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Sample Questions and Answers on the Code of Professional Conduct

***Information and assistance for Full Member associations on interpreting the
Code of Professional Conduct***

***Issued by the Standards, Freedoms and Professionalism Committee of the Actuarial
Association of Europe on [date]***

1. Introduction

- 1.1 This “Sample Questions and Answers” booklet relates to the Code of Professional Conduct (Code) adopted by the General Assembly of the [Actuarial Association of Europe](#) (AAE) on 22 September 2017.
- Under the AAE [Statutes](#), each Full Member association of the AAE is required to have in place a Code of Conduct that reflects at least the requirements of the Code¹. This means that a Full Member association’s Code of Conduct must include (but is not necessarily limited to) the substance of the ethical and professional principles set down in the Code, though the provisions of the association’s Code of Conduct do not have to be identical to the provisions of the Code.
- 1.2 This booklet is intended to help actuarial associations to understand the Code and develop their own Codes of Conduct. It sets out sample questions that an individual actuary might pose about the requirements of the Code, or similar requirements in an actuarial association’s own Code of Conduct, along with sample answers.
- **This booklet does not form part of the Code and does not constitute mandatory requirements, nor even guidance to individual actuaries. Its purpose is to provide information and assistance to Full Member associations on interpreting the Code and implementing and answering questions about their own Codes of Conduct. It imposes no obligations on Full Member associations beyond the obligations set out in the AAE [Statutes](#). Nor does it impose any obligations on the individual actuaries who are members of the Full Member associations.**
 - **Any association that draws on this booklet to develop a “Questions and Answers” document or other educational materials or otherwise provide advice about its own Code of Conduct is responsible for editing sample answers herein, if necessary, to ensure that they are consistent with local laws and appropriate local practices.**
 - An association’s Code of Conduct may closely resemble the Code, or may include additional material. This booklet may be useful to associations in suggesting additional requirements that could be included in their Code of Conduct.
 - If an individual actuary elects to have regard to this booklet when considering how to act in a particular situation, he or she will need to have regard to all the particular circumstances, including whether there are any reasons - such as might arise from local laws and appropriate local practices – why the sample answers suggested in this booklet might not be applicable or appropriate. The actuary might need to take advice in this regard (e.g. from an experienced colleague, a lawyer or an actuarial association).

¹ Subject always to the laws of the relevant jurisdiction.

- 1.3 If associations would like additional questions to be covered in future versions of this booklet, they are invited to submit them to the AAE via its website at:
<http://actuary.eu/contact-us-2/>

2. Sample Questions and Answers

Integrity

Public interest

- 2.1 The Code says that, subject to any relevant legal, regulatory and professional requirements, an actuary “should fulfil the actuary’s professional responsibility to the *principal*” (amplification A1). The introduction to the Code notes that actuaries “contribute to the well-being of society . . . by complying with relevant professional requirements, including any applicable Code of Conduct”. What if my duty to my employer conflicts with the well-being of some sector of society, such as current or potential insurance company policyholders or members of a pension scheme?

Like any employees, actuaries have a duty to their employers. However, since you are a professional and are expected to act accordingly, this duty does not extend to carrying out actions, or remaining silent regarding actions, that are demonstrably prejudicial to the welfare of society or certain members of society. In such a situation, you would, at a minimum, be expected to alert your employer and/or client (as relevant) to the possible consequences of the actions, including the implications for those adversely affected by them. *[If the association’s Code of Conduct sets an expectation or requirement that the actuary will do so, or will consider doing so, it would be useful to state this here.]* Depending on the circumstances, you might need to take advice (e.g. from an experienced colleague, a lawyer or your actuarial association) as to what further action, if any, should be taken.

Reputation of the profession

- 2.2 The Code says that an actuary “should not act in a manner that is likely to damage the reputation of the actuarial profession” (amplification A2). What is expected of me in this regard?

You are expected to behave with integrity, in the performance of your work and in other contexts where your conduct could reasonably be considered to reflect on the actuarial profession. The latter might include, for example, your conduct as a member of a committee or board of an organisation or body outside your employment, as it would be reasonable for colleagues on the committee or board, and those affected by your work there, to expect you to bring the professionalism normally associated with actuaries to that work. Behaving with integrity includes but is not limited to refraining from any act of dishonesty, fraud, deceit or misrepresentation. You should not carry out acts that are inconsistent with the behaviours that are expected of a professional and that, by association, could bring the actuarial profession into disrepute.

False or misleading information

- 2.3 The Code says that an actuary “must not provide, or knowingly be associated with the provision of, information that the *actuary* knows or ought to know is materially false or misleading” (amplification A3). If I realise that I have inadvertently provided false or misleading information, what should I do about it?**

If you become aware that you have provided false or misleading information, or that your employer or client has misinterpreted information or advice that you provided, you should take appropriate corrective action promptly. For example, this might involve notifying the other party of the situation, and possible consequences, as soon as possible and following up afterwards with an amended / expanded report. In deciding on the exact course of action, it would be reasonable to have regard to the materiality and ongoing relevance of the matter.

Confidentiality

- 2.4 The Code says that “Subject to any legal or regulatory reporting obligations, an *actuary* must respect the confidentiality of confidential information received” (amplification A5). Are there any circumstances in which I would be permitted to disclose confidential information?**

Restrictions on disclosure of confidential information vary across legal jurisdictions. Comments here relate to disclosure of confidential information acquired while performing work in *[the jurisdiction of the relevant actuarial association]*.

[If applicable, it would be useful to draw attention to any specific restrictions / permissions in the association’s Code of Conduct.]

[If the association’s Code of Conduct does not include any requirement to disclose confidential information in specific circumstances:]

It is generally advisable not to disclose confidential information to other persons or bodies unless you have specific permission from your employer and/or client (as relevant) to disclose the information, or disclosure is specifically required by law. *[If (subject to applicable laws) disclosure is required by the association’s discipline process, this should be mentioned here.]*

Whatever the circumstances, it may be wise to take legal advice if you are contemplating disclosing confidential information.

Taking over from another actuary

- 2.5 The Code says that when an actuary is asked to perform work previously performed by another person, the actuary must consider whether it is appropriate to consult with the previous provider to establish whether there might be any professional reason not to take on the new responsibility (amplification A6).**

(i) Are there circumstances in which this might be considered particularly pertinent?

If you are asked to take on work that is required in order to meet statutory or regulatory requirements, it would be wise to consult with the previous provider, if it is feasible to do so, to see if, for example, he or she faced any obstacles that prevented him or her from performing the work to high professional standards. *[If the association's Code of Conduct requires the actuary to do so, it would be useful to state this.]*

(ii) If I consult with the previous provider and that person tells me that (s)he encountered some obstacles to carrying out the role in accordance with good practice, should I automatically decline the role?

Not necessarily. You will need to consider the particular circumstances. You might conclude that it is in order for you to take on the role, e.g. because you have a different opinion about the matters at issue or because you consider that you have sufficient experience and training to deal with them effectively.

(iii) What if someone consults me, as the previous provider, but I cannot provide information about my past role or work because of confidentiality concerns?

If someone consults you, as the previous provider, you should respond promptly, even if your response is limited to a statement that you cannot discuss your past role or work on grounds of confidentiality.

To prevent this difficulty, actuaries could consider requesting that any contract of employment with a new employer, or any engagement letter or other contract with a client, includes a provision that allows the actuary to communicate with subsequent providers regarding professional matters.

Competence and Care

Maintaining competence

2.6 The Code talks about performing work only if I am competent to do so and have appropriate experience (amplification B2). I am training to be an actuary but I have not yet met all the education requirements. What does this provision mean for me?

The Code does not prevent people who are training to become actuaries from carrying out actuarial work, though it may be necessary to do so with the assistance or supervision of someone else (as set out in amplification B2). You need to be mindful of the fact that there might be elements of the work, or potential issues arising, that you are not conscious of at this stage of your studies and experience. This might especially be the case if you have not done this type of work before. You should consider whether it would be appropriate to discuss how you intend to do the work with someone who is more qualified and experienced in the area than you, and be open to feedback and suggestions. If a qualified actuary (or another suitably skilled person) is carrying responsibility for the work, i.e. you are doing it under supervision, you can probably ask that person to give you some coaching on what is involved in the work before you start it, and to give you feedback when you finish it and he or she has reviewed it.

2.7 The Code talks about performing work only if competent to do so (amplification B2). What should I do to maintain my competence and demonstrate that I am doing so?

In order to maintain your fitness to practice on an ongoing basis, you should draw up and carry out a programme of training and professional development activities to ensure that you achieve and maintain appropriate qualifications, knowledge and experience. Depending on the work performed, particular areas to be addressed may include (but are not limited to):

- Market knowledge, including awareness and understanding of the wider business, economic and market environment in which an entity for which you work or provide services operates;
- Entity-specific knowledge, including the business strategy, business model and system of governance of an entity for which you work or provide services;
- Developments in actuarial methodologies, and/or other relevant techniques, and their application; and
- Changes in relevant legislation, regulatory requirements and technical and professional standards.

However, even after doing training, you might find at times that there are gaps in your knowledge. Therefore, you should be alert to the fact that you might sometimes need to take advice from other professionals and other specialists to assure the relevance and quality of your work. Note that section 3.3 of [ESAP 1, General Actuarial Practice](#), provides guidance on “Reliance on Others”.

Compliance

Reporting improper conduct

2.8 The Code provides a reminder that actuaries are responsible for observing applicable technical and professional standards (amplification C1) and are subject to the disciplinary procedures set out in the rules of their actuarial associations (amplification C2).

- (i) What should I do if I become aware that another actuary has failed to comply with technical or professional standards or has otherwise behaved in an unprofessional way?**

[Practice here varies across jurisdictions, for valid reasons, including legal and cultural differences. Therefore, the following is not a sample answer; rather, it draws attention to points that an association could usefully consider when developing its Code of Conduct and when answering the question above.]

In some jurisdictions, actuaries are required by the national actuarial association to report, for consideration under the association’s disciplinary scheme, any matter that appears to constitute professional misconduct by another actuary (including, but not limited to, a material breach of any legal, regulatory or professional requirements) –

though an exclusion might apply where the actuary is precluded from reporting the matter due to the confidentiality of relevant information. In the latter case, the actuary might be required to take reasonable steps to obtain consent to disclosure from the relevant third party or parties.

However, as noted, such reporting obligations do not apply in all jurisdictions, for various reasons, including legal constraints in some cases.

Therefore, the actuary will need to ascertain the position in the relevant jurisdiction, in terms of professional obligations and responsibilities, and any rights to protection if (s)he acts in good faith but it transpires that the other actuary has not, in fact, behaved in an unprofessional way.

If the actuary has an obligation to report the matter to his or her actuarial association, the association might also be a source of guidance on questions to consider before reporting the matter, which might include among others:

- *Are the matters at issue minor or material?*
- *Are the grounds for the actuary's concern reasonable and sufficient, based on the information available to him or her?*
- *Can the actuary be sure that the information available to him or her is accurate?*

The actuary's firm might also be a source of advice, and might have policies on reporting matters to third parties.

If an actuary is in a situation where (s)he is considering reporting options / obligations, it may be wise to take legal advice on the matter.]

(ii) If, in the course of my work, I become aware of illegal behaviour by a colleague or client or by my firm, what should I do?

If you have reasonable cause to believe that a course of action proposed or taken by a colleague or client or by your firm is unlawful, unethical or improper, you should draw the relevant party's attention to that fact and you should not assist in carrying out the course of action.

If the relevant party persists with the action, you should consider whether it would be appropriate to report the behaviour in question via reporting processes within your firm or your client's firm (as applicable). Your firm might have guidance and policies in place in this regard. In deciding on a course of action, it may be reasonable to take into account the materiality of the matter at issue.

If you are in a situation where you are considering reporting options / obligations, it may be wise to take legal advice on the matter.

[It is beyond the scope of this booklet to provide information or assistance to associations on whether it might be appropriate for actuaries to report the behaviour in question to regulators or other relevant authorities (including professional bodies, if applicable), as much depends on the legal and regulatory framework that applies in the particular jurisdiction, including whether reporting to third parties is required / prohibited and whether any protections exist where people report matters in good faith but it transpires that there is no wrong-doing.]

Impartiality

2.9 Under the Code, if an actuary performs professional services that involve an actual or potential conflict of interest, the actuary is expected to provide full disclosure of the conflict (and the actuary's ability to act in an impartial manner must be unimpaired) (amplification D1). What information should I include in such a disclosure?

When you agree to perform work, you should take reasonable steps to identify any actual or potential conflict of interest that is or may be relevant to the work. A conflict of interest exists where an actuary's duty to act in the best interests of a principal may reasonably be considered to be compromised by:

- a) The actuary's own interests or the interests of a person to whom the actuary is connected;
- b) The interests of other clients of the actuary; or
- c) An interest of the actuary's employer (where the principal is not the actuary's employer). In this regard, you will need to take reasonable steps to ensure that you are aware of any relevant interest of your employer.

If you decide that there is an actual or potential conflict of interest (but that you can nonetheless act in an impartial manner), the information that you disclose could usefully include:

- The nature and potential implications of the conflict of interest;
- Steps that you have taken or propose to take in relation to the conflict of interest, e.g. to reconcile the conflict of interest, or to minimise the risk of a potential conflict of interest becoming actual, or to minimise the effects of the conflict of interest;
- If applicable, information on the fact that the advice that you will provide will not lend equal weight to the interests of all parties (as might happen if, for example, an actuary was advising either the trustees or the sponsoring employer of a defined benefit pension scheme on pace of funding), and the implications of this;
- Your reasons for believing that you can act in an impartial way notwithstanding the conflict of interest.

[If the association imposes requirements additional to those in the Code in relation to conflicts of interest, it would be useful to draw attention to them here. For example, the association may require that members refrain from performing work in the circumstances described unless the parties involved have expressly agreed that they may do so.]

2.10 The Code says that I should disclose to my principal all sources of income related to any assignment carried out for the principal. Can you give an example of what is intended here, please?

This provision is likely to apply mainly to consulting actuaries. Suppose that you are a consulting actuary, you are carrying out work for one division of an undertaking, and another division invites you to take on another assignment. This division might not know about the other engagement. It might therefore be wise to disclose the totality of the fees that you will receive from the undertaking, so that the undertaking is aware of any potential real or perceived threat to your independence and impartiality. It is not necessarily expected that you would disclose income related to assignments that were completed a long time ago and could not reasonably be expected to impact on your independence and impartiality – hence, the provision says that you “should” rather than “must” disclose information.

Communication

2.11 Where can I find guidance on how to communicate in an appropriate manner?

The AAE has issued a [European Standard of Actuarial Practice](#), ESAP 1, on General Actuarial Practice. Section 4 of the ESAP includes useful guidance on communicating the results of your work in an appropriate manner.

General

2.12 What should I do if I find myself in a situation – or in a business or personal relationship – that puts me at risk of not being able to comply with the Code?

You should be alert to this possibility, as it is a very real one. If such a situation arises, you should take such steps as may be necessary to remove the threat to compliance or reduce it to an immaterial level. For example, this might involve establishing new arrangements for information-sharing or decision-making within your organisation.

Where the threat to compliance cannot be removed or reduced to an immaterial level, it might be advisable to decline to perform the relevant work or resign from the relevant appointment, engagement or employment. If you decide not to do so, you should consider disclosing the threat to compliance to your employer / client and (subject to confidentiality) discussing the matter with senior members of your actuarial association to get their opinions and advice.

2.13 What should I do if the law dictates that I should act in a way that is contrary to common sense or my professional judgement?

You must at all times behave in accordance with the law. It may be advisable to seek legal advice, or discuss the matter with an experienced colleague, to ensure that your interpretation of the law is correct. If you think that the recipient(s) of your advice might be surprised by it (because it seems to be contrary to common sense) and might therefore not accept it, you could include a description of the legal context when communicating your advice.

END