



Institute
and Faculty
of Actuaries

The Actuaries' Code

Guidance to support the principles and
amplifications in the Actuaries' Code

by the Regulation Board

Section 5: Principle 3 – Impartiality

This Guide imposes no new obligations upon Members or their employers. Rather the Institute and Faculty of Actuaries (“the IFoA”) hopes that the Guide will be a useful tool for its Members.

This Guide does not constitute legal advice, nor does it necessarily provide a defence to allegations of Misconduct. While care has been taken to ensure that it is accurate, up to date and useful, the IFoA will not accept any legal liability in relation to its contents.

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5. PRINCIPLE 3 – IMPARTIALITY

The general principle of impartiality

5.1 Principle 3 of the Code provides that:

“Members must ensure that their professional judgement is not compromised, and cannot reasonably be seen to be compromised, by bias, conflict of interest, or the undue influence of others.”

5.2 Impartiality can be described as the principle that decisions ought to be based on objective criteria, rather than on the basis of bias, prejudice, or preferring to benefit one person over another for improper reasons.

Exercising professional judgement

5.3 A Member exercising professional judgement will need to do so, and be seen to do so, in a way which is free from bias (actual or perceived) and that ensures they are able to give advice which is independent of any personal interests or feelings.

Resolve or desist from acting

5.4 From time to time, Members may be exposed to situations that risk impairing their objectivity. If the circumstances of an instruction, relationship with a user and/or other factors increase the risk of compromising the impartiality of a Member’s professional judgement over the course of a piece of work, then the Member may be better not to accept the instruction. If, having accepted an instruction, a Member identifies circumstances that compromise, or are seen to compromise, their professional judgement, the Member will need to desist from acting; this may involve explaining the situation to the user and helping them make alternative arrangements.

What would a fair-minded observer think?

5.5 When thinking about impartiality, Members will need to ask themselves whether there is any conflict between the advice which they are giving, or decisions which they are making, and their own personal interests. A good test is to imagine a fair-minded and informed observer: would this person have any reason to suspect that your impartiality might be compromised?¹ If so, action will need to be taken to rectify this.

¹ This is the test for bias as set out by Lord Hope in *Porter v Magill* [2002] 2 AC 357, which states that: “The question is whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the [Tribunal] was biased”.

Ethical bias

- 5.6 Threats to a Member's impartiality might include being asked to act in a way that contravenes a Member's duties under the Code, other professional requirements or even the law. Members directly employed by an organisation might face particular pressures to carry out work in a way that is favourable to the commercial interests of that organisation and will need to be careful to avoid misleading regulators, boards or other users.

Technical bias

- 5.7 When considering the potential for bias, Members need be aware that there are many forms of bias, including ethical and technical bias. Some examples of bias might include situations where a technical methodology is selected because the Member is familiar with it, even if others are more appropriate (that is not to say that using a technique that can be applied quickly is necessarily wrong; rather that Members need to be clear about the justification for their chosen approach) or where a Member is reluctant to challenge the work of a colleague who is also friend, even though such a challenge would be appropriate.
- 5.8 Members can mitigate the risk of acting in a way which is biased by being aware of the potential for bias and taking this into account when making decisions or providing advice to ensure they are acting impartially. Being open to appropriate challenge from others and being willing to change or adapt one's approach can also help to mitigate the risk of acting in a way which is biased, as it is possible to hold a bias and not even be aware of it.

Institutional bias or Group Think

- 5.9 A further threat to impartiality Members ought to be aware of is the potential influence of 'Group Think' in their decision-making. Group Think is defined as "*the tendency for one's own judgement to be influenced by the apparent consensus view of assumptions, methods, processes or approaches leading to a reduction in the variety of ideas in the market*".²
- 5.10 One of the dangers of Group Think is that it has the potential to result in poor conduct or systematic business failures brought on by working environments in which perspectives are not challenged and people act in the same way as others do without sufficient justification.
- 5.11 Members can address this risk by being aware of their propensity to participate in Group Think in the first place and by being prepared to challenge or speak up where processes or approaches are not appropriate for the work being carried out. When making decisions in relation to a piece of work, Members may wish to ask themselves whether, in following the crowd, they are doing so because it is easier (or they are reluctant to challenge the status quo) or because it is appropriate to the work.

² This is the definition of "Group Think" as set out in the review by the Joint Forum on Actuarial Regulation' on Group Think - <https://www.actuaries.org.uk/documents/far-review-group-think>

The Review includes guidance for individual actuaries on how to address Group Think.

Conflicts of interest

Introduction to conflicts of interest

- 5.12 Because conflicts of interest are a particular threat to this ‘impartiality’ principle, the Code has the following amplifications:

“Members must take reasonable steps to ensure that they are aware of any relevant interests that might create a conflict.”

“Members must not act where there is an unreconciled conflict of interest.”

- 5.13 Conflicts of interest can be complex and require use of professional judgement. This section is intended to assist Members with understanding their responsibilities in relation to conflicts of interest and to help with that exercise of professional judgement.
- 5.14 Ensuring that conflicts are (a) understood; (b) identified; and (c) reconciled or eliminated, is the key to meeting the requirements of the Code.
- 5.15 All Members have an individual responsibility to be familiar with their obligation to identify conflicts and to know what to do if they encounter one. This responsibility exists regardless of their particular role in the work or level of seniority, including actuarial students, more junior members of an actuarial team and those working as part of a multidisciplinary team.
- 5.16 There may also be practice-specific conflict of interest provisions for Members, such as any contained in the relevant professional standards.³ Additionally, Members need to have regard to any relevant legal and regulatory requirements in the country in which they are practising.⁴
- 5.17 If Members are unsure how to act at any stage, the IFoA encourages them to seek guidance from appropriate sources. A note regarding further sources of advice can be found at the end of this section.

What is a conflict of interest?

- 5.18 ‘Conflicts of interest’ can arise in any situation where two or more separate parties are involved, and the interests of those parties differ. As conflicts can be complex, it is not possible to give an exhaustive list. However, common examples of situations where conflicts of interests can arise are where a Member’s professional responsibility to a user of their work conflicts or is seen to conflict with:

³ Such as those included in the Actuarial Profession Standard: APS P1 “Duties and responsibilities of Members Undertaking Work in Relation to Pension Schemes”. This contains specific requirements for those involved in pensions work in relation to the production of a conflicts of interest management plan and some specific restrictions on the types of advice which may be provided to both the trustees and the sponsoring employer.

⁴ For further information see paragraph 6.4 of the Code Guidance.

- (a) the Member's own interests (or those of close family) ("*personal conflict*"); or
- (b) an interest of the Member's employer, in situations where the employer is not also the Member's client/user ("*employer conflict*"); or
- (c) an interest of another client of the Member ("*client conflict*").

5.20 Taking each of these in turn, some examples could be:

- (a) A Member – or their friends or family – may have a financial interest in the outcome of a transaction that will be influenced by advice being given by the Member. In addition to direct financial interests, relevant considerations may also include personal appointments or memberships or, in some circumstances, ethical values or beliefs which make it difficult for Members to act, and to be seen to act, in the interests of the user.
- (b) Similarly, a Member's employer might (even where it is not also the Member's client/user) have a financial or other interest in the outcome of the Member's work. A conflict could therefore arise between their professional judgement in providing advice to a client/user and the commercial objectives of their employer. Members might then be put under pressure, directly or indirectly, by their supervisor or other person within their organisation to act in a way which they would not otherwise judge to be in the interests of a client/user.
- (c) Situations can also arise in which a Member has two separate clients whose interests come into conflict. The Member might then be tempted to act in the interests of one client, in a manner which works against the interests of the other client or user.

5.21 More examples of situations where there might be a possible conflict of interest are included at **Appendix A**.

Identifying a conflict of interest

5.22 The effective understanding and identification of conflicts of interest is key to their reconciliation. Amplification 3.1 of the Code provides that Members take reasonable steps to ensure they are aware of any interests that might create a conflict.

5.23 In order to identify conflicts it may be useful for Members to approach this in two steps:

- (i) Establish what various interests are involved in the particular scenario – who do you work for? Who are the users for the piece of work? Do you have a personal interest in the matter? Does anyone else have an interest which I should take into account?
- (ii) Assess whether the differing interests of relevant parties involved (including your own interests and those of the person you work for) might make it hard for you to continue to act without compromising your objectivity or your professional responsibility to the user (or any of the users) of your work. Or are the interests of parties other than the

principal user so remote or generic that they will not compromise, or be seen to compromise, your professional judgement?

- 5.24 When establishing the various interested parties, Members need to be alert to the possibility that within one legal entity there are two separate bodies with divergent interests (for example, a finance committee and a remuneration committee), or one body with two different responsibilities (for example, the sponsoring employer of a pension scheme might also be the trustee or manager of that scheme). In such circumstances, a Member might conclude that there are two distinct ‘users’, giving rise to a possible conflict.
- 5.25 Taking ‘*reasonable steps*’ to identify potential conflicts would normally involve Members following any internal processes established for this purpose by their own organisation, and might typically include sending out a ‘conflict check’ email to appropriate staff in the organisation and/or to the relevant conflict committee, and/or a search of the organisation’s conflicts database.
- 5.26 Arrangements implemented by a Member or their organisation for ensuring that conflicts of interest are effectively identified could include:
- Regular training to ensure all employees are aware of their duties and can identify conflicts;
 - A practice of recording gifts and hospitality, ensuring that amounts are not out of line with any organisational policy and that the Member does not knowingly receive gifts or hospitality which could lead to an actual or perceived conflict of interest.
- 5.27 Members are required to “*respect confidentiality*”.⁵ Therefore, before taking on any new engagement, Members are advised to consider whether they have an existing duty of confidentiality to any existing or former users, which would give rise to a conflict of interest with the proposed new engagement.
- 5.28 A note of some helpful questions for Members to consider when identifying conflicts is included at **Appendix B**.

Managing and reconciling conflicts of interest

- 5.29 Once a conflict of interest is identified, amplification 3.2 of the Code states that Members must not act if there is an unreconciled conflict of interest. This means that the conflict needs to be managed appropriately or the Member must decline or cease to act in the specific situation.
- 5.30 “Reconciliation” can be understood to mean carefully managing the conflict such that, within the scope of an engagement, the conflict does not have (and is not seen to have) any adverse effect on the work for the users.

⁵ Amplification 1.2 of the Actuaries’ Code and paragraph 3.9 of this Guidance.

- 5.31 It is also necessary that Members are alert to situations where others perceive that there may be a conflict of interest or the possibility of a conflict of interest, even when an actual conflict of interest does not exist. In these situations it is still necessary for the perception of the conflict to be appropriately addressed in order for the Member to continue to act.
- 5.32 Reconciling a conflict of interest will likely involve disclosing the existence of the conflict of interest to the user(s) concerned and explaining the relevant issues, risks and any constraints on the work in a manner so that the user understands them. However, Members also need to consider any underlying confidentiality obligations to other parties.
- 5.33 There may be internal guidance in Members' organisations on how conflicts of interest are to be managed. Members need to satisfy themselves that such guidance is appropriate and sufficient, and if/where necessary supplement it with their own arrangements and tools for managing conflicts. These arrangements and tools may incorporate some or all of the following, taking into account any established market practices for handling such conflicts:
- *Scoping the engagement*
When agreeing the scope of an engagement, Members may wish to define especially clearly any limitations on the extent of their role and the type of advice which they can provide on the engagement.
 - *Conflicts management plan*
A written 'conflicts management plan' can be shared with (and may be explicitly agreed by) the relevant user(s). Such a plan might typically cover:
 - The extent to which information will remain confidential;
 - The systems and controls in place to identify and assess potential and actual conflicts of interest;
 - The steps taken to reconcile any conflict, and the steps to be taken if the Member cannot continue to act because of an irreconcilable conflict.
 - *Separation of teams*
If a Member works within an organisation that has engagements with two users with competing interests, it may be possible to ensure that the users are advised by different teams within the organisation. In some cases, the more 'mechanical' work might still be undertaken for both users by a common team.
 - *Information barriers*
One option for managing conflicts of interest internally is to establish and maintain arrangements which restrict the flow of sensitive information within the Member's organisation. Information barriers are administrative, electronic and/or physical barriers to ensure that information used by one part of the organisation is withheld from, or not used by, other parts of the organisation.

- *Work review*
The work review under APS X2 can form an appropriate component of a conflict management policy. Where the work for one user might be seen as potentially creating a conflict with work for another user, independent peer review of that work can form part of the process for ensuring the transparency and objectivity of a Member's work.⁶
- *Remuneration arrangements*
It is important that Members ensure that they are not incentivised by their employer in a way that might be seen to encourage them to provide anything other than the most suitable and appropriate advice to a user of their work.
- *User consent*
Members may be able to reconcile a potential or perceived conflict by obtaining consent from a user to act or continue to act for another user with conflicting interests. In such cases, the Member will need to consider what will happen if that consent is withdrawn, making it likely that they will have to cease acting for one or both users.

5.34 Where a conflict of interest is identified, Members are encouraged to carefully document the reasoning for their decision to either continue or desist from acting, including the steps that they have taken to reconcile the conflict. Being able to explain and justify the approach they have taken in reaching their decision will assist the Member when being called upon to do so, for example in response to a request from a user or a regulator.

5.35 A note of some helpful questions for Members to consider when managing conflicts is included at **Appendix C**.

⁶ See Actuarial Professional Standard (APS) X2: Review of Actuarial Work

Examples of possible conflicts of interest

Whether a conflict exists will depend on the specific circumstances of the particular scenario, which might vary significantly between practice areas and countries of work.

Members will need to take account of those specific circumstances, as well as any established practices, in determining whether a conflict exists. The table sets out some practical examples of conflicts of interest that Members may face, with separate lists particularly intended for practitioners working in the areas of insurance and pensions.

This list is not exhaustive and is intended to provide some initial guidance to help Members identify whether or not they are facing a conflict of interest.

Area	Example	Example of Source of Conflict
Applicable to all Members	User versus user or user versus former user	<ul style="list-style-type: none"> Duty owed to one user may impact on duty to another. Confidential information gained from one user may benefit another user. Knowledge gained from former, or existing, user may be of advantage to another user.
	Personal or professional values conflict with user objectives	<ul style="list-style-type: none"> The course of action proposed by the user is at odds with the values of the Member or the Member's obligations to the IFoA, or their employer.
	Personal or family interest	<ul style="list-style-type: none"> Where the Member's advice could personally affect the Member or their family, financially or otherwise. Member advising own employer gives advice potentially benefitting his/her part of the business.
	Conflict between interests of a user and the interests of the Member's firm	<ul style="list-style-type: none"> Advice given by a Member to a user may be sound but unacceptable to the user and risk jeopardising the relationship between the user and the firm in other areas. Member's advice may bring in more fee income for the Member's firm but is of questionable value to the user.

Area	Example	Example of Source of Conflict
Insurance (Life and General)	Conflict between interests of policyholders and commercial interests of the life office employing the Member	<ul style="list-style-type: none"> Likely to be most acute in advising on management of with-profits business; for example, the level of investment risk taken in the fund and the use of the fund's assets to support business development.
	Conflict between solvency of life office and immediate management objectives	<ul style="list-style-type: none"> A Member's duty to advise on risks to the long-term solvency of a firm may conflict with shorter-term commercial objectives; for example, to maintain dividends or to write new business.
	Conflict between commercial and professional interests	<ul style="list-style-type: none"> Member is under pressure from management to suppress claim reserve estimates.
	Conflict arising from being a policyholder	<ul style="list-style-type: none"> Member is a policyholder of the insurance company for which he/she works and in a position to influence the premium charged and/or benefits provided.
	Conflict between providing accurate reserve calculations and personal gains	<ul style="list-style-type: none"> Methodology and assumptions on reserve calculations will affect profit and business value, which may in turn affect the Member's bonuses and long-term incentives.
Pensions⁷	Direct conflicts as adviser to trustees and adviser to company	<ul style="list-style-type: none"> Trustee interests are likely to be in increasing prudence and funding. Companies will often be interested in reducing prudence or reducing funding. When advising on whether or not to call for an actuarial valuation in response to a material change in circumstances. When advising on appropriate actuarial factors such as commutation or early-retirement factors.
	Conflicts arising due to client being conflicted	<ul style="list-style-type: none"> A finance director who is also a trustee (or a chair of trustees who reports in to the finance director) might ask for the Scheme Actuary's advice to the trustees to be favourable to the company. The trustees do not want to be "difficult" and upset the company.

⁷ See also APS P1 Duties and Responsibilities of Members Undertaking Work In Relation To Pension Schemes.

Area	Example	Example of Source of Conflict
	Direct conflicts between two connected or unconnected clients	<ul style="list-style-type: none"> • The Member is acting for two entirely separate clients who (possibly confidentially) become involved in a corporate transaction (either between each other or in connection with a third party). • The Member is a Scheme Actuary for more than one pension scheme of the same employer and there is a proposal to merge the pension schemes or the pension schemes are "competing" for limited funds from the employer (particularly difficult if the employer covenant becomes weak).
	Conflicts of interest with own employer	<ul style="list-style-type: none"> • Scheme Actuary is directly employed by the company sponsoring the pension scheme.

Sample questions for Members to consider in identifying a conflict

The sample questions shown in this section are just some of the common questions that may help a Member to identify a conflict of interest. Conflicts of interest can be complicated and specific details of individual circumstances will vary and as a result this question list should not be seen as exhaustive.

Identifying conflicts of interest: Questions for Members (general)

1. Do I or my family have a stake (e.g. stocks/shares, employment or membership) in the user of the work or in another party with competing interests to those of the user?
2. Are there two or more users of my work in the same industry? (e.g. one consideration may be whether there is potential for merger between two users).
3. Are my rewards, or the manner in which I am rewarded, likely to give rise to a perception of conflict e.g. bonus or commission?
4. Is there a conflict between the commercial interests of the person who has commissioned the work, and others whose interests may ultimately depend on my advice?

Further questions for Pensions actuaries

1. What conflicts are inherent to the trustee board?
2. Are relations between the trustees and the employer likely to be adversarial?
3. Do certain functions reserved to the Scheme Actuary (e.g. under the trust deed and rules or legislation) give rise to potential conflicts?
4. In what areas requiring actuarial advice are the interests of trustees and the company not aligned?
5. Does my firm advise the sponsoring companies in any material capacity?
6. In my view, could the trustee board be at risk of being unduly influenced by company management in some circumstances?
7. What conflicts within the trustee board have the potential to impact on my ability (or perceived ability) to give unconstrained advice to the trustee?

Further questions for Insurance actuaries (General Insurance and Life)

1. Does any of my work in areas such as pricing, reserving and capital give rise to any inherent conflicts across those different types of work?

2. Am I in a position as pricing actuary or underwriter where competitive pressures will compromise my ability to comply fully with TASs and/or the Code?
3. Do I or my firm provide an audit service as well as separate advice to the client?
4. Do I or my firm provide advice to both a life office and to its With-Profits (WP) Committee (or other independent adviser on WP business)?
5. Do I act in the role of WP Actuary as well as providing other, commercial advice to my employer or client?

Sample questions for Members to consider in managing a conflict

The sample questions shown in this section are just some of the common questions that may help a Member to manage a conflict of interest. Conflicts of interest can be complicated and specific details of individual circumstances will vary and as a result this question list should not be seen as exhaustive.

Managing conflicts of interest: Questions for Members (general)

1. If I am responsible for key judgements on a piece of work, what element of peer review and checking exists in relation to my work?
2. Does the user rely entirely on my advice in relation to certain actuarial matters or are there other advisers who might be involved in providing advice?
3. If the user solely relies on my advice in relation to actuarial matters, does that create any need to manage potential conflicts any differently from situations where there are personnel who are able to form their own expert opinion on the results of my work?
4. Have I considered how I would manage potential conflicts arising from my having a duty to a different body in the organisation which contracted me to perform the work?
5. Would a separation of teams help to manage the conflict in question?
6. Consider if there is anything that needs to be agreed with a user at the scoping stage of the work to manage any conflict.
7. Should a conflicts management plan be agreed, with the user(s) confirming their consent to the arrangements made to manage conflicts and to any conditions and limitations that are put in place?
8. Should any information barriers be put in place within the member's organisation to avoid actual or perceived conflicts?

Further questions for Pensions actuaries

1. Is there an independent trustee on the trustee board?
2. If the trustees have an appointed investment adviser, what role might that adviser be playing which might be significant in the management of a potential conflict?
3. Have the trustees actively considered the Pensions Regulator's conflicts guidance including setting up a conflicts register?

4. Does the employer use another firm of actuaries for all or some corporate advice (e.g. for advice where my firm may be conflicted, such as funding)?

Further questions for Insurance actuaries (General Insurance and Life)

1. Does the Board have appropriate personnel who are able to judge whether my conclusions around, for example, reserving levels are appropriate?
2. As an actuarial employee of a small organisation, on what support can I call to bounce ideas and check approaches/decisions?
3. If acting as With-Profits Actuary or Actuarial Function Holder, will I have appropriate access to independent external advice if I consider this to be necessary?
4. Have I followed my organisation's protocols on managing conflicts (examples may be when working on an audit to ensure you have complied with any relevant investment restrictions or any restrictions that apply to performing non-audit work for the same client)?