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Review of Code of Conduct

To: ***Standards, Freedoms and Professionalism Committee***

From: ***Yvonne Lynch, Convenor, Code of Conduct Working Party***

Date: ***4th March 2015***

Introduction

1. At the Committee meeting in September 2013, we discussed proposed changes to the (January 2014 version of the) Code of Conduct.

2. The Code of Conduct Working Party has now refined the proposed changes to take on board discussion at the meeting, and to make the structure similar to that of the recently-adopted ESAP 1, General Actuarial Practice.

   In particular:

   (a) Much of the discussion at the September 2013 meeting was about deciding and stating clearly the circumstances in which the various provisions of the Code should apply. We have addressed this in section 1.2 of the attached draft.

   (b) Committee members indicated a preference for keeping the Code succinct and principles-based, as far as practicable. A suggestion was made that at least some of the additional content proposed was explanatory material that could be moved to an appendix or a separate document, in which case it would not be mandatory for all associations to include it in their Codes of Conduct. Taking this on board, we have drafted a "Questions and Answers" booklet, which is attached. The booklet addresses various ethical questions in a discursive way. It provides a way of drawing attention to matters on which viewpoints might differ, without imposing requirements on all associations. We suggest that the AAE should use it to help get engagement from member associations regarding the Code, and should seek input from associations for the purpose of updating it periodically.

   (c) The Committee noted that the purpose of the Code should focus on the importance of serving the users of actuarial services well, rather than on protecting actuaries and the reputation of the profession. We have addressed this in section 1.1.2 of the re-draft.

(d) The Committee commented on the importance of good communication. The Committee also noted that there were overlaps between the "Effective Communication" section of the proposed Code and ESAP 1. The approach that we have taken in the re-draft is to (i) add a paragraph (E1) that expands succinctly on the principle of Effective Communication and (ii) draw attention to the "Communication" section of ESAP 1 in the "Questions and Answers". There remains some overlap with ESAP 1. However, we have retained the relevant text because it largely corresponds to a section of the IAA requirements on Codes of Conduct; also, associations are obliged to put in place a Code of Conduct that at least reflects the provisions of the AAE Code, but they are not obliged to put in place a standard that corresponds to ESAP 1.

(e) The Committee noted that a proposed edit to the effect that actuaries were obliged to follow the Code if their association had not implemented its own Code might not reflect the subsidiarity principle. We have removed this edit. The new section 1.1 makes it clear that the purpose of the Code is to inform member associations as to the minimum requirements that they should include in their own Codes of Conduct. In addition, the text of section 1.2 reflects the fact that individual actuaries are obliged to follow the Codes of Conduct issued by their actuarial associations, rather than follow the AAE Code directly.

(f) We have compared the Code with the IAA requirements regarding Codes of Conduct. We have suggested some edits to ensure that the Code reflects the IAA requirements, for the convenience of associations that are members of both the AAE and the IAA. We consider that, where an association puts in place a Code of Conduct that at least reflects the AAE Code, that Code of Conduct will also at least address the IAA requirements. We have not sought the IAA's view on this – perhaps it would be useful to do so, once the proposed changes to the Code are approved for consultation.

3. Note that we have changed the terms "professional duties" and "professional services" to "actuarial services" throughout the Code, for consistency with ESAP 1. However, it could perhaps be argued that "actuarial services" is too narrow and might make it too easy to justify non-compliance. For example, could an actuary argue that work undertaken in fulfilling the Risk Function under Solvency II is not within the scope of the Code? Would it be safer to use the term "professional services" instead of "actuarial services"?

Consultation

4. We invite the Committee to issue the draft Code[1] to member associations for consultation, with a view to submitting a final version to the next General Assembly. This will be an opportunity to remind associations of the rationale behind the Code and the importance of engaging with it.

5. For completeness, we recommend that the Questions and Answers be issued for consultation at the same time, although we do not think that future updates to the booklet would necessarily require consultation. We consider that the Committee can then approve the booklet for issue in the autumn (i.e. we do not think it is necessary to submit it to the General Assembly).

[1] Amended, if necessary, to take on board input from the Committee in response to the question at 3. above

6. We enclose a draft of the Code in which the proposed changes are highlighted, except as follows (for ease of reading):

   - Words that are defined in the new Section 2 are now shown in italics. We have not highlighted the font change.

   - We have not highlighted re-numbering of the Principles in Section 3 and associated re-numbering of the paragraphs in Section 4.

   Note that we have included Comments to explain the various changes.

Education

7. A point that came up during our discussions was that it is important that member associations educate their members on the provisions of the association's Code of Conduct and how to comply with them, and that this education take place early in the member's working life (pre-qualification, where an association admits trainee actuaries as members). Perhaps the Education Committee could consider what supports the AAE could provide in this regard. The AAE could also recommend to associations that they require their members to confirm that they have read and understand the provisions of the association's Code of Conduct.

<u>Working Party Members</u>

Thomas Béhar (SFPC member)
Florin Ginghina (SFPC member)
Luis Sáez de Jáuregui (SFPC member)
Yvonne Lynch (Convenor) (SFPC member)
Peter Melchior (SFPC member)
Alan Watson (member of the Institute & Faculty of Actuaries)

<u>Enclosures</u>

1. Code of Conduct – current version

2. Proposed Code of Conduct – with changes highlighted

3. Proposed Code of Conduct – with changes incorporated

4. Proposed Questions and Answers on the Code of Conduct