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Questions and Answers on the Code of Professional Conduct

~~for Actuaries who are members of European Associations~~
Common Principles of Ethical and Professional Behaviours accepted by the Actuarial Associations affiliated to the Actuarial Association of Europe

Issued by the Actuarial Association of Europe on [date]

1. Introduction

1.1 This "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 [date].

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 Code[1].

1.2 This "Questions and Answers" booklet sets out questions that an individual actuary might pose about the requirements of the Code.

- The booklet will help associations to understand the Code and implement its provisions in their own Codes of Conduct.
- Associations may find it useful to develop a "Questions and Answers" document that draws on this booklet but is specific to their own Code of Conduct and reflects local laws and practices.
- Associations may also find it useful to draw on this booklet when preparing educational materials for members about their Code of Conduct.
- 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.

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. Questions

Integrity

Public interest

2.1 The Code says that an actuary "shall fulfil the actuary's professional responsibility to the principal and shall not act against the public interest" (amplification A1). What if my duty to my employer conflicts with the public interest?

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. Indeed, the Code of Conduct of your actuarial association might indicate that you should (or must) at least consider doing so. 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.

Commented [YL1]: *Explanatory comment for SFPC:* The IAA requirements state that an association may include in its Code of Conduct a provision along the lines that "an actuary could consider advising a client or employer where a proposed course of action would, in the opinion of the actuary, be contrary to the public interest".

[1] Subject always to the laws of the relevant jurisdiction.

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Reputation of the profession

2.2 The Code says that an actuary "shall act in a manner that will uphold the reputation of the actuarial profession" (amplification A2). What is expected of me in this regard?

You are expected to be of good character and, in both personal and business conduct, to behave with integrity – as befits a member of a well-respected profession. Behaving with integrity includes 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. Nor should you bring the profession into disrepute by failing to observe your responsibilities as an actuary, such as your responsibility to perform actuarial services in accordance with applicable laws, regulatory requirements and technical and professional standards.

False or misleading information

2.3 The Code says that an actuary "shall not provide information that the actuary knows or ought to know is 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 actuarial 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 an actuary "shall respect the confidentiality of 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.

You should examine the Code of Conduct of your national actuarial association to see if it sets out any specific restrictions / permissions.

If your association's Code of Conduct does not include any requirement to disclose confidential information in specific circumstances, then it is generally advisable not to disclose confidential information to other persons or bodies unless disclosure is required by the discipline process of your actuarial association (subject to applicable laws), or you have specific permission from your employer and/or client (as relevant) to disclose the information, or disclosure is specifically required by law.

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

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Taking over from another actuary

2.5 The Code says that when an actuary is asked to provide actuarial services previously provided by another ~~actuary~~person, the actuary shall ~~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), unless particular circumstances exist that make it inappropriate to do so.

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

(ii) What if someone consults me, as the previous provider, but I cannot respond because of confidentiality concerns?

(i) 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. Indeed, the Code of Conduct of your actuarial association might require you to do so in this circumstance.

(ii) 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 the matter on grounds of confidentiality. So that you can respond more fully if the situation arises, you may wish to request that any contract of employment that you agree with a new employer, or any engagement letter or other contract that you agree with a client, includes a provision that allows you 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). What does that mean for me as a part-qualified actuary?

The Code does not prevent part-qualified 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 another actuary (or suitably qualified 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.

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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 provide actuarial services operates;
- Entity-specific knowledge, including the business strategy, business model and system of governance of an entity for which you provide actuarial services;
- Developments in actuarial methodologies 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?

(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?

(i) Unless you are precluded from doing so due to the confidentiality of relevant information, you should report promptly, for consideration under the relevant actuarial association's disciplinary scheme, any matter that appears to constitute professional misconduct by another actuary. This may include but is not limited to a material breach of any legal, regulatory or professional requirements. To the extent that the consent of a third party is required in order to disclose confidential information for this purpose, you should take all reasonable steps to obtain such consent.

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(ii) 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, whether via reporting processes within your firm or your client's firm (as applicable) or to regulators or other relevant authorities (including your colleague's / client's actuarial association, if applicable).

In deciding on a course of action, it may be reasonable to take into account the materiality of the matter at issue. Note, however, that you might be subject to statutory or regulatory obligations to report the matter. If you are in a situation where you are considering reporting options / obligations, it may be wise to take legal advice on the matter.

Impartiality

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

When you agree to ~~provide actuarial services~~perform work, you should take reasonable steps to identify any actual or potential conflict of interest that is or may be relevant to the ~~services~~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;

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- Your reasons for believing that you can act in an impartial way notwithstanding the conflict of interest.

Your actuarial association may impose requirements additional to those in the Code in relation to conflicts of interest. For example, your association may require that you refrain from ~~providing actuarial services~~performing work in the circumstances described unless the parties involved have expressly agreed that you may do so.

Commented [YL2]: *Explanatory comment for SFPC:* Under the IAA's requirements, associations may (but are not obliged to) "require [under the Code of Conduct] that an actuary may not perform professional services under these circumstances unless the client and all principals have expressly agreed that the actuary may do so".

Effective Communication

2.10 Where can I find guidance on how to communicate effectively?

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 effectively.

General

2.11 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.

2.12 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?

Commented [YL3]: This Q&A were added on foot of a suggestion at the March 2015 SFPC meeting.

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.

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