the principles and the Code more memorable. In fact, the Cs only emerged late in the process, and were not the basis for arriving at the Code.

A number of people questioned the move towards principles rather than rules, in part because of the lack of prescription in principles-based regulation, but in number they were

overwhelmed by those that supported the move. We have however taken on board a number of material and drafting changes to the Code and we hope that this revised version will find widespread favour. The Actuaries' Code can be accessed on the Profession's website (following the link from the homepage).

ED1 The Actuaries' Code

### **Actuarial Profession Standards**

The 8 Standards to support the Code are now exposed for the first time. We have recognised that it is useful to have some interpretation assistance within the Standard which, although useful, will not be mandatory. Therefore we have drafted the Standards using a format where those sections in bold are mandatory whilst those sections not in bold are not. To reinforce this each of the non-mandatory sections is prefaced with *For amplification*. Again we hope that the membership will find this useful.

As with the Code, we have attempted to pare these Standards right back to the essential elements. This does not prevent the issuing of an IAN in the future should further assistance prove necessary. The 8 Standards:

ED2 AP Standard Conduct  
ED3 AP Standard Common Good  
ED4 AP Standard Competence  
ED5 AP Standard Compliance  
ED6 AP Standard Conflicts  
ED7 AP Standard Confidentiality  
ED8 AP Standard Commencing Appointments  
ED9 AP Standard Communication

can likewise be accessed from the homepage on the profession's website.

### **Consultation Meetings**

We hope that the Code and the Standards will be seen as a bold innovative step in the regulation of our Profession and we are keen to have a debate on these and the future shape of our regulation. As part of this exposure and debate process we have arranged consultation meetings for;

20 November 2007 commencing at 1700hrs at Staple Inn, High Holborn, and

17 December 2007 commencing at 1700hrs at Maclaurin House 18 Dublin Street, Edinburgh.

### **Your views**

Any comments on The Actuaries' Code or the proposed Standards should be addressed to [code@actuaries.org.uk](mailto:code@actuaries.org.uk). The deadline for feedback is Friday 4th January 2008.

### **What will happen next?**

The intention is to publish the finalised Code and the 8 Standards to be effective from 1st April 2008.

**Andrew Chamberlain**  
**Chairman Professional Affairs Board**

## THE UK ACTUARIAL PROFESSION

### ED1 THE ACTUARIES' CODE

The Actuaries' Code sets out the broad principles of behaviour for all members of the UK Actuarial Profession including for the purpose of the Code students and affiliates of the Faculty. The UK Actuarial Profession comprises the Faculty of Actuaries and the Institute of Actuaries.

The principles are not set down as precise rules and thus each member will need to apply his or her professional judgement considering the context in which they are operating at any given time.

The principles are supported by Actuarial Profession Standards, which lay down additional requirements.

Members who disregard the principles or operate outside their reasonable interpretation may be guilty of misconduct under the Profession's Disciplinary Schemes. Members who depart from the principles must be ready to justify themselves and they are recommended to discuss the departure with a senior professional colleague in advance and to maintain a record of that consultation.

The principles, which notwithstanding the use of the term "actuaries" apply to all members, are;

<b>Conduct</b>	Actuaries act with honesty and integrity undertaking their duties in the best interests of their clients (who may be their employer).
<b>Common Good</b>	Actuaries conduct themselves in a manner that has due regard to the wider public interest, shows appropriate consideration for others and supports confidence in the Profession
<b>Competence</b>	Actuaries undertake all their professional duties with up-to-date knowledge, skill and care.
<b>Compliance</b>	Actuaries conform to all relevant standards and regulations as required and seek to uphold those by speaking up where appropriate.
<b>Conflicts</b>	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.
<b>Confidentiality</b>	Actuaries respect the legitimate confidentiality requirements of their clients or employer.
<b>Commencing appointments</b>	Actuaries take reasonable steps to verify that it is appropriate for them to act before accepting any appointment.
<b>Communication</b>	Actuaries communicate information and advice, whether written or oral, in a clear, complete and effective fashion so that the recipient of that advice can be expected to understand it.

These are the eight Cs that should guide actuaries and other members.

# THE UK ACTUARIAL PROFESSION

## ED2 ACTUARIAL PROFESSION STANDARD

### CONDUCT

#### 1. Application & status

- 1.1 This Standard applies to all members of the UK Actuarial Profession and sets out the mandatory approach to conduct 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 is evidence of compliance with the related mandatory requirement, but non-compliance with such a section is not of itself a breach of a Standard.

#### 2. The Conduct principle

- 2.1 The Actuaries' Code states: "*Actuaries act with honesty and integrity undertaking their duties in the best interests of their clients (who may be their employer).*"

#### 3. Honesty and Integrity

- 3.1 A member is expected to uphold high standards of honesty and integrity in all professional dealings commensurate with maintaining the reputation of the Profession.
- 3.2 Outside the member's professional life, the need to uphold the reputation of the Profession requires that a member acts with propriety, behaving in an honest and trustworthy way, respecting the rights of others.
- 3.3 *For amplification:* Although the requirement in respect of professional dealings is necessarily higher, a member is still expected to behave properly in other areas. This is particularly aimed at their dealings in financial and related matters, and when discharging positions of trust. However the Actuaries' Code is not intended to impinge upon matters of personal relationships.
- 3.4 *For amplification:* A member will not do anything that intentionally misleads people as to their position. In particular a member will not imply that what they say is on behalf of the Profession unless authorised to do so. This does not prevent references to any work done for or position held in the Profession in any publication, so long as this is not used to imply any exclusive standing or expertise in the subject.

#### **4. Best Interests**

**4.1 A member is expected to assess and act in the best interests of their clients (who may be their employer) co-operating with others who also serve these clients.**

4.2 *For amplification:* The best interests of an entity may not be identical with the wishes of its owners or management. A member will normally assume that it will be in the interests of that entity to comply with legal requirements, of whatever nature. It will often be in the best interests of that entity to treat third parties fairly.

4.3 *For amplification:* The requirement in respect of the best interests of clients or employers does not override other duties in the Actuaries' Code or in Actuarial Standards. Where there are real or perceived conflicts between sections of the Actuaries' Code then a member must use judgement and/or seek guidance as to the appropriate course of action.

#### **5. Advertising**

**5.1 A member shall not engage in any advertising or business solicitation with respect to actuarial services that the member knows or should know is false.**

#### **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.**

# THE UK ACTUARIAL PROFESSION

## ED3 ACTUARIAL PROFESSION STANDARD

### COMMON GOOD

#### 1. Application & status

- 1.1 This Standard applies to all members of the UK Actuarial Profession and sets out the mandatory approach to considerations of the common good 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 is evidence of compliance with the related mandatory requirement, but non-compliance with such a section is not of itself a breach of a Standard.

#### 2 The 'Common Good' principle.

**The Actuaries' Code states: "*Actuaries conduct themselves in a manner that has due regard to the wider public interest, shows appropriate consideration for others and supports confidence in the Profession.*"**

#### 3. Consideration of the Public interest

- 3.1 *For amplification:* A member is expected to give proper consideration to the public interest before determining a course of action. This does not impose an overriding obligation, but may mean the member has to exercise professional judgement in taking into account the wider public interest.
- 3.2 *For amplification:* In many cases the wider public interest will give rise to obligations under law, and these are amplified within the section of the Actuaries' Code on Compliance.
- 3.3 **Where a member considers that the wishes of a client or employer will require acting in a way that might conflict with the wider public interest, then the member will draw the attention of their client or employer to such wider public interest.**
- 3.4 **If a member becomes aware of their client or employer continuing with a course of action that is materially in conflict with the wider public interest then they must consider whether any whistle blowing obligations arise.**
- 3.5 *For amplification:* The wider public interest does not, in this context, mean the public benefit. It is not necessary, in particular, for a member to draw attention of their client or employer to any public benefit that might accrue from actions their client or employer could take which transfers benefit from the client to the public purse. Specifically, there is no need to describe the public benefit of paying more tax, and the right of a taxpayer under law to order affairs in a lawful manner to reduce tax payable is not considered against the wider public interest.

- 3.6 *For amplification:* There is no obligation on individual members to order their own affairs in ways that transfers benefit to the public purse, other than to the extent required by legislation.

#### **4. Consideration for others**

- 4.1 *For amplification:* While the words in the Code principle are intended to apply to all 'others' it is important to stress that criticism of one member's work by another member is wholly acceptable, provided that the criticism is properly reasoned and believed to be justified.
- 4.2 **A member should not use terms, or exhibit behaviours, which in that context would generally be considered offensive in criticising another person whether a member or not. Certain terms may be considered offensive if untrue but not if true.**
- 4.3 **A member will, when making remarks about the work of another person, whether a member or not, distinguish between matters of fact and of opinion. A member will acknowledge when expressing criticism of an opinion that members may quite properly hold different professional opinions.**
- 4.4 *For amplification:* The above paragraph 4.3 does not prevent the expression of a view that another person's opinion is outside the normally accepted range of opinions, provided that criticism complies with paragraphs 4.1 and 4.2.
- 4.5 *For amplification:* The member is expected to give proper consideration to others before determining a course of action. This does not impose an overriding obligation, but may mean the member has to exercise professional judgement in taking into account the impact of their advice on others.

#### **5. Confidence in the Profession**

- 5.1 **A member has a duty to the Profession and must not act in a manner that, unfairly or unnecessarily, damages its reputation or impugns its integrity.**
- 5.2 *For amplification:* The duty to the Profession does not preclude criticism of the Profession in a reasonable way, as part of a justifiable debate in the public interest. Indeed debate is encouraged as this demonstrates to the wider public that the Profession is open and willing to consider a broad spectrum of views.

#### **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.**

# THE UK ACTUARIAL PROFESSION

## ED4 ACTUARIAL PROFESSION STANDARD

### COMPETENCE

#### 1. Application & status

- 1.1 This Standard applies to all members of the UK Actuarial Profession and sets out the mandatory approach to competence 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 is evidence of compliance with the related mandatory requirement, but non-compliance with such a section is not of itself a breach of a Standard.

#### 2. The Competence Principle

- 2.1 The Actuaries' Code states: "*Actuaries undertake all their professional duties with up-to-date knowledge, skill and care.*"

#### 3. Knowledge and skill

- 3.1 A member must not advise on or provide a service in respect of a matter unless they are satisfied that
- a. they are personally competent, having the necessary knowledge and skill in the relevant matters, OR
  - b. they are acting in co-operation with, or with the guidance of, someone, whether an actuary or not, with the requisite competence, OR
  - c. there are circumstances which, if the member were to decline to act, would harm the interests of the recipient of that advice or service.
- 3.2 *For amplification:* The exception in paragraph 3.1c means that a member may provide advice or services if the circumstances are such that, having regard to all the relevant factors, it would be contrary to the interests of a party receiving the advice to decline to do so.
- 3.3 Where sub-paragraph 3.1c applies, the member must make clear to the recipient that, in the absence of the constraining circumstances, the member would have recommended referring the matter to someone with the relevant knowledge and experience.
- 3.4 *For amplification:* Advice or services given to the member's firm or to a colleague within the same firm, whether or not the colleague is an actuary, should normally meet the same standards as for external advice in respect of knowledge and skill.

#### **4. Care**

- 4.1 A member will undertake whatever work is appropriate, in all the circumstances, to ensure the advice, information and services given are correct and fit the needs of their client or employer.**
- 4.2 If work which a member considers necessary is precluded by cost or time constraints the member must either decline to act or qualify the advice or services given.**
- 4.3 *For amplification:* Advice or services given to the member's firm or to a colleague within the same firm, whether or not the colleague is an actuary, should normally be carried out with the same care as for external advice or services.

#### **5. Continuing Professional Development**

- 5.1 As a minimum a member will undertake and record continuing professional development as required from time to time by the Actuarial Profession's CPD Scheme.**

#### **6. General**

- 6.1 *For amplification:* Users of a member's services, which may include a member's firm and/or colleagues in that firm, are entitled to have absolute confidence in the knowledge, skill, and care of the member, unless the member has made clear they do not have the skills or knowledge, or that for good reasons, the level of care taken has been constrained. Communication of such constraints needs to be timely and unambiguous.

#### **7. Non-compliance with this Standard**

- 7.1 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.**

# THE UK ACTUARIAL PROFESSION

## ED5 ACTUARIAL PROFESSION STANDARD

### COMPLIANCE

1. Application & status
  - 1.1 This Standard applies to all members of the UK Actuarial Profession and sets out the mandatory approach to compliance 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 is evidence of compliance with the related mandatory requirement, but non-compliance with such a section is not of itself a breach of a Standard.
  
2. The Compliance principle
  - 2.1 The Actuaries' Code states: "*Actuaries conform to all relevant standards and regulations as required and seek to uphold those by speaking up where appropriate.*"
  
3. Conforming to standards
  - 3.1 A member must consider which statutory provisions, laws, regulations, rules or standards must be applied in given circumstances, and shall conform to such;-
    - a. where compliance is required by law, OR
    - b. where compliance is required by Actuarial Profession Standards, OR
    - c. where compliance is required by the member's client or employer.
  - 3.2 While there is an appropriate Memorandum of Understanding in force a member shall comply with technical Standards issued by the Board for Actuarial Standards for all work within the scope of a Standard, subject also to the status of such Standards.
  - 3.3 *For amplification:* Standards issued by the Board for Actuarial Standards are of limited geographical application. Outside the territories for which they have been issued they do not constitute mandatory Standards, but may nevertheless be highly persuasive as to generally accepted actuarial practice. Where a Standard indicates that compliance may not be mandatory but that the Standard has lesser status, nothing in this Actuarial Profession Standard is intended to increase the requirement to comply.
  - 3.4 *For amplification:* The Board for Actuarial Standards adopted at its commencement of activity a number of Guidance Notes formerly issued by the Actuarial Profession.

#### 4. Speaking Up

- 4.1 **A member will comply with any requirement to communicate with relevant authorities to which the member may be subject, having regard to any specific Actuarial Profession Standard that may apply.**
- 4.2 **A member who becomes aware of any matter which appears to be a material breach by another member of the Actuaries' Code or of any Actuarial Profession Standard must, subject to issues of confidentiality and materiality, refer the matter under the disciplinary schemes of the Faculty of Actuaries or the Institute of Actuaries as might be relevant at the earliest opportunity, subject only to confirming the facts and circumstances, or obtaining legal advice.**
- 4.3 *For amplification:* This requirement includes any breach of, in particular, paragraphs 3.1 and 3.2 above, and therefore extends to breaches of legal requirements and to breaches of standards issued by the Board for Actuarial Standards.
- 4.4 *For amplification:* Confidentiality requirements of a third party must be respected as provided for under the Actuaries' Code and applicable Actuarial Profession Standards. It is normally appropriate to seek a waiver of such confidentiality in cases of any seriousness. A member needs also to be aware when confidentiality might cease to apply.
- 4.5 *For amplification:* In deciding whether an apparent breach is material, the member may need to exercise judgement. The fact that an apparent breach did not lead to a materially adverse outcome is necessary but not sufficient to establish that the breach was immaterial. If a member is unsure whether or not a matter is material, the member should refer it under the disciplinary schemes.
- 4.6 *For amplification:* It is appropriate to seek legal advice when the member is unclear as to whether something is a breach of a requirement of law, or as to the scope of confidentiality.
- 4.7 *For amplification:* Confirmation of the facts or circumstances may be appropriately sought from the member who might be the subject of referral, but the member will need to consider carefully before determining no reference is necessary. A member may discuss the apparent breach with the other member without infringing paragraph 4.2. It might also be appropriate to raise the matter with other members familiar with the relevant information. By doing this, it does not pass the responsibility of making a referral to the other members, but should be considered part of the process of understanding fully the circumstances.
- 4.8 *For amplification:* The requirements of paragraph 4.2 do not require a member to make a complaint under the relevant disciplinary scheme. It is sufficient to refer the matter to the persons responsible for the administration of the scheme.

#### 5. Non-compliance with this Standard

- 5.1 **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.**

# 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.**

# THE UK ACTUARIAL PROFESSION

## ED7 ACTUARIAL PROFESSION STANDARD

### CONFIDENTIALITY

#### 1. Application and status

- 1.1 This Standard applies to all members of the UK Actuarial Profession and sets out the mandatory approach to considerations of confidentiality 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 the Standard. Compliance with a "*For amplification*" section is 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 Confidentiality principle.

- 2.1 The Actuaries' Code states: "*Actuaries respect the legitimate confidentiality requirements of their clients or employer.*"

#### 3. Legitimacy

- 3.1 *For amplification:* In some situations there are exemptions from statutory, contractual and common law rights to confidentiality under specific legislative provisions, or under judicial order. In certain cases these provisions also apply a duty to report. Further, in some situations, there can be a public interest defence for certain breaches of the general duty of confidentiality.
- 3.2 *For amplification:* A member may need to take legal advice when these situations arise.
- 3.3 **Where a member finds duties of confidentiality prevent compliance with another part of the Actuaries' Code, the member will consider the balance of interests carefully, and will request to be released from the duty of confidentiality, to the extent necessary, unless in all the circumstances it is unreasonable to make such a request.**
- 3.4 *For amplification:* It would be unreasonable to make the request where the duty of confidentiality is in respect of material the rights over which do not belong to either the client or employer of the member, or where there is other legal restriction on the release of the material, or where the member is aware that the release would itself be contrary to the duties of the member under Conduct or the Common Good provisions of the Actuaries' Code.

**4 Non-compliance with this Standard**

- 4.1 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.**

# THE UK ACTUARIAL PROFESSION

## ED8 ACTUARIAL PROFESSION STANDARD

### COMMENCING APPOINTMENTS

1. Application & status
  - 1.1 This principle and this Standard apply to all members of the UK Actuarial Profession and sets out the mandatory approach to commencing appointments where a member will be giving 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 is evidence of compliance with the related mandatory requirement, but non-compliance with such a section is not of itself a breach of a Standard.
  
2. The 'Commencing Appointments' principle
  - 2.1 The Actuaries' Code states: "*Actuaries take reasonable steps to verify that it is appropriate for them to act before accepting any appointment.*"
  
3. General Considerations
  - 3.1 Before accepting any appointment, including new assignments under an existing contract, a member will ensure that they satisfy the rest of the Actuaries' Code in respect of this appointment and in particular the sections relating to Competence and Conflicts.
  
4. Considerations as to professional reasons to decline to act
  - 4.1 Where in relation to a proposed appointment a member is aware that the prospective client, or their employer, has been involved in a dispute with a previous adviser, whether or not an actuary, over some matter which affects the interests of third parties, the member must consider whether, having regard to the Actuaries' Code, and in particular to the sections on Conduct and Compliance, it is desirable to investigate the nature of that dispute.
  - 4.2 *For amplification:* The investigations into the dispute referred to in section 4.1 above may be made by consulting the previous adviser and/or by making enquiries of the prospective client, or of the member's employer where applicable. The intention of the investigation should be to ascertain sufficient information to enable the member to determine whether, in the light of the section of the Actuaries' Code, it is appropriate to accept the appointment.
  - 4.3 Before giving a final acceptance for appointments which for any reason can only be held by an actuary, other than by individual exception granted by a competent authority, a member will, subject to the exceptions in section 4.4 below, contact the last or current holder of such

position so as to discover whether that person considers there are any professional reasons not to accept the appointment or any particular considerations which ought to be borne in mind before doing so.

- 4.4 The exceptions to section 4.3 are:
- a. Where for any reason it is impracticable to contact the appropriate person
  - b. Where the appropriate person is or was a close colleague of the member, and the member is confident that no issues exist
  - c. Where another Actuarial Standard relating to that type of appointment removes this requirement
- 4.5 A member contacted in the circumstances of paragraph 4.1 or 4.3 will respond appropriately and without unreasonable delay.
- 4.6 *For amplification:* It may be necessary for the member to obtain the consent of a client or of his employer before making an approach under this section. Refusal of this consent may, and in the case of paragraph 4.3 usually will, give a member reasons to doubt the appropriateness of accepting the appointment under the Actuaries' Code.

## 5 Basis of Remuneration

- 5.1 Before accepting any appointment, including new assignments under an existing contract, a member will ensure that the basis of their remuneration is agreed and is transparent. The form of remuneration must not be such that it gives rise to a real or perceived conflict of interest.
- 5.2 *For amplification:* It will normally be for the common good that actuaries operate in a free and open market for their services. A member should not act in a way that inappropriately inhibits such a free and open market.
- 5.3 *For amplification:* It is preferable whenever possible to indicate areas that may require additional work before an appointment is accepted. Where it becomes apparent during the course of an appointment that additional work is required then the member should obtain guidance from their client or employer as to how they should proceed.
- 5.4 *For amplification:* As set out in the Conflicts provisions of the Actuaries' Code, working on a contingent fee basis carries considerable risks of creating conflicts of interest.

## 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.

# THE UK ACTUARIAL PROFESSION

## ED9 ACTUARIAL PROFESSION STANDARD

### COMMUNICATION

#### 1. Application & status

1.1 This Standard applies to all members of the UK Actuarial Profession and sets out the mandatory approach to communication 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 is evidence of compliance with the related mandatory requirement, but non-compliance with such a section is not of itself a breach of a Standard.

#### 2. The Communication principle

2.1 The Actuaries' Code states: "*Actuaries communicate information and advice, whether written or oral, in a clear, complete and effective fashion so that the recipient of that advice can be expected to understand it.*"

#### 3. Clarity

3.1 A member must ensure that in any communication, whether written or oral: the intended audience, the purpose of the communication and the capacity in which the member is acting is clear. The form of communication should be suitable for the intended audience.

3.2 *For amplification:* The overriding aim is to ensure that the intended audience can gain a proper understanding. This necessarily requires the communication to be tailored to suit that audience. The use of jargon is only acceptable where it is defined or it is highly likely that the intended audience will be familiar with its meaning.

3.3 *For amplification:* Where the context of the communication itself makes the purpose, intended audience and capacity clear then this need not be explicitly stated. Otherwise it will be advisable to set these out explicitly.

3.4 *For amplification:* Where there is a possibility of someone outside the intended audience obtaining the communication then it will often be appropriate to highlight any dangers that may result from taking it out of context.

3.5 *For amplification:* Whereas it is normally possible to take some time to reflect on the form and substance of written communication there is likely to be less time to reflect on oral communication. If it becomes apparent that a misunderstanding has arisen over some part of oral communication then it is preferable to address that at the time. If however this is not possible then it is important to ensure that subsequent clarification is given.

**3.6 A member will not attempt to disguise the truth or deliberately conceal any material facts by using overly complex language.**

3.7 *For amplification:* Plain language is preferable in most cases. Where more complex language is warranted it must not be used for the purpose of deception or obfuscation.

#### **4. Completeness**

**4.1 A member will ensure that any communication contains sufficient information to enable its subject matter to be put in proper context.**

4.2 *For amplification:* Where a view is being expressed it is important that the existence of alternative views and the potential implications of those alternatives are indicated. The provision of an unduly biased view in isolation is unlikely to achieve the aim of promoting an understanding of the subject matter by the intended audience.

4.3 *For amplification:* This does not mean that every communication needs to contain every potentially relevant piece of information or potential alternative point of view. Indeed the inclusion of too much information may also act against the aim of promoting an understanding of the subject matter.

4.4 *For amplification:* Communication is likely to be most effective when viewed as a process rather than an event. In many situations setting out the concepts at a high level initially and focusing on the main issues will be the most effective route. The detail can be expanded on in subsequent communications.

**4.5 A member will ensure that, where appropriate, information is accompanied by a consideration of the implications and risks for their client or employer.**

4.6 *For amplification:* In some circumstances, particularly where the submission of prescribed information is required, the bare information will suffice. However, in most circumstances provision of the bare facts and figures will not allow a proper understanding of the implications for the member's client or employer.

4.7 *For amplification:* In certain circumstances where values are quoted, it will be useful to indicate a likely range within which that value may reasonably lie.

#### **5. Effectiveness and Understanding**

**5.1 A member will ensure that the medium used to convey a communication is appropriate.**

5.2 *For amplification:* Where large volumes of data are to be conveyed it will rarely be suitable for this to be done orally. Similarly, any communication that is likely to have a significant impact on a member's client or employer should not be communicated orally alone, but should be confirmed in writing.

5.3 *For amplification:* Where the subject matter is particularly complex or the nature of the intended audience is sufficiently diverse that it may not be possible to cover all possible angles in a written report then the member should consider whether it would be appropriate to present that report in person.

5.4 *For amplification:* Where the member is unable to present such a report in person and requires a third party to present the information instead it is important to ensure that the third party has sufficient understanding to be able to meet the needs of the intended audience.

5.5 *For amplification:* Given that the overriding aim is to ensure that the intended audience can gain a proper understanding the member should seek to confirm that this is indeed the case where appropriate.

5.6 *For amplification:* In some circumstances it may be appropriate to attempt to test the audience's understanding. Where it is clear that the intended audience has not understood the communication, the member will take steps to correct this.

## **6. Non-compliance with this principle**

**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.**