

**Responses to AAE Consultation on
Exposure Draft (ED) of “Code of Professional Conduct”
and “Questions and Answers on the Code of Professional Conduct”**

Respondent	The drafting team sought to deliver a Code of Professional Conduct (“Code”) that fosters high standards of behaviour but is not excessively long or unduly burdensome. Do you think that the ED of the Code strikes the right balance in this regard?		Do you think that the ED of the Code is clear and easy to understand?		If a new Code is approved by the General Assembly at its meeting in autumn 2016, some or all member associations will then need to update their codes of conduct. If member associations are allowed 2 years to complete this work, do you think this is:			If you think 2 years is too long or too short, how long a period do you think would be reasonable?
	Yes	No	Yes	No	Too long	Too short	About right	
Den Danske Aktuarforening	X		X		X			1 year
Society of Actuaries in Ireland	X subject to comments		X				X	
Deutsche Aktuarvereinigung e.V. (DAV)	X		X			X		3 years
UK Financial Reporting Council		X	X		-	-	-	-
The Actuarial Society of Finland	X			X			X	
Institute and Faculty of Actuaries		X		X		X		3 years
Association Suisse des Actuaire	X		X			X		3 years
Koninklijk Actuarieel Genootschap	X		X		X			1 year
Hungarian Actuarial Society	X		X				X	
ISOA (Italy)	X		X		X			1 year
10 Respondents	8	2	8	2	3	3	3	

Respondent	Do you think that the Questions and Answers booklet will be helpful to member associations in interpreting the Code and implementing it through their own codes of conduct?		Any comments on the ED of the Questions and Answers booklet:
	Yes	No	
Den Danske Aktuarforening	X		-
Society of Actuaries in Ireland	X		-
Deutsche Aktuarvereinigung e.V. (DAV)	X		We haven't examined the Q&A booklet in detail as we wish to reach consensus on the code of conduct first. In any case, a booklet will provide additional guidance and is therefore an idea we support.
UK Financial Reporting Council	X		The Q&A book is helpful. Requirement to be "of good character" and extending to personal conduct may be too broad; except where it can be reasonably be expected to reflect on the actuarial profession.
The Actuarial Society of Finland		X	See below
Institute and Faculty of Actuaries	X		Section 1.1 should be edited to explain that the requirement of the AAE statutes can be fulfilled by putting in place a code that includes the <u>substance</u> of the principles in the Code (rather than the specific requirements themselves). The IFoA supports the approach of having a high-level Code supported by more detailed guidance. However, it may be useful to include a statement at the beginning of the Question and Answer document that clarifies its status as non-mandatory guidance.
Association Suisse des Actuaire	X		-
Koninklijk Actuarieel Genootschap	X		-
Hungarian Actuarial Society	X		See below
ISOA (Italy)	X		-
10 Respondents	9	1	

The remaining contents of this note are:

1. Summary of comments on the ED of the Code (*pages 4 -10*)
2. Comments on the Questions & Answers document (*pages 11 – 12*)
3. Full comments on the ED of the Code (*pages 13 – 25*)

The Code of Conduct Task Force would welcome any reaction / thoughts from the Standards, Freedoms and Professionalism Committee, particularly in relation to:

- **the points listed at 4.4, 5.2 and 6.2 of the summary of comments on the ED of the Code (see pages 6, 8 & 9); and**
- **the highlighted sections of the comments on the Questions and Answers document (see pages 11 & 12).**

Yvonne Lynch

Convenor, Code of Conduct Task Force

4th March 2016

1. Summary of comments on the ED of the Code

See page(s):

1. General comments

- | | | |
|------|---|-------|
| 1.1 | Sections 3 (Principles) and 4 (Amplifications) could be merged into one section. | 13 |
| 1.2 | Agree with intention to restructure content in a way that matches structure of ESAP 1. | 14 |
| 1.3 | Appreciate the fact that the updated version fully reflects that the Code is not directly applicable to the individual actuary but rather defines a set of minimum requirements actuarial associations have to fulfill if they wish to be a full member association of the AAE. | 14 |
| 1.4 | Code is not excessively long and is substantially not unduly burdensome – but is too wide in some areas, which might make it difficult for actuaries fully to comply and may expand potential complaints against actuaries to include more trivial matters. | 14 |
| 1.5 | Code goes quite a long way towards achieving balance between fostering high standards of behaviour and not being excessively long or burdensome. However, there is scope for that balance to be improved. In particular, some of the “amplifications” may be additional requirements rather than simply amplifications. Also, it isn’t clear by what rationale some of these additional requirements have been included. (Respondent added comments and suggestions relating to both revised aspects of the Code and some of the existing wording). | 19/20 |
| 1.6 | The Code is, to a significant extent, clear and easy to understand but some aspects are potentially ambiguous. | 21 |
| 1.7 | There are areas where the Code would be weaker than that applied to accountants. We believe they should be broadly consistent. | 14 |
| 1.8 | AAE should work closely with IAA to ensure that there are the same Codes at European and international level. | 16 |
| 1.9 | Structure of Code, as implemented in 2012 – separating out the Principles and Amplifications – was a big step forward. The Principles should be of permanent nature. We are slightly surprised that the Code is being revised already. So, we propose not to change Section 3 (Principles), other than to change “professional duties” to “professional services” in line with the new definition. | 17 |
| 1.10 | Translation: language should be such that it is possible to be translated into other languages. Avoid using terms whose meanings are close to each other (e.g. “integrity” and “honesty” are translated with the same word in some languages). | 17 |

2. Scope and Application

- | | | |
|-----|---|----|
| 2.1 | 1.1.2: After “The Code also provides guidance on the behaviours expected of <i>actuaries</i> in wider contexts”, add “as set out in this document”. This could make the scope manageable; otherwise the scope would be ambiguous. | 25 |
|-----|---|----|

2.2	Delete 1.2.2 – not part of the Code, but rather information for actuarial associations on how to implement the Code.	18
2.3	AAE statutes require FMAs to have in place a Code of Conduct that reflects the requirements of the Code. However, that requirement is not to replicate the precise requirements of the Codes, but rather to have a Code that reflects the <u>substantive</u> requirements. The Application section of the existing Code talks about including in Codes of Conduct “the substance of the ethical and professional principles set down in the Code”. However, paras. 1.1 and 1.2.2 of the ED go further than this. The wording of these sections may cause confusion and uncertainty about the requirements upon FMAs in relation to the Code. They suggest that the requirement imposed upon FMAs in terms of the Code has changed. We recommend removing this section or rewording it to explain the precise requirements on FMAs. <i>[From the Statutes: “Actuarial associations applying for Full membership must have a Code of Conduct that reflects at least the requirements of the AAE’s Code of Professional Conduct”].</i>	22
2.4	1.2.2 uses the words “expected to” in explaining the obligation imposed on actuaries. The rest of the Codes uses “shall”, “should” and “may”. It is not clear what is intended – are these mandatory requirements, or does “comply or explain” apply, or is the Code non-mandatory guidance? To improve clarity, perhaps avoid these terms and instead use words that are consistent with those used in ESAPs (“must”, “should” and “may”). It might also be useful to explain how the ‘departing from the Code’ section of 1.2.2(f) fits into the different levels of the requirements in the Code and what is meant by ‘complying fully’. It would seem to be at odds with the high level principles in the Code if departure from any of the obligations were to be allowed – e.g. it is difficult to see when it might be justifiable to depart from the requirement to perform professional services “competently and with care”.	23
3.	<u>Section 2, Definitions</u>	
3.1	Actuary (<i>comments from more than one respondent</i>):	
	- Unclear what is meant by “part-qualified actuaries”.	17
	- Difference between “part-qualified actuaries” and the association members listed in footnote 3 is not clear.	24
3.2	Professional services (<i>comments from more than one respondent</i>):	
	- We welcome this new definition.	18
	- We wonder if the definition is sufficiently clear and whether the approach of focusing on particular actuarial practice areas, as opposed to the nature of those services, is the most useful approach. Also, the IAA uses the term “actuarial services” in their ISAPs, where the definition focuses more on the nature of the work rather than on the practice areas; it may be useful to consider aligning with the ISAPs.	23
3.3	Professional judgement: we question the need for this definition.	18
3.4	Add a definition of “intended user”, based on that in ESAP 1 but replacing “actuarial services” with “professional services”.	25

4.	<u>Integrity</u>	
4.1	Principle should remain as is (don't add "in the performance of <i>professional services</i> and in other contexts where the <i>actuary's</i> conduct could reasonably be considered to reflect on the actuarial profession"). Keep it short so that it can be remembered easily. As drafted it would be much longer than the other principles. However, add an introduction (before title A), stating: "The following principles shall apply to all promoting and performing of professional services".	18
4.2	With the exception of A5, the amplifications of the Integrity principle appear to relate to providing "professional services", but section 1.2.2 indicates that the Integrity principle applies to actuaries at all times where their conduct could be taken reasonably to reflect on the profession, not just when providing professional services. This is slightly confusing and might usefully be clarified.	20
4.3	In the Integrity section of the amplifications, all references to "professional services" should be replaced by "work" as, by virtue of 1.2.2(a), the Integrity principle applies to all work.	25
4.4	A1, actuary "shall not act against the public interest" (<i>comments from more than one respondent</i>):	
-	Will the term "public interest" be defined/expanded upon?	16
-	Requirement not to act against the public interest is different from the IESBA ¹ Code of Ethics adopted by the accounting professional bodies, which states that "A distinguishing mark of the accountancy profession is its acceptance of the responsibility to act in the public interest. Therefore, a professional accountant's responsibility is not exclusively to satisfy the needs of an individual client or employer." We would welcome further clarification of what AAE means by the requirement that an actuary should not act against the public interest.	16
-	Imposing a direct requirement on an individual actuary to determine what is in the "public interest" may be an unduly burdensome requirement and would be difficult to enforce. The Code is intended to guide an actuary towards acting in the public interest but without placing an onus on the actuary to determine what the "public interest" requirements are. This is a particular issue that is being debated across the Institute and Faculty of Actuaries in light of recent difficulties encountered in the UK within one of the accounting professional bodies, partly as a result of imposing an obligation on its individual members (in effect) to act in the public interest.	20
4.5	A2, actuary "shall be of good character" (<i>comments from more than one respondent</i>):	
-	Goes beyond EIOPA guidance on fit and proper requirements. Also, A2 would apply to all actuaries, not just those in key functions. Suggest that these words be deleted.	14
-	Term is not defined and may be subjective. Could refer to acting "in a proper manner" instead; or remove the requirement and	15

¹ International Ethics Standards Board for Accountants

	add appropriate content in the Q&A document.	
	- There may be some translation difficulties with the word “character”. Change “shall be of good character” to “shall him/herself be of good reputation”.	17,18
	- Very subjective; likely to mean different things in different places; difficult to enforce. Also, it is not clear what regulatory objective is being achieved by including such a requirement. Not an appropriate requirement for a Code of Conduct – we suggest deletion.	20
4.6	A2, actuary “shall act in a manner that will uphold the reputation of the actuarial profession” (<i>comments from more than one respondent</i>):	20
	- Very wide requirement. It might be difficult for actuaries to understand what is expected => difficult to enforce. A requirement “not to act in a manner that is likely to damage the reputation of the profession” might be easier to understand, less onerous and more enforceable.	
	- Delete, taking account of our suggestion to move the message here into an introduction to the Principles (see 4.1).	18
4.7	We note that fraud, deceit and misrepresentation mentioned in 2.2 of the Q&A fall into dishonesty.	18
4.8	A3, misleading information (<i>comments from more than one respondent</i>):	
	- Narrowly drafted and says only that the actuary should not directly provide misleading information. Accountants have a wider obligation not to be knowingly associated with misleading information.	15
	- We would delete “In promoting and performing professional services”, taking account of our suggestion to cover this in an introduction to the Principles (see 4.1).	18
4.9	A4, performing professional services “with courtesy” (<i>comments from more than one respondent</i>):	
	- “with respect” might be easier to interpret than “with courtesy”	15
	- “Courtesy” means “showing politeness”. It may be a step too far to include a positive obligation to be polite in an enforceable regulatory Code of Conduct. Might be more suitably included as non-mandatory guidance in the Q&A document.	21
4.10	A5, confidentiality (<i>comments from more than one respondent</i>):	
	- There might be circumstances in which an actuary cannot fully respect confidentiality, e.g. where there is a whistleblowing requirement.	13
	- Add “confidential” before the word “information”.	21

4.11	A6, consult with previous adviser (<i>comments from more than one respondent</i>):	
-	Important for roles that require an actuary. For smaller tasks, might not be necessary in many cases - so, revised wording ("shall consult") is unduly burdensome.	15
-	Preferred previous wording. New interpretation (see Q&A 2.5) suggests that if previous actuary has communication problems with the principal, the actuary should consider not to take the duty. If one actuary considers that he/she should not accept the duty, has the other one who accepted the duty breached the Code?	19
-	Consulting with a predecessor will not be appropriate in all circumstances and introducing a presumption of consulting is too strong. Retain the current requirement to "consider" consulting.	21
5.	<u>Competence and Care</u>	
5.1	B1, performing professional services "without undue delay" (<i>comments from more than one respondent</i>):	
-	E1 talks about communicating analysis and advice "in a timely manner". The same wording should be used in both cases.	14
-	"without undue delay" is unclear and potentially onerous. May sit better in Q&A as guidance. Or change to "in a timely manner".	15-16
5.2	B3, quality assurance processes (<i>comments from more than one respondent</i>):	
-	Doubtful whether actuary is in a position, or is responsible, to ensure appropriate quality assurance processes are in place "to provide confidence" regarding the accuracy and completeness of the work. Replace "to provide confidence regarding" with "to ascertain".	14
-	We support this insertion as it is helpful to have a requirement to ensure the work is subject to sufficient quality assurance.	16
-	Delete "to provide confidence regarding the accuracy and completeness of the work". It is only argumentation why the norm has been established, and this would be the only place in the Code where there is argumentation.	19
-	"Quality assurance" is not defined. It would be useful to understand what is intended by the addition of this amplification as it might be quite a significant extension of the requirements applying to individual actuaries. If it is to be included, perhaps change the wording along the lines of "shall ensure that . . . such quality assurance processes are in place as are necessary and appropriate to provide sufficient confidence . . .", so that it is clear that the requirement is about such processes that are necessary as well as appropriate.	21

6. Compliance

Reinstate the word “relevant” (*several respondents made this recommendation*):

- There will be many legal, regulatory and professional requirements that exist and are not relevant to the professional services. 16
- Including “relevant” gives some floor for judgement in disciplinary processes. 18
- The word “relevant” is of indispensable meaning in the context of compliance. 24
- Deleting “relevant” makes the Code too broad and would include norms that are not linked to the actuary’s work. 24

6.1 Principle should apply only to professional services – e.g. requirement to comply with legal requirements should apply only to professional services, not for example traffic violation. 18

6.2 There are no requirements on the actuary to speak up if he or she becomes aware of misconduct or non-compliance, which may allow the actuarial profession to appear to be complicit in such cases. 16

IESBA addresses situations where it comes to the attention of the accountant that their client/employer is or may be acting illegally (non-compliance with laws and regulations – NOCLAR). The revised IESBA requirements and guidance on NOCLAR, while not yet been finalised, include situations where it may be an employer who is acting illegally and sets responsibilities for senior and more junior accountants.

7. Impartiality

7.1 The remarks on Impartiality in the Amplifications need clarification. 24

7.2 D1, disclosure of actual or potential conflict of interest: after “full disclosure of the actual or potential conflict”, add “to the principal”. 25

8. Effective Communication

8.1 Edit Principle: “~~Effective~~-Communication: An *actuary* shall communicate effectively in an appropriate manner and meet all applicable reporting standards.” 13

8.2 B1 talks about performing professional services “without undue delay”. E1 talks about communicating analysis and advice“ in a timely manner”. The same wording should be used in both cases. 14

8.3 E2 (*comments from more than one respondent*):

- Last bullet is perhaps too prescriptive – might be inappropriate for some work. 13
- Paragraphs are clear without reference to each other. Delete “Subject to sub-paragraph (a)” and rename the paragraph as E3. 19

Also, shorten the text by deleting “(but not the requirement E1)” as this is self-evident if only E2 is mentioned.

- The second sentence is unclear. Does it mean, for example, that the contents in E2 should be mentioned in the communication if it is possible that a colleague reads the paper or the Board forwards the paper to the supervisory authorities? 19
- Third bullet: the output of the work is not necessarily intended to the principal. Say instead “identify the intended users”. 25

- 8.4 References to “Principal”: not clear how that practically applies in certain situations, e.g. an actuary operating in financial services but outside a normal area of actuarial work and in a less traditional role (e.g. an equity market analyst). In such cases, the interaction with a “Principal” might be less obvious and some of the specific requirements in the amplification may not be appropriate. 23

9. Introductory paragraphs to Amplifications of Principles

- 9.1 First para. references para. 1.2.2 – but we propose deleting 1.2.2 – it is not part of the Code, but rather information for actuarial associations on how to implement the Code. 18
- 9.2 Second para: The essential content of the old Code is “Full members should comply with the Principles of the Code. It is not possible to capture all cases in the Amplification of the Principles. So, there may be other cases that are against the spirit and intent of the Principles.” We were confident with the old formulation. We wonder how to interpret the new formulation: The Code actually defines what is meant by professionalism and then we refer here to behaving in a professional matter. Isn’t this kind of circular reasoning? 18

2. Comments on the Questions & Answers document

See page 2. Also:

The Actuarial Society of Finland

We state that the legal status of the Q&A compared to the Code itself is unclear. If such a document is published, then it forms a new level of guidance in addition to the Amplification of Principles. So, we question if it is needed. Or, should it be only a document for the associations to help their implementation processes? If it anyhow would be published, legal quality assurance should be made to the document.

Taking into account the topics discussed in the Q&A, it would have been good background document especially when implementing the previous Code.

We also note that if published, it should be revisited after final approval of the contents of the Code to mirror the final version of the text.

If Q&A will be published, we have currently the following comments:

Chapter 2.2: We consider that the Principles should be exclusive to each other. The current answer, however, states that integrity includes also compliance (“... your responsibility to perform actuarial services in accordance with applicable laws, regulatory requirements and technical and professional standards”). If the principle Integrity would include the principle Compliance, then we would not need the principle Compliance. So, we propose to delete the whole sentence.

Chapter 2.4: We would delete the question or to redraft the answer as a whole. Confidentiality is determined by laws and mutual agreements and should be respected. We question the role of the associations in determining the confidentiality.

Chapter 2.5: See the comment above to the point A6.

Chapter 2.8: We are definitely against the interpretation given in the answer (i) and it should be deleted. We are against any whistle blowing system proposed in this answer for several reasons:

- A whistle blowing requirement from actuaries to supervisors has not been laid down for actuaries, though discussed within IAA.
- There exists a formal complaint and disciplinary process and also all members may use it.
- The complainant should have also evidence – if the evidence turns out to be false, then the defendant may sometimes raise a libel suit and action for damages against complainant (at least in Finland). It is also possible that the person in question would be discharged from the service.

- The interpretation would result that there could be several actuaries to be sanctioned in the disciplinary process due to breach of now blowing the whistle. How to define which actuaries have had so much information that the disciplinary process should be started against them.

For the same reason, from the second paragraph of answer (ii) the text “or to regulators or other relevant authorities (including your colleague’s / client’s actuarial association, if applicable)” should be deleted.

Hungarian Actuarial Society

1. It would be beneficial if the Q&A document addressed the question of whom the actuary is supposed to report.
2. Add 1.4: “This document is not part of the Code of Professional Conduct”
3. Correct “actuarial services” to “professional services” where appropriate (2.2, 2.5, 2.7, 2.9)

4. 2.2 Answer, 2nd sentence

It would probably better read like

“Behaving with integrity means refraining from any act that will or could do harm to the profession including, but not limited to, any act of dishonesty, fraud, deceit or misrepresentation.”

5. 2.3 Answer

Delete “actuarial” from “actuarial report” as this guidance should apply to all reports

6. 2.11 Answer 2nd para, 2nd sentence

“If you decide not to do so, you should consider disclosing the threat to compliance to your ~~employer / client~~ principal and consult with senior members of your actuarial association.”

3. Full comments on the ED of the Code

Den Danske Aktuarforening

Section 3 and 4 contains an unnecessary repetition and the 2 sections could be merged into one with the section 3 text used as a one-liner for each principle

Society of Actuaries in Ireland

The Society of Actuaries in Ireland suggests the following changes to the exposure draft of the Code:

Principles

“Effective Communication

An actuary shall communicate effectively and meet all applicable reporting standards”.

Whether a communication is effective depends somewhat on the user making appropriate use of it, and exercising care and responsibility in this regard. However, typically this is not within the actuary’s control. We suggest changing this Principle to:

“Communication

An actuary shall communicate in an appropriate manner and meet all applicable reporting standards”.

Note that this is consistent with the amplification of the Principle in Section 4.

Amplification of Principles

Allowance for whistleblowing

A5: There might be circumstances in which an actuary cannot fully respect confidentiality, e.g. where the actuary is obliged to whistleblow. Allowance for these circumstances should be taken into account in the Code.

[Effective] Communication

E2: In our opinion, the last bullet (“state that the *actuary* is available to provide the *principal* with supplementary information and explanation about scope, methods, data, professional judgements and conclusions”) is perhaps too prescriptive. While it might be appropriate for some work, it probably would not be appropriate for all work and we suggest that it be revised to be less prescriptive.

Deutsche Aktuarvereinigung e.V.

First, we wish to congratulate the Task Force for its excellent work. We fully agree with the intention to restructure the content in a way that matches the structure of the new standard ESAP 1 on “General Actuarial Practice”. In particular, we appreciate that the updated version fully reflects the fact that the AAE Code of Conduct is not directly applicable to the individual actuary but rather defines a set of minimum requirements actuarial associations have to fulfill if they wish to be a full member association of the AAE.

As regards the changes to the five principles laid out in the Code (cf. Section 3) we have a few comments / questions we would like to discuss:

- A2: The new version states that actuaries “shall be of good character”. In our view, this goes beyond the fit & proper requirement and EIOPA’s guidance on this topic. A2 refers to all actuaries not just to those in a key function. Therefore we propose to delete this part and change the inserted text in A2 to “and shall, in the performance of professional services and in any other context in which the actuary’s conduct could reasonably be considered to reflect on the actuarial profession, behave with integrity.”
- B1 / E1: We are not sure about the exact implications of the new wording in B1 and E1 as regards the time specification: In B1 the new code says “without undue delay” whereas E1 says “in a timely manner”. We strongly recommend using the same expression in both cases, but we aren’t sure which one is to be preferred. In this case we would be grateful for further explanations as to the differences in meaning.
In general, however, we believe that the time constraints of the actuarial work should be entirely subject to the agreement between the actuary and the principal.
- B3: In 1.1.1 the intention to give users of actuarial services confidence in the professional work of actuaries is already emphasized as a general requirement. Moreover, it is doubtful whether the actuary is in a position / is responsible to ensure “appropriate quality assurance processes are in place to provide confidence”. Therefore we propose to change the inserted text to “appropriate quality assurance measures are in place to ascertain the accuracy and completeness of the work.”

UK Financial Reporting Council

We commend the work of the drafting team in this difficult area.

We consider that the Code is not excessively long and is substantially not unduly burdensome. However, **there are a few areas where we have concerns that the revised draft of the Code is too wide.**

This might make it difficult for actuaries fully to comply with the Code and may expand the potential complaints to be made against actuaries to include more trivial matters.

There are also areas where the code as currently drafted would be weaker than that applied to accountants. We believe they should be broadly consistent.

A: Integrity

We agree with the revised wording of the principle. We have comments on the wordings of some of the provisions.

In A2 there is a requirement for the actuary to be “of good character”. This term is not defined and may be subjective. We suggest use of an alternative wording (eg- that the actuary act “in a proper manner”). Alternatively the requirement might be removed from the provisions and included in the Q&A section.

The misleading info point (A3) is narrowly drafted and says only for actuaries not to directly provide misleading info. Accountants, under the International Ethics Standards Board for Accountants (IESBA) Code, have a wider obligation not to be knowingly associated with misleading information.

IESBA addresses situations where it comes to the attention of the accountant that their client/employer is or maybe acting illegally (non-compliance with laws and regulations – NOCLAR). Currently that part of the IESBA Code that expands on the principle of integrity explains that professional accountants are required not just to ensure that they do not provide misleading information, but also:

A professional accountant shall not knowingly be associated with reports, returns, communications or other information where the professional accountant believes that the information:

- (a) Contains a materially false or misleading statement;
- (b) Contains statements or information furnished recklessly; or
- (c) Omits or obscures information required to be included where such omission or obscurity would be misleading.

When a professional accountant becomes aware that the accountant has been associated with such information, the accountant shall take steps to be disassociated from that information.

We consider that actuaries should adopt a similar position to accountants as this is clearly a public interest point.

In A4 we agree that the actuary should perform professional services with courtesy however we consider that a requirement to act “with respect” might be easier to interpret than “courtesy”, particularly given the different cultures of application.

A6 is also wide in its application. We agree that for roles requiring an actuary that it is important to consult with the previous provider. For smaller tasks this might often not be necessary so we consider the revised wording with “shall” is unduly burdensome. We suggest keeping the words “consider whether it is appropriate to” consult, in line with the previous draft, to allow the actuary to use their judgement of the situation.

B: Competence and Care

B1 there is a requirement to perform professional services carefully, thoroughly, and without undue delay. This is a laudable aim for an actuary but we consider the proposed wording of “without undue delay” is unclear and potentially onerous, and may sit better in the Q&A section as guidance.

Alternatively a more proportionate wording might be “Actuaries shall take care that the advice or services they deliver are appropriate to the instructions and needs of the client and communicated in a timely manner.”

B3: We support this insertion as it is helpful to have a requirement to ensure the work is subject to sufficient quality assurance.

C: Compliance

In the compliance principle the word “relevant” has been removed, however we consider that the word “relevant” is necessary for this requirement as there will be many legal, regulatory and professional requirements that exist and are not relevant to the professional services.

In the compliance provisions, C1, there are no requirements on the actuary to speak up if he or she becomes aware misconduct or non-compliance, which may allow the actuarial profession to appear to be complicit in such cases.

IESBA addresses situations where it comes to the attention of the accountant that their client/employer is or may be acting illegally (non-compliance with laws and regulations – NOCLAR). The revised IESBA requirements and guidance on NOCLAR, while not yet been finalised, include situations where it may be an employer who is acting illegally and sets responsibilities for senior and more junior accountants.

On the question of whether the Code is clear and easy to understand:

On the whole we think the ED of the Code is clear and easy to understand but we would welcome further clarification in some areas.

In A1 the term “public interest” is used but it is not defined in the glossary. Will this term be defined / expanded upon? There is developing Institute of Chartered Accountants in England and Wales (ICAEW) guidance and Institute of Chartered Accountants in Scotland (ICAS) thought pieces on this following the UK Rover case.

We note that the requirement to not act against the public interest is different from the IESBA Code of Ethics adopted by the accounting professional bodies which states that “A distinguishing mark of the accountancy profession is its acceptance of the responsibility to act in the public interest. Therefore, a professional accountant’s responsibility is not exclusively to satisfy the needs of an individual client or employer.

We would welcome further clarification of what AAE means by the requirement that an actuary should not act against the public interest.

Other comments:

We would encourage the AAE to work closely with the IAA to ensure that there are the same codes at the European and international level.

The Actuarial Society of Finland

The Actuarial Society of Finland considers that the structure of the Code, as implemented in 2012, was a big step forward in formulating the Ethical Code because the values (Principles) and the practical applications (Amplifications) have been separated. It would even be enough to define the Values only, but the application examples give added value.

We note also that the Value descriptions are short which should also be the goal because the Values (Principles) are the ones that the actuaries remember by heart and from the applications they remember the relevant contents.

The Values should in general be of permanent nature. That applies also to the values expected from actuaries. So, our society was slightly surprised that a process was established to revise the Code just after the implementation of the previous Code and its education to the actuaries.

So, we propose not to change Section 3 of the Code, but to concentrate on the other parts of the Code: Section 2 (Definitions) and section 4 (Amplification of Principles). Only the term professional duties in 3B would be changed to professional services in line with the new definition in section 2.

Regarding second sentence of point 2.2 we consider that it is unclear what is mentioned by “part-qualified” actuaries. For example, in our association there are actuaries that are not qualified (have only finished e.g. university studies in Mathematics). We do not consider them as “part-qualified” because they do not have actuarial qualification of any level. In our articles of association we have a general integrity requirement for all actuaries, also for non-qualified ones. So, becoming a member the person is bound to the provisions in the articles of the association and the full member has to sign in writing that he/she is committed to the Code.

On the question of whether the Code is clear and easy to understand:

When translating the previous Code we already realized the difficulties to translate the text. This is due to the fact that there is no one-to-one match between two languages and e.g. as regards to point A words “integrity” and “honesty” are often translated with the same word in Finnish. In order to make a difference between “integrity” and “honesty” we used a phrase “in good faith and in every sense honestly”.

We consider of utmost importance that the used language is such that it is possible to be translated into other languages and it should be avoided to use terms whose meanings are close to each other.

In the current version we have recognized that in A2 there are two words where there are difficulties in finding a good translation. As far as we understand, “be of good character” means here the same as “be of good reputation”. Because “reputation” is already mentioned in the chapter, we propose to use also in this connection the latter phrase. We also note that the word “character” should not be understood as “nature”, as the word “character” is quite often translated into Finnish, because the Code of Conduct should be a base for resolutions in a disciplinary process. We doubt that in the latter case we could base any resolution on a view that a person has not a good character.

Other comments:

Regarding our comments 1 and 2 we propose the following detailed changes to the new draft Code:

- 1) We welcome the new definition 2.5 (Professional services). Actually when we implemented the previous Code, some members of our Association pointed out that the Code should be restricted to activities that are now defined in the point 2.5. However, we question the need for definition 2.4 because the meaning of the term is clear, at least taken into account our note to point A to move message into the introduction of the Principles.
- 2) Point A (Integrity): We consider that the point should remain as it is in the old Code. However, we propose that the message should be put into the introduction of the Principles (before title A) and would be as follows: "The following principles shall apply to all promoting and performing of professional services:" The wording placed in the introduction reflects also the amendment proposed to point A3 in the draft Code.

We note that also the other Principles should apply to Professional services only. For example, requirement of legal requirements in point C (Compliance) should apply only to professional services, not for example traffic violation.

As stated above, it is reasonable to define the Principles in short in order to be able to recall the principle by heart. Current proposal would result that the Principle A is much longer than the other ones.

- 3) Point C (Compliance): We consider that the word "relevant" is relevant in this connection. It gives some floor for judgment in disciplinary processes.
- 4) Introduction of Amplification of principles.
 - 1. chapter: We consider that also the introduction is part of the Code and is relevant for the full members. However, point 1.2.2 is not part of the Code, but information for the actuarial associations how to implement the Code. So, we propose to delete the amendment.
 - 2. chapter: The essential contents of the old Code is "Full members should comply with the Principles of the Code. It is not possible to capture all cases in the Amplification of the Principles. So, there may be other cases that are against the spirit and intent of the Principles." We were confident with the old formulation. We wonder how to interpret the new formulation: The Code actually defines what is meant by professionalism and then we refer here to behaving in a professional matter. Isn't this kind of circular reasoning?
- 5) Point A2: As mentioned above, we would change "shall be of good character" -> "shall him/herself be of good reputation". We would delete the rest of the sentence taken into account our note to point A to move message into the introduction of the Principles.

We also note that fraud, deceit and misrepresentation mentioned in 2.2 of Q&A falls into dishonesty.
- 6) Point A3: We note that the whole paragraph is new text though it is not shown as an amendment in the draft Code. We would delete "In promoting and performing professional services," taken into account our note to point A to move message into the introduction of the Principles.

- 7) Point A6: We were confident with the previous wording because there was a direct link between A6 and B2. The new interpretation (see Q&A Chapter 2.5) gives a message that if the previous actuary had communication problems with the principal, then the actuary should consider not to take the duty. If one actuary considers that he/she should not accept the duty, has the other one who accepted the duty breached the Code? We doubt that in a disciplinary process we could base any resolution on the new interpretation. Our view is that despite the communication problems of an old actuary, some other professional actuary should accept the duty. Maybe the resolution of the new actuary would be the same as that of the old one, which shows that the old actuary was right.
- 8) Point B3: We note first that the norm in B3 is: “An actuary shall ensure that, in respect of professional services for which the actuary is responsible, appropriate quality assurance processes are in place...” The rest of the sentence “...to provide confidence regarding the accuracy and completeness of the work.” is just argumentation why the norm has been established. So, we propose to delete the rest of the sentence. This would be the only place where the Code has argumentation.
- 9) Point E2: We consider that the paragraphs are clear without references to each other: So, we propose to delete from the beginning of E2: “Subject to sub-paragraph (a)” and to rename the paragraph (a) as E3. That would make the Code easier to read. Now there are references from both chapters. Stating that an actuary may deviate from the requirements of paragraph E2 is not clear because paragraph (a) is also part of paragraph E2 (circular reasoning).

Also if there exists a paragraph (a), shouldn't there be at least a paragraph (b) also.

- 10) Point E2 (a) – or E3 as proposed by us: We would shorten the text by deleting the text “(but not the requirements E1)” because it is self-evident if only E2 is mentioned.

The second sentence is unclear: people who may use the communication can be e.g. colleagues or supervisors. Does that mean that the contents in E2 should be mentioned in the communication if it is possible that a colleague reads the paper or the Board forwards the paper to the supervisory authorities? Anyhow, it is the Board who is responsible of the resolution.

Institute and Faculty of Actuaries

The IFoA supports the aim of the drafting team to deliver a Code that achieves a balance between fostering high standards of behaviour and not being excessively long or burdensome. It supports, in particular, the view expressed in the covering letter from the Chair of the Working Party that keeping the Code short is not a weakness but may actually provide a range of benefits.

The revised draft Code goes quite a long way towards achieving that balance, particularly by following a structure of having a principles-based Code supplemented by separate guidance and the drafting team are to be commended on this work.

However, it is felt that there is scope for that balance to be improved with some revision to the draft Code. In particular, some of the ‘amplifications’ of the general principles in the Code, may be additional requirements rather than simply amplifications.

It also isn’t clear from the materials we have seen, by what rationale some of these additional specific requirements have been included in the Code.

The comments relate to the revised version of the Code but include observations on, and suggestions in relation to, both the revised aspects and some of the existing wording.

This is drawn out in the more detailed comments noted below, which we hope the drafting team find helpful:

Detailed comments:

i Integrity principle

1. The amplification of the integrity principle at A1 provides that an actuary “*shall not act against the public interest*”. There is a concern that imposing a direct requirement upon an individual actuary to determine what is in the ‘public interest’ may be an unduly burdensome requirement and would be difficult to enforce. The principles in the Code (and the existence of the Code itself) are all intended to guide an actuary towards acting in the public interest but without placing the onus on the actuary to determine what the ‘public interest’ requires. This is a particular issue that is being debated across the IFoA light of recent difficulties encountered in the UK within one of the accounting professional bodies, partly as a result of imposing an obligation on its individual members (in effect) to act in the public interest. We would be happy to discuss this issue further with the drafting team and to share some materials that have been considered as part of that IFoA debate.
2. The amplifications of the integrity principle appear, with one exception – A5, to relate to providing ‘professional services’ but section 1.2.2 indicates that the integrity principle, unlike the others, applies to actuaries at all times where their conduct could be taken reasonably to reflect upon the profession, not just when providing professional services. This is slightly confusing and might usefully be clarified in the Code.
3. The amplification at A2 provides that an actuary “*shall act in a manner that will uphold the reputation of the actuarial profession*”. There is a concern that this requirement is very wide and that it might be difficult for actuaries to understand what is expected of them. As a result, this would be a difficult requirement to enforce. It may be that making this a more ‘negative’ requirement ‘not to act in a manner that is likely to damage the reputation of the profession’ (or something similar) might be easier to understand, less onerous and more enforceable.
4. The requirement in that same amplification, A2, that an actuary “*shall be of good character*” is surely a very subjective concept, which is likely to mean different things in different places, and one which we feel would be difficult to enforce. It also isn’t clear what regulatory objective is being achieved by including such a requirement. We would suggest that this isn’t an appropriate requirement for a Code of Conduct and should be deleted.

5. The amplification of the integrity principle at A4 provides that *“an actuary shall perform professional services with courtesy and shall co-operate with others serving the actuary’s principal”* (emphasis added). The word ‘courtesy’ means ‘showing politeness’ and while we would not expect any member association to encourage impoliteness, it may be a step too far to include a positive obligation to be polite in an enforceable regulatory Code of Conduct. It may be that this would be more suitably included as non-mandatory guidance in the Question and Answer document. The current UK Actuaries’ Code includes a related requirement of: *“members will show respect for others in the way they conduct themselves in their professional lives”*. Although this is a provision that will be considered in the upcoming review of the Actuaries’ Code.
6. The amplification at A5 might also usefully clarify that it applies to confidential information rather than imposing a requirement to respect confidentiality in non-confidential information that is received. This might be addressed by the inclusion of the word ‘confidential’ before the word ‘information’.
7. The amplification at A6 has been amended so that it now states that *“when the actuary is asked to provide professional services previously provided by another person, the actuary shall consult with the previous provider...”*. The words ‘consider whether it is appropriate to’ have been deleted from that requirement and have been replaced by the inclusion of a line at the end that states: *“unless particular circumstances exist that make it inappropriate to do so”*. There is a concern that consulting with a predecessor will not be appropriate in all circumstances and that introducing a presumption of consulting is too strong an obligation. We would recommend that the current requirement ‘to consider’ should remain.

ii **Competence and Care – quality assurance amplification**

1. The amplification of the competence and care principle provides at B3 that: *“an actuary shall ensure that, in respect of professional services for which the actuary is responsible, appropriate quality assurance processes are in place to provide confidence regarding the accuracy and completeness of the work”*. This introduces a specific requirement to apply appropriate quality assurance processes, although the term ‘quality assurance’ is not defined for these purposes. It would be useful to understand what is intended by this addition as, on the face of it, this might be quite a significant extension of the requirements applying to individual actuaries.
2. If such a requirement is to be included then it may be that a slight adjustment to the wording along the lines of *“shall ensure that... such quality assurance processes are in place as are necessary and appropriate to provide sufficient confidence...”* might be more appropriate so that it is clear that the requirement is about such processes that are necessary as well as appropriate.

On the question of whether the Code is clear and easy to understand:

The revised draft Code is, to a significant extent, clear and easy to understand. However, there are aspects of it which we feel are potentially ambiguous and could benefit from some amendment to improve clarity.

Specific examples of this (including alternative text where appropriate) are set out below in the more detailed comments:

Detailed Comments

i Scope and application wording

1. The IFoA has some concern about the revision of the Code in relation to its scope and application in relation to Full Member Associations of the AAE and about how it might lead to confusion about the requirements upon FMAs in relation to the Code.
2. It is understood that the requirement that FMAs must have in place a Code of Conduct that reflects the requirements of the Code is contained in the AAE statutes. However, that requirement is not to replicate the precise requirements of the Code, but rather it is to have a Code that reflects its substantive requirements.
3. In the current (pre-revised) version of the Code there is explanation of the status of the Code and clarification that FMAs have agreed either to require their members to apply the Code or a Code of Conduct *“that includes, but is not necessarily limited to, the substance of the ethical and professional principles set down in the Code”* (our emphasis added). In the revised draft Code, this explanatory wording has been deleted.
4. Instead, the revised draft Code provides at section 1.1 the ‘purpose’ of the Code. It provides: *“This [Code] sets out the minimum requirements that [FMAs] of the AAE should include in their own Codes of Conduct.”*
It then provides at 1.2.1 (under the heading ‘application’) that: *“The Codes of Conduct of [FMAs] should reflect paragraph 1.2.2 below or should set more extensive requirements”*. Paragraph 1.2.2 then goes on to set out the general requirements for actuaries to comply with the principles.
5. It is felt that the wording in those two sections risks causing confusion and uncertainty about the requirements upon FMAs in relation to the Code.
6. If the intention was to make it clear that codes produced by FMAs may go further than the requirements included in the Code then perhaps that could be more appropriately explained in the Question and Answer document. As presently drafted this section risks causing confusion and suggesting that the requirement imposed upon FMAs in terms of the Code has been changed.
7. We would recommend that this is either removed from the Code and the explanation of the requirements left to the Question and Answer document or that it is reworded to explain the precise requirements on FMAs.
8. There is also reference in the accompanying ‘Questions and Answers’ document, at section 1.1, to the AAE statutes but it does not explain that this requirement would be fulfilled by requiring members to apply a code that includes ‘the substance’ of the principles in the Code (as opposed to requiring a Code that includes the specific requirements themselves).
9. It is felt that this might lead to misunderstanding and that there should therefore be additional wording included in this section of the Question and Answer document to make it clear the precise extent of the requirements upon FMAs. This wording might usefully draw upon the explanatory wording included in the current Code (quoted above).

ii Use of ‘expected to’ and ‘departures’ provision

1. In section 1.2.2, the revised Code uses the words ‘expected to’ in explaining the obligation imposed upon actuaries. The rest of the Code uses the terms ‘shall’, ‘should’ and ‘may’. It isn’t clear what is intended in terms of this word: is it a mandatory requirement, a ‘comply or explain’ type of presumption from which departure may be justified or is it non-mandatory guidance?
2. It may be useful, for the purposes of clarity, to avoid introducing these terms at all and to consider using words that are consistent with those used in ESAPs produced by the AAE (i.e. ‘must’, ‘should’ and ‘may’) or, if that term has a different meaning in terms of the obligation imposed, to include an explanation of its status.
3. It might also be useful to explain in the Code how the ‘departing from the code’ section of 1.2.2(f) fits into the different levels of the requirements in the Code and what is meant by ‘complying fully’. In particular, it would be useful to understand whether that provision might be relied upon for the ‘shall’ obligations (including the principles themselves) or whether that provision only applies to the ‘should’ obligations. It would seem at odds with the high level principles in the Code if there were to be departure allowed from any of the obligations. For example, it is difficult to see when there might be circumstances where it would be justifiable to depart from the requirement to perform professional services ‘competently and with care’.

iii ‘Professional services’

1. The revised Code makes a distinction in section 1.2.2 between ‘professional services’ and ‘other work’ and the definition of ‘professional services’ is contained in section 2.5.
2. We wonder if the definition in section 2.5 is sufficiently clear and whether the approach of focusing on particular actuarial practice areas, as opposed to the nature of those services, is the most useful approach.
3. This is also different to the term used by the IAA in their ISAPs which is ‘actuarial services’, where the definition focuses more on the nature of the work rather than on the practice areas. It may be that it would be useful to consider aligning this with the ISAP 1 term and definition, if possible.

iv Effective communication

1. Some concern has been expressed about the requirements in the amplification of principle E ‘Effective Communication’ and the references to ‘Principal’. In particular, a question has been raised about how that might practically apply in certain situations, such as an actuary operating in the financial services sector but outside a normal area of actuarial work and in a less traditional role (e.g. an equity market analyst). In such cases the interaction with a ‘Principal’ may be less obvious and some of the quite specific requirements in the amplification may not be appropriate.

Association Suisse des Actuaires

For me the difference is not clear between the "part-qualified actuaries" (2.2), to whom the associations' CoC must apply, and the members in Footnote 3, whom the associations are not obliged to include in the application of their CoC.

Koninklijk Actuarieel Genootschap

In general, we agree that the ED of the Code is clear and easy to understand. However, the remark under Section 4, D. Impartiality, D2 needs more clarification. In our Code of Conduct the (scope of) this article is placed under the header 'Supply of Information'.

See:

Article 15 Obligation to Provide Information

1. If an actuary arranges insurance policies or makes investments on a client's behalf, and/or is involved in the management of insurance policies or investments, he must inform the client of all income accruing to him or to the organisation he represents from the said mediation.

Could you clarify the relation to impartiality?

Other comments:

We suggest to add 'relevant' to Section 3 Principles, C Compliance: An actuary shall comply with all **relevant** legal regulatory and professional requirements. Your suggestion is to leave this word out of the present text, but in our opinion this word is of indispensable meaning in the context of compliance. Article A6 is in our Code of Conduct only mentioned under the regulation for certifying actuaries. We are considering to broaden this, so that it is more or less in line with AAE Code of Conduct.

Hungarian Actuarial Society

1. Section 3. C. Compliance

„An actuary shall comply with all relevant legal, regulatory and professional requirements.”

We believe that the relevant should not be crossed out. We think that removing “relevant” would make the CoPC too broad and would include norms that are not linked to the actuary's work

2. Ad 1.1.2

Should be amended as follows

„The Code also provides guidance on the behaviours expected of actuaries in wider contexts as set out in this document.“

Adding this could make the scope manageable; otherwise the scope would be ambiguous

3. Section 2

As “intended user” is used in the document and it is a defined term in ESAP1 it would be appropriate to use basically the same definition with the only exception to use “professional services” instead of actuarial services. Thus “Intended User – Any legal or natural person (usually including the principal) whom the actuary intends at the time the actuary performs professional services to use the report.”

4. Section 4A

All appearances of “professional services” should be replaced by “work” as, by virtue of 1.2.2 (a) integrity applies to all work (rather than only to professional services).

5. Section 4 D1

“An actuary shall not perform professional services involving an actual or potential conflict of interest, unless the actuary’s ability to act in an impartial manner is unimpaired and there has been full disclosure of the actual or potential conflict to the principal.” Lacking this constraint it would be undefined whom the disclosure is to be made. Putting such information into the public domain would not be appropriate. The only logical choice is the principal.

6. Section 4 E2 3rd bullet

“identify the principal for whom the analysis and advice is intended” The output of the work is not necessarily intended to the principal. Sometimes the principal commissions the actuary but the intended users do not include the principal itself. Thus use the following: “identify the intended users”.