Actuaries Institute.

GUIDANCE TO SUPPORT THE PRINCIPLES AND AMPLIFICATIONS OF THE ACTUARIES INSTITUTE CODE OF CONDUCT

by the Actuaries Institute Professionalism Committee

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Terms

The term "you" is used throughout this Guidance to refer to Members. Terms defined in the Code of Conduct or in the Disciplinary Scheme of the Actuaries Institute are generally capitalised, bolded and in colour blue when first appearing in this document.

INTRODUCTION

a. The Institute of Actuaries of Australia (Actuaries Institute) is committed to a high standard of actuarial practice and represents and supports its **Members** by establishing and maintaining strict professional and ethical standards. Members of the Actuaries Institute must comply with those standards as a condition of membership.

b. Central to the Actuaries Institute's framework of standards is its overarching professional and ethical code, now known as the Code of Conduct (the **Code**), which was first published in 1975. The code has gone through several iterations, the most recent of which resulted in the development of a principles-based code which came into force from 31 March 2020. The framework also contains:

- **Professional Standards** which create specific requirements for Members and, build on the principles of the Code in particular areas of practice
- non-mandatory guidance
- resource material including Practice Guidelines and Information Notes designed to assist Members in meeting their professional obligations.

c. This Guidance is issued by the Council of the Actuaries Institute and is maintained by the Actuaries Institute Professionalism Committee. It draws heavily on work of the Regulation Board and the Actuaries Code Working Party of the Institute and Faculty of Actuaries. It seeks to increase Members' understanding of the requirements of the Code and help them meet their ethical and professional responsibilities. The Actuaries Institute wishes to express its gratitude to the Institute and Faculty of Actuaries for sharing their guidance materials.

d. This Guidance document contains information about each of the six principles contained within the Code, as well as their application and purpose. There is more detailed guidance on a number of topics strongly connected with the requirements of the Code (for example conflicts of interest and the role of appointed actuaries). The full suite of non-mandatory guidance is available on the Actuaries Institute's website.[1]

e. Each of the principles within the Code is of equal importance. The length and/or level of detail of the guidance provided for each of the principles does not mean that any one principle is more important than another.

f. It is hoped that this Guidance will be a useful tool for Members who find themselves facing ethical or professional issues and are considering how to handle them appropriately. It is not prescriptive in relation to how Members should apply the Code, but rather aims to help Members use their own judgement on how to comply with its provisions. The Guidance is only an indicator of relevant considerations. As a result, departing from the approach suggested by the Code, may, in some circumstances be appropriate, provided the conduct is reasonable and the Member is able to explain and justify their approach.

g. It is anticipated that this Guidance will be used mainly by Members. However, it also contains information that may be useful for people who work with actuaries (including employers and employees of Members).

h. Given the variety of matters covered in this Guidance and given that it is designed for Members across all practice areas, the Guidance is intentionally broad and not restricted to any one practice area. Members are encouraged to consider how the general principles discussed in this Guidance might be applied to issues arising in their particular area of practice since the issues and application will vary between areas.

i. This Guidance is non-mandatory; it imposes no obligation upon Members over and above those embodied in the Code or Professional Standards

[1] https://actuaries.asn.au/professional-development-regulation/code-of-conduct

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The Institute gratefully acknowledges the original development of corresponding guidance for the Institute and Faculty of Actuaries (IFoA).

THE CODE – Application, Scope and Purpose

1. Application

a. The Code applies to all Members without exception (i.e. General Members, Affiliates, Associates, Fellows and Accredited Members).

b. The Code applies to Members in all locations and in relation to work carried out in any part of the world.

c. The Code applies regardless of the nature of a Member's client or employer or of their employment status. This means that the Code applies to unemployed or retired Members, as well as those on maternity or other parental leave.

2. Scope

a. The Code applies at all times to Members' conduct in providing **Services** which means any engagement, work, findings, advice or act of a Member as an actuary, including Services that are provided on a pro-bono basis. The Code distinguishes between entitlement to use the formal title 'Actuary' and performing work 'as an actuary'. All Members must follow the Code, whether or not they are qualified to use the title 'Actuary' when providing Services.

b. The circumstances that point to an engagement being undertaken 'as an actuary' might include when Members, recipients or the general public, could reasonably perceive the activity as being actuarial. This is likely to include work for a traditional employer of actuaries (such as an insurance company or a superannuation scheme) but could also include other instances, including honorary and business roles, where:

   i. a Member is performing a role that requires, or benefits from, specific actuarial skills, for example, a Member employed (either directly or as an external adviser) by the trustees or sponsor of a superannuation scheme to assist in the management of the superannuation scheme, or where a Member is appointed to an honorary role in light of their numerical, analytical and other professional skills;

   ii. a Member is performing a role in which they have presented themselves as an actuary, for example, by signing off correspondence with the letters 'FIAA' or 'AIAA' after their name or having been appointed or elected as a result of their Actuaries Institute membership; or

   iii. reliance is placed on a Member's actuarial judgement due to their membership of the Actuaries Institute, for example, where a Member is appointed to a governing body by reason of their actuarial experience and expertise and where the use of that experience and actuarial expertise is explicitly relied upon.

c. The Code also applies to all Members' other conduct if that conduct could reasonably be considered to reflect upon the Actuaries Institute or the actuarial profession. This means conduct by a Member that may have a positive or negative impact upon the reputation of the actuarial profession as a whole, whether in Australia or elsewhere, even if that conduct occurs outside of a Member's actuarial professional life.

d. In most cases, it will be clear whether or not a course of conduct is likely to reflect on the profession. An example of this is where a Member is convicted of a serious criminal offence[2].

e. Examples of 'other' conduct envisaged by clause 2(c) might include conduct where a Member is:

   i. discussing matters outside of a professional context, but where their opinion might be given more weight because of their membership of the Actuaries Institute or their actuarial qualifications;

   ii. carrying out an honorary, volunteer or business role such as acting as a trustee or the treasurer or board member of a charitable foundation or acting as a Non-Executive Director to the board of an insurance company. Members ought to ensure that the precise terms of their engagement are clearly set out for these types of roles, as providing actuarial advice, even informally, in the course of their appointment may bring their work into the scope of 'providing Services as an actuary'; or

   iii. doing something that has nothing directly to do with providing Services as such, but where they are identifiable, or are subsequently identified, as an actuary and an observer might be inclined to take their behaviour as representative of actuaries more generally, for example:

      1. where a Member is posting comments on social media that are bullying or threatening in circumstances where they have identified themselves as an actuary (or could easily be identified as an actuary)

      2. where a Member puts forward demonstrably flawed views in a public forum (including blogs, social media, letters to the editor or meetings) and claims to have based this on their actuarial expertise or otherwise promotes their affiliation with the profession as a reason for accepting their argument.

[2] There are specific requirements imposed upon Members in Principle 2 of the Code (Compliance) and through section 4 of the Disciplinary Scheme https://www.actuaries.asn.au/professional-standards-and-regulation/disciplinary-schemewhich requires notification to the Actuaries Institute of criminal convictions and other **Member Disclosure Matters**.

3. Purpose

The Public Interest

a. The Actuaries Institute is a public company limited by guarantee under the Corporations Act 2001. Amongst other things, the objectives of the company set out in its Constitution include 'establishing and upholding standards of professional conduct by members of the actuarial profession for the protection of the public and in the public interest'[3]. The Actuaries Institute sets appropriate standards, and requires Members to comply with them, in order to promote high quality actuarial work and ensure that Members maintain a high standard of professionalism and ethics.

b. Amplification 3.2 of the Code requires Members to provide Services that are appropriate to the instructions of their **Client,** having due regard to others whose interests may be affected by the Services provided. This will include considering the public interest implications of the work that is proposed to be done. No single definition of 'public interest' suits all situations.

c. It is important to remember that "the true measure of whether someone is acting in the public interest lies in the confidence of those affected, not those making the pronouncements. Therefore, there is a need for Members asserting that they are acting in the public interest to consider actual and perceived disagreements over their fitness to decide that interest. They should also consider the application of relevant safeguards which will apply throughout the process. How a public interest action is determined and seen to be determined and the public interest appropriateness of the solution, will influence the acceptance of the measure. This will, in due course, affect the reputation of those implementing the action and that, in turn, will help with future acceptance and implementation."[4]

d. The observations of Royal Commissioner Owen ("In an ideal world the protagonists would begin the process by asking: is this right? That would be the first question, rather than: how far can the prescriptive dictates be stretched? The end of the process must, of course, be in accord with the prescriptive dictates, but it will have been informed by a consideration of whether it is morally right. In corporate decision making, as elsewhere, we should at least aim for an ideal world.")[5] and Hayne (in his six norms of conduct) [6] are applicable to Members providing Services within or beyond the financial sector.

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3 Constitution, clause 2.1 (f)

4 Refer to "Acting in the public interest: a framework for analysis", section 1.3 page 4, https://www.icaew.com/-/media/corporate/files/technical/ethics/public-int-rep-web.ashx?la=en

5 HIH Royal Commission report 2003 Volume 1, https://nla.gov.au/nla.obj-2203647152/view?partId=nla.obj-2206041496

6 https://www.royalcommission.gov.au/system/files/2020-09/fsrc-volume-1-final-report.pdf 2019 section 1.5.1 page 9

The structure of the Code

a. The Code contains six principles. These six principles are supported by 'amplifications' that clarify specific requirements of the principles for some particular issues. Members must comply with both the principles and the amplifications.

b. The Code uses the auxiliary verb "will" (i.e. "Members will comply with ….") rather than "must" or "should". In the context of a principles-based code, "will" and "must" have the same legal meaning. Given the Code is a prominent public document of the Institute, "will" is used to positively promote what the public can expect from actuaries, as opposed to "must" or "should" which are considered more appropriate for a rules-based approach directed only at Members. Consideration was given to removing auxiliary verbs entirely (i.e. "Members comply with …"), however a stronger degree of direction is believed appropriate.

Clients

a. The term 'Client' is defined within the Code as 'the recipient of a Service provided by a Member'. In determining who is 'the recipient of a Service', relevant factors to consider might include (but are not limited to):

   i. who has instructed the Member to carry out the piece of work

   ii. the nature of the instruction;

   iii. for whom the piece of information or advice is being produced (recognising that this may not always be the same as the party instructing the work);

   iv. the scope and purpose of the proposed work; and

   v. who is expected or permitted to rely on the piece of work in order to make decisions.

b. Members are reminded that the use of and reliance on actuarial information or advice is not always confined to those commissioning its preparation. Its effect may therefore potentially extend to a wide range of groups, for example, insurance policyholders or superannuation scheme members who are not a Member's direct clients, but are stakeholders in the Member's work. In some circumstances, particularly areas of endeavour in which actuarial involvement is not yet common, the identity of affected parties may not be obvious.

c. Members are therefore expected to exercise professional judgement in determining who are the recipient(s) of a Service, depending on the particular circumstances in which it has been commissioned. Members have to consider the relevant recipient(s) in considering how each requirement under the Code should be interpreted for that Service. The appropriate interpretation of references to Clients or recipients in this Guidance and the Code may differ depending on

   i. the particular principle or amplification being referred to; and

   ii. the particular circumstances to which it is being applied.

d. The ultimate recipient of a piece of work may be someone other than the person who has instructed the Member to carry it out. Where Members are contributing to a larger piece of work involving other Members or other professionals, they are encouraged, where appropriate, to establish at an early stage who the recipient of their work is likely to be.

Departures from the Code

a. Failure by a Member to comply with the requirements set out in the Code may lead to disciplinary proceedings under the Institute's Disciplinary Scheme.[7]

b. The Actuaries Institute considers allegations that an individual Member (or former Member) is guilty of Misconduct[8]. The question of whether a Member's conduct amounts to 'Misconduct' for the purposes of the Disciplinary Scheme will be one for a Disciplinary Tribunal Panel or Appeal Board to determine, considering the particular facts and circumstances of each case.

c. Principle 2 of the Code requires members to comply with all relevant laws, regulations and all Professional Standards of the Actuaries Institute. Nothing in the Code is intended to require Members to act in breach of relevant laws, regulations or other requirements of statute or common law. This means that a Member will not be treated as having breached the Code if they are complying with such obligations, even where there is an apparent conflict between that obligation and any requirement(s) set out in the Code. Section 7 of this document, which provides guidance on the 'Speaking Up' principle, contains some specific examples of how such a conflict might occur. However, members cannot avoid complying with the Code or any Professional Standard of the Actuaries Institute on account of contractual obligations to an employer, client or other person: Members should ensure that any proposed contract does not limit their ability to comply with the Code of Professional Standards.

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7 https://actuaries.logicaldoc.cloud/download-ticket?ticketId=3d2c2407-d99e-4139-937d-3991795cf2c5

8 The meaning of Misconduct is set out in section 3 of the Disciplinary Scheme

d. Where a Member is

   i. also a member of an actuarial association which is a Full Member of the International Actuarial Association; and

   ii. the actuarial association does not have a Temporary Dispensation from Compliance (as defined by the International Actuarial Association); and

   iii. the actuarial association has professional standards; and

   iv. the Member provides a Service that is not subject to any Australian laws or regulations; and

   v. the Member provides a Service that is not in relation to any Australian person or entity; and

   vi. the Service is provided in compliance with the relevant professional standard(s) and the code of conduct of that actuarial association,

   then *prima facie* the Actuaries Institute will accept that the Service has been rendered in compliance with the requirement of the Code and any corresponding Professional Standard(s) of the Actuaries Institute.

e. The reference to 'all relevant laws, regulations and Professional Standards' in Principle 2 of the Code covers requirements imposed by legislation, regulation or the common law or by the Actuaries Institute. It does not include contractual provisions agreed with a Client or other person or provisions imposed by a Member's employer, which have the effect of preventing the Member from complying with the Code or other legal or regulatory requirements. It is not possible to contract out of complying with the Code.

   Members should consider whether the inclusion of a clause to deal with potential conflicts is appropriate in such an agreement, such as something along the following lines:

   > *"[Insert name of member of Institute] is a member of the Institute of Actuaries of Australia. [Name] is bound by the Institute's Constitution, the Code of Professional Conduct, and, depending on the nature of the work, may be bound by Professional Standards of the Institute or other rules published by the Institute from time to time (collectively called "the Rules"). This agreement and all work carried out by [name] pursuant to this agreement are at all times subject to the Rules."*

f. The right to use the post-nominals 'FIAA' and 'AIAA' is only granted to current Fellows and Associates of the Institute under clause 6.9 of the Institute's constitution. This right does not extend to individuals who are not current Members, who are of another class of Member or who have ceased to be a Fellow or Associate of the Institute.

   The Institute considers unauthorised use of these post-nominals to be inconsistent with the Institute's standards of professional conduct. Any unauthorised use in trade or commerce may breach Australian competition and consumer law and the crimes legislation in certain States and Territories.

Contemporary Considerations

a. The Code applies to the Member's design and/or use and/or oversight of tools and algorithms, including automated decision-making systems and artificial intelligence more broadly ("tools"). Members will need to consider:

   i. Keeping abreast of accepted uses of such tools in their practice area for the benefit of their clients

   ii. ensuring the tools being used are fit for purpose, including understanding and accommodating the limitations of the tools. Members should be aware of the potential for errors or approximations to be introduced, particularly considering the degree of accuracy required for the Service.

   iii. where the Member is involved in the development, review or use of bespoke tools, ensuring that risks are suitably managed, including risks of misapplication or misuse by others.

PRINCIPLE 1 – INTEGRITY

1. The general principle of integrity

a. Members are expected to demonstrate high standards of behaviour. This is reflected in the first principle of the Code, which states:

"Members will act with integrity."

2. Acting in an ethical and professional manner

a. Integrity is a fundamental requirement to act in an ethical and professional manner. If someone has integrity, their actions are consistent with their beliefs, both stated and real and with the values and requirements of organisations to which they belong. This will include the Actuaries Institute. They will not claim to have a certain belief and then act in a way that contradicts this.

3. Being honest

a. Acting with integrity in a professional setting means being straightforward and truthful in your professional and business relationships. This expectation extends to situations in which you are promoting your business services. Honesty is a definitional requirement for integrity.

4. Respecting others

a. The first amplification under the Integrity principle provides that: "*Members will show respect for others*." The scope of this requirement extends not only to Clients, but to anyone with whom Members interact, including colleagues and the general public. Amongst other things, showing 'respect for others' includes not deceiving or manipulating others, not taking credit for others' work and not spreading false or defamatory information about people. More subtly, showing respect for people includes such things as avoiding the temptation to publicly ridicule others' ideas and giving people a fair hearing. A lack of respect can be demonstrated by non-verbal communication as much as by a person's choice of words, their tone of voice or the volume with which they speak.

b. In determining whether a course of conduct demonstrates a lack of respect, a first step may be to consider how you would feel if the behaviour in question were being directed at you. It is also worth remembering that the same behaviour may have a different impact on different people. What one person may find offensive may not have any effect on another person. People of different social and cultural backgrounds can perceive the same conduct and behaviour very differently. Ultimately, lack of respect is likely to be assessed from the viewpoint of its **impact** on the person concerned, even if there was no intent to disrespect.

5. Voicing opinions

a. Showing respect for others does not mean that Members cannot voice their opinions or disagree with others where they hold an opposing point of view. Legitimate challenge and constructive comment are to be encouraged both in a professional setting as well as in other contexts. It is expected however that where disagreements do arise, Members will act with courtesy, recognising the rights of others to hold and express different ideas and opinions.

b. The Actuaries Institute promotes equality and diversity and the development of an inclusive profession that welcomes people from a range of backgrounds. Members are encouraged to behave in a way that recognises and respects diversity and different cultures.

c. From time to time the Actuaries Institute promotes public discussion or advocates on issues of relevance to the actuarial profession or where actuarial insight may be helpful to the broader community. Members may respectfully disagree with such public statements.

6. Social and other media

a. This section details some of the considerations Members should consider when using social media. Much of the guidance would apply equally to Members' communications over mass media, for example television or the press.

b. Social media can be a valuable tool for marketing and public debate. However, if used inappropriately it can pose a risk to a Member's professional reputation.

c. Members can do others harm and put their professional reputation - and that of the Actuaries Institute - at risk if they act unprofessionally or unlawfully on social media. This might include (but is not limited to):

   i. sharing confidential information inappropriately - often there will be legal requirements prohibiting the disclosure of certain personal and sensitive information whether online or otherwise;

   ii. posting inappropriate comments about others (including recipients of Services or other Members);

   iii. using inappropriate language;

   iv. implicating oneself in unprofessional or unlawful conduct or encouraging others to behave unprofessionally or unlawfully;

   v. posting comments that are bullying or threatening; or

vi. posting anything that may be viewed as discriminatory or that incites hatred or discrimination.

1. Information shared online can be copied and passed on much more quickly than information shared by any other means and potentially to a much wider audience. Once something is published online, it is no longer private. Once shared, information published online can remain in the public domain indefinitely. It is important, therefore, that before posting anything online, Members carefully consider the content they are posting and how it might be perceived by others now **and** in the future.

7. Communications in personal life

a. Nothing in this Guidance is intended to discourage Members from communicating through social media, however, it is important to remember that even when posting in personal forums, others may be aware that you are a Member of the Actuaries Institute and any information or opinions you post may be judged in that light. This is particularly true where you identify yourself as being a Member in those forums. Note the publication of information on social media carries the same obligations as for other types of communications and you therefore need to take care not to engage in conduct that threatens your ability to comply with your requirements under the Code or affects any of your other professional obligations.

b. If you are unsure whether something you are considering posting is appropriate, think about the impact if the posting information is disseminated widely. Remember too that is not only the information that you post directly that can call your professionalism into question. Endorsing another's point of view also has the potential to affect how others perceive you. It is probably safer not to post than to post something you are unsure about and then regret it later.

c. When engaging in online discussion, be aware that the views you express may provoke a response; it is important to be open to the opinions of others and to treat others with respect, even if they are disagreeing with your view.

8. Duties outside the actuarial profession

a. The Code applies "when Members' *conduct may be reasonably considered to reflect on the Institute or the actuarial profession"*. This means that conduct outside of a Member's actuarial professional life that demonstrates a lack of respect towards others may breach the requirements of the Code, but only to the extent that it may have an impact upon the reputation of the Institute or the actuarial profession as a whole. In a personal context therefore, not all behaviour that demonstrates a lack of respect will breach the Code. Members are expected to use reasonable judgment in determining what behaviour is likely to reflect on the Institute or the actuarial profession. However, reported behaviours such as harassment, bullying, violence or abuse would trigger the Disciplinary Scheme and there are few circumstances where their publicity would not be determined to affect the reputation of the profession.

9. The duty of confidentiality

a. Clients and the public are entitled to expect that sensitive information will not be misused, treated carelessly or, other than in exceptional circumstances, be shared without permission. This is reflected in the second amplification under the Integrity principle which provides that: "*Members should respect confidentiality*."

b. Confidential information to which a Member may have access includes personal data about third parties such as insurance policy holders or superannuation members. Such information may be subject to the requirements of privacy law in Australia or other jurisdictions. It may also include communications from clients, such as emails, and commercially sensitive information relating to organisations with which the Member interacts. Sometimes confidential information will not be labelled as such, and Members will need to exercise judgment as to whether there is a reasonable expectation that information should be considered confidential.

c. Information which is already lawfully in the public domain is not ordinarily confidential.

d. To adhere to their duty of confidentiality, Members may consider taking one or more of the following steps:

   i. Depending on the context, secure information by physical or electronic means.

   ii. Refrain from unnecessarily discussing matters of a sensitive nature in public.

   iii. Be aware that confidentiality requirements generally continue after one's employment or contract with a client ends.

   iv. Seek advice where legal or regulatory requirements require disclosure of confidential information.

10. When confidential information may rightly be disclosed

a. The duty of confidentiality, while important, is not absolute. Information can be disclosed in certain circumstances where disclosure is required by law, or is permitted by law, and can be justified in the public interest. The Actuaries Institute recognises that certain situations will arise in which legal or other requirements will override a Member's duty of confidentiality. Indeed, the 'Speaking up' principle of the Code may **require** confidential information to be disclosed under certain circumstances. In such situations Members need to carefully consider the extent and manner of disclosure necessary and avoid disclosing more than is necessary to fulfil their obligations.

b. A number of statutes empower courts, government and other bodies to require any person to disclose documents and/or information. This might be, for example, in situations where confidential information indicates criminal wrongdoing. In the absence of the direct consent of the information provider or owner, it would be prudent to check under which statutory power the information is being sought and consider the relevant provisions carefully before proceeding with the disclosure. Members also need to exercise judgement in deciding whether it is appropriate to advise their Client or owner of the information about the Member's disclosure of confidential information: in some circumstances (e.g. potential money laundering) it may be a breach of law to do that.

c. Disclosures which are permitted by law, and justified in the public interest, might include situations in which criminal or unethical conduct is indicated, but where there is no legal requirement to disclose, or where disclosure is necessary for the purposes of reporting a serious impropriety to a relevant regulatory body.

11. Duty of confidentiality v. duty of disclosure and avoidance of conflicts of interest

a. Further guidance on the interaction between the duties of confidentiality and disclosure is set out in this Guidance document in relation to Whistleblowing on page 34. Guidance on the duty of confidentiality, as it relates to conflicts of interest, can be found in this Guidance document in relation to Managing and reconciling conflicts of interest on page 30.

12. Truthful promotion and delivery of Services

a. The Code requires that a Member "will be truthful in promoting and delivering their Services". Members may therefore need to consider the following:

   i. Whilst a Member may feel that they are solely advertising themselves, the reality is that they are also advertising the profession of actuary.

   ii. Advertising hyperbole (e.g. "best", "most successful", "the leading" as distinct from "a leading") should be avoided.

iii. Information on fee structures should be clear and unambiguous.

iv. The use of fine print or footnotes for key information should be avoided (especially where larger type is used elsewhere in an advertisement, or where more prominence is given to other points in an audio or visual advertisement).

PRINCIPLE 2 – COMPLIANCE

1. General duty to comply with all relevant legal requirements

a. Principle 2 of the Code provides that:

> *"Members will comply with all relevant laws, regulations and Professional Standards".*

b. This includes any rules governing matters in the area in which a Member is practicing, for example, insurance, superannuation or financial markets legislation, as well as standards imposed by the regulators who regulate the Member or their work. It also includes compliance with other relevant legislation, such as privacy, equality and diversity legislation applicable to the Member. Particular care may be needed in providing Services in jurisdictions where cultural expectations or business practices might enable or promote behaviours which would breach Australian law, such as bribery, modern slavery or money- laundering.

2. Keeping up to date

a. To comply with their obligations under the 'Compliance' principle, Members need to be aware of, and understand the relevant laws and regulations which apply to the work they are undertaking, and ensure that they keep abreast of any changes or developments to those laws and regulations. Ignorance of obligations is not a valid reason for non- compliance. To understand legal, regulatory and professional obligations, particularly when Members commence work in an area of less familiarity, Members can seek advice from:

   i. another Member with more experience in the area

   ii. the Actuaries Institute (particularly for Professional Standard obligations)

   iii. the Client who may have an obligation register

   iv. The relevant regulator (e.g. APRA, ASIC or other government authority) either directly or through the information they provide.

   v. legal or regulatory experts.

b. It is important to bear in mind that the relevant legal, regulatory and professional requirements will not necessarily always be those that apply in the geographic location where the Member carries out their work. For example, where a Member works remotely but carries out work for an entity in another country.

c. As stated earlier in this Guidance document, from time to time certain situations might arise in which the legal requirements with which a Member is obliged to comply appear to be at odds with one or more of the principles of the Code. Where such a situation arises, the Code makes it clear that legal requirements will take precedence and the Member will not be treated as having breached the provisions of the Code if they are complying with an obligation under an applicable law.

PRINCIPLE 3 – COMPETENCE AND CARE

1. The general duty to act with competence and care

a. Members have a duty to ensure that they are competent to perform services in their area(s) of expertise. This is reflected in the third principle of the Code, which states:

> *"Members will provide Services competently and with care."*

b. Due to the specialist nature of the work of actuaries, and the reliance that clients or other recipients of their work place on their professional status, it can be difficult for non-Members to know whether a Member is competent to carry out the work they are performing. This often means placing a great deal of trust in the Member. Thus, a Member who performs a piece of work that he or she is not competent to perform would be failing in an important responsibility and betraying the trust of clients and the public.

2. Acting with competence and care

a. Generally, acting with competence and care will involve such things as:

   i. ensuring that work is carried out with the necessary level of accuracy for the assignment and in line with instructions;

   ii. obtaining additional advice or training where a Member considers that it is required;

   iii. ensuring that adequate time is set aside to carry out a piece of work;

   iv. keeping clients informed on the progress of the work as appropriate, including letting them know when there may be a problem meeting deadlines;

   v. ensuring that work has been subject to an appropriate level of review; and

   vi. communicating any limitations in the service that is being provided, as well as whether it is necessary to instruct any other professionals or experts in relation to the piece of work.

b. Competence can be achieved at any stage of a Member's career. For more experienced Members, acting with competence and care may involve ensuring that work is delegated to appropriately competent and experienced individuals and that the work delegated is ultimately performed to a satisfactory standard. For less experienced Members, acting with competence and care is likely to involve acting under the supervision of another Member who is taking professional responsibility for the work that is being carried out and ensuring that relevant advice and training is sought where they feel they do not have the necessary knowledge and skill to carry out the task being asked of them.

c. Acting with competence and care does not mean that a Member is prevented from branching out into new areas of practice (c.f. sections 16 a and b on page 25) in relation to research and innovation). On the contrary, Members are encouraged to widen their professional knowledge and develop expertise and experience in new fields. In pursuing new areas of work, Members will be expected to ensure that they have the appropriate level of knowledge and training or are acting under the supervision of a suitably experienced individual. The onus is on the individual Member to determine what is appropriate in each case.

d. Members often undertake assignments for a particular client over successive periods, or possibly for a number of clients in similar situations. However, it is important that Members apply critical thinking to the choice of assumptions on each occasion they provide a piece of advice. Where there is a very high level of uncertainty about the outlook – economic, environmental or other – it is unlikely that the status quo represents a suitable default setting. Even in less turbulent times there may have been changes in the client's circumstances or wider context that require changes to the assumptions or to the approach to tackling the problem. It may be appropriate to seek other professional opinion and peer review, think broadly and consider a wide range of data sources.

e. To demonstrate competence and care, in addition to effectively communicating their advice, Members should retain copies of documents provided to the Client, along with detailed working documents and materials including software and data used in the assignment;

   i. The retained materials should be adequate to enable results to be reproduced and opinions formed by an independent reviewer without the need to consult the actuary or other staff who provided the original Services;

   ii. The extent of documentation and materials and the time they are retained should be informed by relevant regulatory requirements and professional standards (if any) as well as the Member's judgment having regard to potential:

      1. consequences of decisions reasonably expected to be made having regard to the Services;

      2. likelihood and impact of any challenge of the Services provided; and

      3. likelihood and anticipated timing of further Services of a similar nature to that Client.

3. Peer review

a. An important aspect of Competence and Care is judging whether work should be subject to any form of review and, if so, what form that review should take. Frequently a review of the correctness of modelling calculations or other numbers will be appropriate, often called 'technical review'. However, where the actuarial judgements themselves also warrant review (which may include interpretation of scope, clarity of communication to the range of audiences, or other judgemental areas), a common form of review is 'peer review'.

b. There are two prime objectives of peer review:

   i. Meeting 'community expectations' of professional behaviour; and

   ii. Supporting Members in their practice and in their professional development

c. Peer review may be mandated through regulation or professional standards. It may also be required in situations that are specified by an employer (e.g. a consulting actuarial practice). In these conditions peer review is also related to the Compliance principle.

d. Even where peer review is not mandated, it forms a valuable safeguard for competency and quality. Members are encouraged to seek peer review for learning and development as well as quality purposes. It may also be useful if the member is facing technical challenges or if there is material uncertainty in their work. For regular or volume work, a member may determine that there is insufficient value in peer review of each piece of work. In this case, the member might also consider whether there is value in periodic peer review of an approach, baseline assumptions and/or reporting.

e. In a large organisation, other Members should be willing and available to informally review another Member's work. It is acknowledged that this may not always be practical for sole practitioners or for those working in small organisations. However, the benefits of peer review warrant the establishment of suitable confidential arrangements for external Members to be able to informally review the Member's work.

f. Peer review does not necessarily have to involve a comprehensive analysis of a completed document. A Member may seek specific guidance from another Member (e.g. a review of assumptions or a review of a model). It also does not have to involve a formal response if an informal view is deemed sufficient. Nevertheless, care should be taken when deciding the form and extent of the documentation of the results of the review.

g. Turning to the role of the peer reviewer, a Member who is a peer reviewer should have the necessary skills and experience to ensure that the peer review is useful. This applies not just to correctness of content but identifying what may be missing. This will require a clear understanding of the context of the work and the intended audience.

h. It is possible that the peer reviewer may have a different view to the Member who is providing the work for the client. In this event, the Member should have further discussion with the peer reviewer to understand the source of the differences and whether they can be resolved by additional information or some amendments. If the differences cannot be resolved, then the Member needs to be satisfied that they have thought through all of the issues raised as they are ultimately responsible for the work.

i. Particular related scenarios under Competence and Care are addressed in Section 10 (Obtaining input from other professionals or specialists) and Section 17 (Research, innovation and new areas of endeavour) below.

j. Formal documentation that may provide additional helpful guidance is PG1 General Actuarial Practice Section 2.12 Peer Review) and the IFoA's APS X2: Review of Actuarial Work.

4. Competence and care in non-actuarial roles

Members are also expected to act with competence and care when carrying out non- actuarial roles (for example honorary, volunteer, governance or management roles), where their conduct could reasonably be considered to reflect on the profession.

5. Due regard to Professional Governance Material and Regulatory Guidance

a. If a Member decides to do something different from that suggested or recommended in a piece of **Professional Governance Material** (issued by the Actuaries Institute) or **Regulatory Guidance** (issued by a relevant regulatory body in relation to the Services provided) but this departure is **unlikely** to have a material impact on the results of a particular piece of analysis or advice then this decision should be documented, at least in the Member's working papers. This enables the Member to demonstrate that consideration has been given to the guidance concerned.

b. If the departure is likely to produce materially different results from what would be achieved by following the guidance, Member/s should:

   i. identify the guidance concerned

   ii. explain why a different approach was adopted AND

   iii. provide the recipient of the Services with an appraisal of the material impact.

These actions would be necessary in most instances to comply both with amplification 3.1 as well as Principle 6.

6. Ensuring that work is appropriate to the needs and instructions of clients

a. Amplification 3.2 provides that:

> *"Members will provide Services that are appropriate to the instructions of their Client, having due regard to others whose interests may be affected by the Services provided."*

b. To be able to meet this requirement, Members are expected to ensure they have a clear understanding of the scope and intended purpose of the proposed engagement before taking on an instruction or carrying out a piece of work. This applies regardless of the contractual/employment structure in which Members work. Members must have sufficient clarity on the scope of work, whether they work within an organisation, a consultancy firm in private practice or in other types of organisation.

7. Taking reasonable steps to understand client needs

a. In certain situations, a client's needs may not be apparent to the Member. Where this is the case, Members are expected to take reasonable steps to gain an understanding of a client's needs to ensure they are able to comply with the requirements in amplification 3.2. Taking reasonable steps in this context may mean speaking to a client directly to determine the purpose of the actuarial services that have been instructed. In situations where it is not appropriate for the Member to contact a client directly, this may involve speaking to a colleague or manager or whoever it is that is ultimately responsible for the piece of work being carried out.

b. Where a Member is carrying out a piece of work under the instruction of another Member as part of a larger project, they are expected, as appropriate, to discuss at an early stage the scope and intended purpose of the proposed work with that Member to agree who ought to be regarded as the recipient and ensure they understand how the work they are contributing fits into the larger project.

8. When client instructions do not accord with client needs

a. In certain situations, a client's instructions might not accord with the needs of those whose interests may be affected by the advice. Members will need to use their judgment in determining whether a client's instructions have the potential to result in adverse consequences for the client, or for others, and communicate any such concerns to the client before deciding whether they are able to accept an engagement. This applies both to actuaries working in a consulting environment with an external client and to those working for a client within their own organisation.

b. Members should use their judgment in determining whether a client's instructions have the potential to result in material adverse consequences for the client, or for others, and communicate any such concerns to the client before deciding whether they are able to accept an instruction.

c. Members will not accept instructions from a client which would lead to the Member breaching the Code. For example, a Member would be expected to refuse an instruction from a client to:

- modify their work without reasonable evidence or justification solely to produce a result more acceptable to the client,
- not apply the requirements of a Professional Standard to a piece of work where that standard is stated to apply
- ignore the requirements of a regulator with relevant jurisdiction.

These actions would also be supported by the compliance principle under the Code.

d. Members may also need to consider whether the proposed actions of a client are in the best interest of a client's organisation in terms of its long-term sustainability as well as its responsibility to third parties such as policyholders, account holders and fund members. Member/s are encouraged to consider the observations of Royal Commissioner Owen set out below.

> *"In an ideal world the protagonists would begin the process by asking: is this right? That would be the first question, rather than: how far can the prescriptive dictates be stretched? The end of the process must, of course, be in accord with the prescriptive dictates, but it will have been informed by a consideration of whether it is morally right. In corporate decision making, as elsewhere, we should at least aim for an ideal world."*[9]

e. Members should also be aware of Commissioner Hayne's six norms of conduct:

i. "obey the law;

ii. do not mislead or deceive;

iii. act fairly;

iv. provide services that are fit for purpose;

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[9] HIH Royal Commission report 2003 Volume https://webarchive.nla.gov.au/awa/20030426200550/http://www.hihroyalcom.gov.au/finalreport/Front%20Matter,%20critical%20assessment%20and%20summary.HTML

v. deliver services with reasonable care and skill; and

vi. when acting for another, act in the best interests of that other."

Members should note that these norms of conduct are fundamental precepts. Each is "well-established, widely accepted, and easily understood"[10] .They are relevant considerations for Members providing Services within or beyond the financial sector.

9. Costs

a. Cost will often be an important issue for clients and can drive the scope of the work actuaries are engaged to perform. In circumstances where cost is an issue, this can be addressed by ensuring that the basis of remuneration in respect of the agreed scope of work is agreed with clients before commencing an appointment or instruction. This is particularly key when clients are charged directly for a piece of work (rather than the work being carried out as part of an employed role). If there is an arrangement for remuneration which is more 'open ended', keeping clients regularly informed as to costs will be important. Open communication with clients about the basis for remuneration for professional work is key to ensuring ongoing trust between the client and the Member.

b. Issues of cost and a limited budget should not prevent a Member from complying with the Code's requirements relating to competence and care. Fee structures are not an excuse to provide incomplete or unbalanced advice. Once the scope of work is agreed, a Member must carry it out competently and with care. This may lead to situations where a Member has to refuse to carry out a piece of work (if they are unable to do so while still complying with the Code).

c. In addition to agreeing the basis for remuneration with clients before commencing an appointment or instruction, it is also important that clients are made aware of any issues at the outset which may affect a Member's ability to deliver the agreed work within agreed time scales. This includes any limitations to the availability or expertise of internal resources or any adverse cost implications associated with a piece of work.

d. Often, during the course of an engagement, the scope of a piece of work can change; a project might suffer setbacks and be delayed, or additional work might be required that was not anticipated. Members are encouraged to ensure that any agreements for remuneration are kept under review and that they are prepared to communicate to clients at the earliest opportunity any material change to the scope of an existing appointment or instruction.

[10] https://www.royalcommission.gov.au/system/files/2020-09/fsrc-volume-1-final-report.pdf, 2019 section 1.5.1 page 9

10. Obtaining input from other professionals or specialists

a. From time to time Members may need to take advice or seek information from other professionals (both actuaries and non-actuaries) and/or experts. Members will need to consider whether taking advice is necessary and appropriate; good practice generally entails taking advice when in doubt.

b. In such circumstances, Members might instruct such professionals, either to advise the Member directly or to commission supplementary work that is needed by the ultimate recipient of the Services. In certain situations, it may involve the Member advising the client to take separate advice from someone else independently from the Member.

c. It is expected that clients and the ultimate recipients of the Services will be made aware when input has been obtained from other professionals and/or experts, including when advice has been received from external actuaries and has been summarised by the Member for the benefit of the recipient of the Services.

11. Acting with relevant knowledge and skill

a. The fourth amplification under the 'Competence and Care' principle provides that:

> *"Members will only provide Services where:*
>
> 1. *they have an appropriate level of knowledge and skill; or*
> 2. *they are working with a person who has the appropriate level of knowledge and skill, and the Member takes reasonable steps to make interested parties aware that this is the case; or*
> 3. *they are acting under the direct supervision of another Member who is taking responsibility for the provision of the Services."*

b. This amplification is designed to prevent Members from acting outside the boundaries of their competence. Recipients of the Services - and the public - trust Members to be competent to perform the services they are engaged to perform.

12. When you do not have an appropriate level of knowledge and skill

a. If a Member decides that they do not have an appropriate level of knowledge and skill to carry out a piece of work, they will need to consider whether this can be resolved, for example, by working with a more experienced individual, obtaining further training, or whether the most appropriate course of action would be to inform the client that they are unable to take on the piece of work and recommend that the client instructs a more experienced or qualified person.

b. It is important Members are honest with clients about their level of expertise and experience.

13. What constitutes an appropriate level of knowledge and skill?

a. What constitutes an "appropriate level of relevant knowledge and skill" will depend on the nature, scope and context of the instruction. An actuarial student, for example, would not necessarily be competent to carry out a piece of work that would normally be undertaken by a Fellow.

14. Attaining professional competence

a. Professional competence has two stages, the first being the attainment of professional competence, and the second being the maintenance of that professional competence.

b. Professional competence will normally be attained through a combination of educational qualification, practical training and experience.

15. Maintaining professional competence

a. Maintaining professional competence relies on the Member taking certain steps to ensure they continue to develop their knowledge and skills, for example through meeting their Continuing Professional Development (CPD) obligations.

16. Developing knowledge and skills and compliance with CPD requirements

a. Maintaining professional competence requires a commitment to CPD and an ongoing awareness and understanding of relevant technical, professional and business developments. In order to maintain competence, Members are expected to keep abreast of developments affecting their particular practice area as well as anything which has the potential to directly or indirectly affect the interests of the recipients of Services. An example of this would be developments in approaches to risk management and application of new modelling techniques.

b. Members have a duty to extend their competence through CPD. CPD is learning that is relevant to a Member's work or role and addresses a professional development competence. The Actuaries Institute operates a mandatory CPD scheme, and it is the responsibility of individual Members to ensure they comply with these requirements. These are a mandatory minimum requirement, and Members are expected to consider whether, in order to carry out their work, they need to undertake additional CPD.

c. The CPD that a Member is required to carry out is set out in the Actuaries Institute's Professional Standard 1.[11] Further information about the Actuaries Institute's CPD Scheme can be found on the Actuaries Institute's website.[12]

17. Research, innovation and new areas of endeavour

a. The actuarial profession has a long history of innovation and research in technical and commercial practice. The Code does not limit innovation or research. If a Member is involved in a research capacity, it might be said that this is developing new competency for any of themselves, their client or the profession. As such, by definition, the member cannot have this competency prior to conducting the research, nor (if the research is novel) can they seek the competency of another. To meet the requirements of the Code, the Member should ensure they have sufficient background knowledge in order to carry out the research or innovation competently, and, where viable, should seek a suitably qualified review of the research.

b. The Code does not discourage actuaries from involvement in start-up businesses, or in innovation or research. Business failure and unsuccessful innovation or research will not be taken as prima facie evidence of a lack of competence or care. At the same time, the application of an existing technique or approach must still be undertaken competently in the context of a new or innovative situation: for instance, a discounted cash flow approach applied in a new field should still employ a discount rate set according to general actuarial principles.

18. Artificial Intelligence

a. The rise of artificial intelligence has been accompanied by its widespread use in many applications such as substitution for human activity in specific tasks and processes, release of applications with broad or open-ended capabilities (such as generative AI chatbots) which may interact with people including customers and the augmentation of traditional modelling and optimisation tasks. A Member may be involved in the development, monitoring or review of related models and applications. The Member's general duty to competence and care includes the verification of the accuracy, reliability and relevance of advice pertaining to artificial intelligence applications.

[11] https://content.actuaries.asn.au/resources/resource-ce6yyqn64sx3-2093352434-59797

[12] https://www.actuaries.asn.au/professional-standards-and-regulation/cpd-compliance

19. Replacing another Member in a statutory role

a. This requirement addresses scenarios where a Member has resigned from a role and the reasons for that resignation may have implications for the incoming Member's execution of that Statutory role. Hence, at a minimum, the incoming Member is expected to communicate with his/her predecessor to confirm that there is nothing that the incoming Member should be aware of in fulfilling their statutory responsibilities. It follows that the predecessor has an obligation to disclose relevant matters to the incoming Member.

b. Over and above the minimum requirement, it is good practice for an incoming Member to communicate with his/her predecessor to understand the context that he/she is inheriting. This forms a natural extension of the professional principle of Competence and Care. It also represents a prudent step in managing the risk associated with accepting a Statutory role.

c. There may be situations where the incoming Member and the predecessor work for different actuarial consultants or professional services firms. The potential sensitivity of a "handover" to someone who may be considered a competitor is acknowledged. In this scenario there may be additional considerations under the Principles of Integrity and Objectivity. Nevertheless, even in this scenario, the obligations of both Members remain and they are required to take reasonable steps to communicate.

d. Whilst the Code is silent on the responsibilities of a Member when taking over a role from another Member that is not defined as Statutory, good practice would suggest that the incoming Member should at least consider communicating with his/her predecessor for risk management purposes. This includes managing the risk of inadvertently disrespecting the predecessor through lack of familiarity with their methods and recommendations.

20. Use of the title 'Actuary'

a. Amplification 3.7, regarding the use of the title 'Actuary', is also intended to allow the use of that title by Accredited Members of the Actuaries Institute.

PRINCIPLE 4 – OBJECTIVITY

1. The general principle of objectivity

a. Principle 4 of the Code provides that:

> *"Members will conduct themselves such that their professional judgement and ability to provide objective advice is not compromised and cannot reasonably be seen to be compromised by bias, conflict of interest, or the undue influence of others."*

b. Objectivity can be described as the principle that decisions ought to be based on facts that a reasonable person considers true, rather than on bias, prejudice, or seeking to benefit one person over another for improper reasons.

2. Exercising professional judgement

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

3. Resolve or desist from acting

a. From time to time, Members may be exposed to situations that risk impairing their objectivity. If the circumstances of an instruction, relationship with a client and/or other factors increase the risk of compromising the Member's professional judgement, then the Member may be better not to accept the instruction. If, having accepted an instruction, a Member identifies circumstances that compromise, or could be seen to compromise, their professional judgement, the Member will need to cease providing Services. This may involve explaining the situation to the client and helping them make alternative arrangements.

4. What would a fair-minded observer think?

a. When thinking about objectivity, Members need to ask themselves whether there is any conflict between the advice they are giving and decisions they are making and their own personal interests. The interests of the recipient of a Member's Services must always be placed ahead of the interests of the Member/their employer. A good test is to imagine a fair-minded and informed observer: would this person have any reason to suspect that your objectivity might be compromised?[13] If so, action will need to be taken to rectify this. As Commissioner Hayne put it in his six norms of conduct: "When acting for another, act in the best interests of that other."[14] In many circumstances, that 'other' may not be the direct recipient of the advice (e.g. members, policyholders, customers).

5. Ethical bias

a. Threats to a Member's objectivity might include being asked to act in a way that contravenes a Member's duties under the Code, other professional requirements or even the law. Members directly employed by an organisation might face particular pressures to carry out work in a way that is favourable to the commercial interests of that organisation and will need to be careful to avoid misleading regulators, boards or other recipients of Services or people who may be affected by Services (such as policyholders, fund members or claimants).

6. Technical bias

a. When considering the potential for bias, Members need to be aware that there are many forms of bias, including ethical and technical bias. One example of technical bias includes situations where a methodology is selected because the Member is familiar with it, even if others are more appropriate. That is not to say that using a technique that can be applied quickly is necessarily wrong; rather that Members need to be clear about the justification for their chosen approach. Another example of technical bias is where a Member is reluctant to challenge the work of a colleague even though such a challenge would be appropriate.

b. Members can mitigate the risk of acting in a biased way by being aware of the potential for bias and taking this into account when making decisions or providing advice. Being open to appropriate challenge from others and being willing to change or adapt one's approach can also help to mitigate the risk of acting in a biased way.

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

[14] https://www.royalcommission.gov.au/system/files/2020-09/fsrc-volume-1-final-report.pdf Section 1.5.1 and elsewhere in the report

7. Institutional bias or groupthink

a. Groupthink is a further threat to objectivity. Groupthink can be defined as "the tendency for one's own judgement to be influenced by the apparent consensus view of assumptions, methods, processes or approaches leading to a reduction in the variety of ideas in the market".[15]

b. Groupthink may result in poor conduct and even business failure as perspectives are not challenged and people act as others do without applying reason, experience and logic to specific situations. The Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry[16] found a wide range of examples of groupthink across the whole financial sector. Such behaviours are not, of course, confined to financial services.

c. Members can address this risk by being aware of their propensity to fall into groupthink in the first place and by being prepared to challenge or speak up where processes or approaches are not appropriate for the work being carried out. When making decisions in relation to a piece of work, Members may wish to ask themselves whether they are pursuing a particular approach because it is easier, or is what others are doing, rather than because it is appropriate to the specific work at hand.

d. A further example is in the emerging area of artificial intelligence. The general acceptance of an AI tool may lead the member to leave unchecked whether there are biases or other systemic issues in the underlying data or algorithms used to train that tool, which might propagate into biased or systemically problematic outputs. Such issues may make its use unsuitable for the Service. Members also need to ensure that their use of AI does not result in a failure to apply reason, experience and logic to situations that demand it.

8. Advocacy

a. The Code anticipates that Members may provide non-statutory advice which involves advocating for their Client or others. For instance, this could include Services relating to merger and acquisition activity, advice to a plaintiff or defendant's legal team and product pricing (particularly where profit margins or expense allowances are unregulated). In these situations, Members still need to ensure that their professional judgement and objectivity is not impaired by acting as an advocate.

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[15] This is the definition of "Group Think" as set out in the review by the Joint Forum on Actuarial Regulation' (JFAR) on Group Think - jfar-report-group-think-june-2016.pdf which was conducted in association with UK regulators. The Oxford English Dictionary defines 'groupthink' as "the practice of thinking or making decisions as a group, resulting typically in unchallenged, poor-quality decision-making" The JFAR Review includes guidance for individual actuaries on how to address groupthink.

[16] https://www.royalcommission.gov.au/banking/final-report

b. In such circumstances, the Member is expected to take reasonable steps to ensure any communication that includes the results of Services provided by the Member clearly identifies who has commissioned the Member's work, whether any component of the remuneration of the Member is contingent on the outcome of the Service the Member is providing and how the Member has ensured that such remuneration or other potential reward has not impaired their capacity to provide the Service in an objective manner.

c. Problematic issues in such circumstances could include

   i. adopting one or more assumptions which are towards the extremes of underlying distributions

   ii. to promote or denigrate a particular policy stance the Member favours or objects to

   iii. the expectation/opportunity to develop an enhanced reputation if a matter is concluded successfully.

9. Conflicts of interest

Introduction to conflicts of interest

a. Because conflicts of interest are a particular threat to this 'objectivity' principle, the Code has the following amplifications:

   i. "Members will take reasonable steps to make themselves aware of any matter that may give rise to a conflict of interest."

   ii. "If an actual or potential conflict of interest is identified, Members will consider what actions are required to resolve the conflict and will undertake these actions as soon as practical. Such actions may include not providing the Services, where the conflict cannot otherwise be resolved."

   iii. "Where an identified conflict of interest compromises or can be reasonably perceived to compromise a Member's professional judgement, the Member will communicate to their Client the actions they have taken or will take to resolve the conflict."

b. Conflicts of interest can be complex and require use of professional judgement to identify, assess and resolve. This section is intended to assist Members with understanding their responsibilities in relation to conflicts of interest and to help with that exercise of professional judgement.

c. Ensuring that conflicts are (a) identified; (b) assessed; and (c) reconciled or eliminated, is the key to meeting the requirements of the Code. Commissioner Hayne observed, "Where possible, conflicts of interest and conflicts between duty and interest should be removed. There must be recognition that conflicts of interest and conflicts between duty and interest should be eliminated rather than 'managed'."[17]

d. All Members have an individual responsibility to be familiar with their obligation to identify conflicts and to know what to do if they encounter one. This responsibility exists regardless of their role in the provision of Services or their level of seniority. This responsibility therefore applies to all Members, including students, more junior members of an actuarial team and those working as part of a multidisciplinary team.

e. There may also be practice-specific conflict of interest provisions for Members, such as any contained in the relevant professional standards. Additionally, Members need to have regard to any relevant legal and regulatory requirements in the country in which they are practising.

f. If Members are unsure how to act at any stage, the Actuaries Institute encourages them to seek guidance from appropriate sources. A note regarding further sources of advice can be found in Section 10.

What is a conflict of interest?

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

   i. the Member's own interests (or those of family) *("personal conflict")*; or

   ii. an interest of the Member's employer, in situations where the employer is not also the Member's client ("*employer conflict*"); or

   iii. an interest of another client of the Member *("client conflict")*.

[17] https://www.royalcommission.gov.au/banking/final-report section 4.2 page 45

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

   i. Personal conflict: A Member – or friends or family – may have an interest in the outcome of a transaction that will be influenced by advice being given by the Member. In addition to direct financial interests, consideration should be given to the influence of personal appointments, memberships or ethical values or beliefs that may make it difficult for Members to act, and be seen to act, in the interests of the recipient of Services.

   ii. Employer conflict: A Member's employer might have a financial or other interest in the outcome of the Member's work. A conflict could therefore arise between the Member's professional judgement in providing advice to a client and the commercial objectives of their employer. Members might then be put under pressure, directly or indirectly, to act in a way which they would not otherwise judge to be in the interests of a client.

c. Client conflict: Situations can arise in which a Member has two separate clients whose interests come into conflict. The Member might then be tempted to act in the interests of one client, in a manner which works against the interests of the other.

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

Identifying a conflict of interest

a. The effective identification and understanding of conflicts of interest are key to their reconciliation. Amplification 4.3 of the Code requires that Members take reasonable steps to ensure they are aware of any interests that might create a conflict.

b. It may be useful for Members to approach the identification of conflicts in two steps:

   i. Establish what various interests are involved in the particular scenario – for whom do you work? Who

   ii. are the recipients of the Services? Do you have a personal interest in the matter? Does anyone else have an interest which should be considered?

   iii. Assess whether the differing interests of relevant parties involved (including your own interests and those of the person or organisation you work for) might make it hard for you to continue to act without compromising your objectivity or professional responsibility to the recipients of your Services. Or are the interests of parties other than the principal recipient so remote or generic that they will not compromise, or be seen to compromse, your professional judgement?

c. When establishing the various interested parties, Members need to be alert to the possibility that within one legal entity there are two separate bodies with divergent interests (for example, a finance committee and a remuneration committee), or one body with two different responsibilities (for example, the sponsoring employer of a superannuation scheme might also be the trustee or manager of that scheme). In such circumstances, a Member might conclude that there are two distinct recipients of Services, giving rise to a possible conflict.

d. Taking *'reasonable steps*' to identify potential conflicts would normally involve Members following any internal processes established for this purpose by their employer (if they are employed), and might include sending out a 'conflict check' email to appropriate staff in the organisation and/or to the relevant conflict committee, and/or a search of the organisation's conflicts database. It would also include identifying where there is relevant guidance available from regulators, industry bodies or the Actuaries Institute[18] and considering that guidance.

e. A Member or their employer can help ensure that conflicts of interest are effectively identified through:

   i. regular training to ensure all relevant employees are aware of their duties and can identify conflicts;

   ii. recording gifts and hospitality, ensuring that amounts are not out of line with any organisational policy and that the Member does not knowingly receive gifts or hospitality which could lead to an actual or perceived conflict of interest.

f. Members are required to "*respect confidentiality*"[19]. Therefore, before taking on any new engagement, Members are advised to consider whether they have an existing duty of confidentiality to any existing or former clients, which would give rise to a conflict of interest with the proposed new engagement.

g. A note of some helpful questions for Members to consider when identifying conflicts is included at **Appendix B**

[18] For instance, APRA Prudential Standard SPS 521 - Conflicts of Interest https://www.apra.gov.au/sites/default/files/prudential-practice-guide-spg-521-conflicts-of-interest-july-2013_0.pdf and Actuaries Institute Practice Guideline 499.07 - Additional Conflict of Interest Guidance for Actuaries Working In Superannuation https://content.actuaries.asn.au/resources/resource-ce6yyqn64sx3-2093352434-59977

[19] Amplification 1.2 of the Actuaries' Code and section 9 (page 15) of this Guidance

Managing and reconciling conflicts of interest

a. Once a conflict of interest is identified, amplification 4.4 of the Code requires Members to not provide Services if it cannot be resolved. This means that the actual or potential conflict needs to be managed appropriately or the Member must decline or cease to provide the Services. For instance, a Member and their close family members may be prohibited from buying or selling securities of organisations to which they or their employer provides advice in order to avoid a potential conflict.

b. It is possible that, after assessing an identified conflict of interest, a Member decides that no further action is required. This may be appropriate in a situation where the conflict of interest is so remote or generic that it will not compromise, or be seen to compromise, the Member's professional judgement. For example, if a Member is providing Services to a superannuation scheme, with a broad range of investments in companies across different industries, it may be possible to argue that a Member, by purchasing their products, creates a conflict of interest. However, in this situation, it would be reasonable for the Member to assess that such a conflict of interest has no impact on their ability to exercise professional judgement.

c. Any actions taken to resolve conflicts must ensure that, within the scope of an engagement, the conflict does not have (and is not seen to have) any adverse effect on the recipients of the Services.

d. It is also necessary that Members are alert to situations where others perceive that there may be a conflict of interest or the possibility of a conflict of interest, even when an actual conflict of interest does not exist. In these situations, it is still necessary for the perception of the conflict to be appropriately addressed in order for the Member to continue to act.

e. Reconciling a conflict of interest will likely involve disclosing the existence of the conflict of interest to the recipients of the Services concerned and other relevant parties (such as the Member's employer or family members, where they have or may have conflicting interests), and explaining the relevant issues, risks and any constraints on the work so that the recipients understand them. However, Members also need to consider any underlying confidentiality obligations to other parties.

f. There may be internal guidance in Members' organisations on how conflicts of interest are to be managed. Members need to satisfy themselves that such guidance is appropriate and sufficient, and if/where necessary, supplement it with their own arrangements and tools for managing conflicts. These arrangements and tools may incorporate some or all of the following, taking into account any established market practices for handling such conflicts:

i. Scoping the engagement

When agreeing the scope of an engagement, Members may wish to define clearly any limitations on the extent of their role and the type of advice which they can provide on the engagement.

It is important to ensure that a member does not enter into an employment or retainer agreement or continue under the operation of such agreement, if the member is aware that the agreement conflicts with, or seeks (either explicitly or implicitly) to override the obligation of a member to act in accordance with the Constitution, the Code or Professional Governance Material, as this would be *prima facie* Misconduct under clause 3.3(f) of the Institute Disciplinary Scheme. A Member may consider including a clause in an employment or retainer agreement along the following lines in order to address such potential situations:

> *"[Insert name of member of Institute] is a member of the Institute of Actuaries of Australia. [Name] is bound by the Institute's Constitution, the Code of Conduct, and, depending on the nature of the work, may be bound by Professional Governance Material published by the Institute from time to time (collectively called "the Rules"). This agreement and all work carried out by [name] pursuant to this agreement are at all times subject to the Rules."*

ii. Conflicts management plan

A written 'conflicts management plan' can be shared with (and may be explicitly agreed by) the relevant recipients of Services. Such a plan might typically cover:

- The extent to which information will remain confidential;
- The systems and controls in place to identify and assess potential and actual conflicts of interest;
- The steps taken to reconcile any conflict, and the steps to be taken if the Member cannot continue to act because of an irreconcilable conflict.

iii. Separation of teams

If a Member works within an organisation that has engagements with two clients with competing interests, it may be possible to ensure that the users are advised by different teams within the organisation. In some cases, the more 'mechanical' work might still be undertaken for both clients by a common team.

iv. Information barriers

One option for managing conflicts of interest internally is to establish and maintain arrangements which restrict the flow of sensitive information within the Member's organisation. Information barriers (also known as "Chinese walls") are administrative, electronic and/or physical barriers to ensure that information used by one part of the organisation is withheld from, or not used by, other parts of the organisation. Particular examples might arise in merger and acquisition or competing bid situations.

v. Peer review

Where the work for one client might be seen as potentially creating a conflict with work for another client, independent peer review of that work can form part of the process for ensuring the transparency and objectivity of a Member's work. Where a Member is asked to review the advice of another Member, the reviewing Member should disclose to the Member any conflict of interest in respect of the work being reviewed.

vi. Remuneration arrangements

It is important that Members ensure that they are not incentivised by their employer in a way that might be seen to encourage them to provide anything other than the most suitable and appropriate advice to a recipient of their Services.

vii. Recipient consent

Members may be able to reconcile a potential or perceived conflict by obtaining consent from a recipient of the Services to act or continue to act for another recipient with conflicting interests. In such cases, the Member will need to consider what will happen if that consent is withdrawn, making it likely that they will have to cease acting for one or both recipients.

g. Where a conflict of interest is identified, Members are encouraged to carefully document the reasoning for their decision to either continue or cease providing Services, including the steps that they have taken to reconcile the conflict. Being able to explain and justify the approach they have taken in reaching their decision will assist the Member when being called upon to do so, for example in response to a request from a client or a regulator. Amplification 4.5 indicates that the Institute expects Members to communicate any action they have taken or will take to resolve a conflict which compromise or could be reasonably seen to compromise their professional judgement. Suitable documentation could provide evidence of compliance with this requirement.

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

PRINCIPLE 5 – SPEAKING UP

1. The general duty to speak up

a. Members have a responsibility to speak up in certain situations. This is reflected in Principle 5 of the Code, which states:

> *"Members will appropriately respond to non-compliance by others".*

b. The Code also sets out some specific requirements relating to speaking up, in relation to a Member's concerns about the actions of a Client or of another Member.

c. These requirements reflect the important role of speaking up by Members.

d. Speaking up is an essential part of being a professional actuary: raising or identifying issues at an early stage can help to address a problem before any harm is caused or prevent further damage being caused. Raising an issue as soon as practicable ultimately helps to protect the reputation of the actuarial profession, organisations employing actuaries, clients, customers and the wider public.

e. The particularly technical nature of the work of actuaries means that it will not always be obvious to recipients of Services when there are issues. Therefore, it is particularly important that other actuaries speak up as there will often be situations where they can identify problems that will not be as apparent to non-actuaries.

f. If Members are unsure at any stage whether to raise a concern, the Actuaries Institute encourages them to seek advice or further guidance from one of the sources listed in Section 10.

g. Issues which may occur to Members who are considering speaking up are addressed in **Appendix D**.

2. What is meant by 'Speaking Up'?

a. The requirements under the Code are to 'appropriately respond to non-compliance by others'. The Code does not define 'speaking up' or what it means to 'appropriately respond to non-compliance'. These terms are intended to be interpreted broadly and to cover different types of reporting or challenging of others' behaviour/approach.

b. Speaking up can range from:

- challenging a colleague or a recipient of Services by addressing them directly when they appear to be behaving in a way they should not (whether intentionally or not)
- highlighting to a colleague, or even a recipient of Services, material issues in a piece of work, to formal or informal reporting to a third party (whether clients, regulators or relevant authorities) about an issue uncovered by a Member.

c. The term 'whistleblowing' is often used to describe the act of reporting of wrongdoing to a relevant regulator or other authority, sometimes with legal protection for doing so.

d. For the purposes of the Code, 'speaking up' is intended to cover 'whistleblowing' but is not restricted to that activity. It also encompasses a wider range of situations.

3. What is required of Members?

a. The requirements around speaking up are not always straightforward. When a Member is faced with a situation that requires them to speak up in order to comply with the Code, they may not always know who to speak to or when.

b. There may also be situations where there are barriers to speaking up, such as situations where it would be a criminal offence to do so.

c. Members may also be worried about raising such issues, anxious that they may be seen as disloyal and putting their job or relationships with colleagues (including more senior colleagues) at risk. They may want to keep the concerns to themselves, perhaps feeling that it's none of their business, or only a suspicion, or that they will be seen as a 'troublemaker'. However, Members are required to speak up even though that may have serious implications for their work life or career.

d. In recognition of those challenges, but also the importance of speaking up for the protection of the public interest, the speaking up principle in the Code requires members to 'consider' what action they ought to take in the circumstances.

e. This means that there is an expectation that Members will speak up but that there is also recognition that there may be circumstances in which not doing so may be justified. This wording is designed to ensure Members have the necessary flexibility in situations where speaking up might not be the right thing to do to resolve the Member's concerns.

f. In addition to Principle 5, there are also other principles of the Code that may be relevant to issues of speaking up. Those include Principle 1, which requires Members to "*act with integrity*" and which also has the amplification providing that Members "*will respect confidentiality*".

4. Whistleblowing

a. The Code also provides in its second principle, Compliance, that Members will "*comply with all relevant laws, regulations and Professional Standards".* In many jurisdictions there will be legal requirements to report certain breaches of the law and/or regulations to the relevant authorities. Members are expected to be aware of such requirements and to comply with them.

b. Certain legal and regulatory provisions place a duty on individuals to make particular disclosures to a third party whilst other provisions are permissive, allowing disclosures to be made in certain circumstances. Where there is a legal duty to disclose, any contractual confidentiality clauses would most probably be overridden. Members involved in the negotiation of such contracts are therefore expected to bear this in mind when drafting the contract terms. It is recommended that these duties also be considered when an organisation's standard terms and conditions of business are reviewed.

c. It is recommended that Members take independent advice about the legal and regulatory provisions which apply in the country in which they are carrying out a piece of work (and, if they are working remotely, the country in which the piece of work is being delivered).

5. Responding to non-compliance by Clients

a. The Code provides that Members should 'appropriately respond' to non-compliance by others, which includes non-compliance by Clients who may be engaging in illegal conduct or breaching regulatory or professional requirements.

b. Amplification 5.1 also provides that:

> *"Members who have reasonable doubt about whether the actions of a Client are lawful or honest will consider whether it is appropriate to continue to provide Services to that Client if their concern is not resolved."*

c. In assessing how to respond to non-compliance by a Client, matters to consider may include:

i. Whether the issue has been raised through appropriate means with the Client, such as directly with the individuals involved, or via escalation mechanisms in operation at the Client. This may be necessary to understand context or clear up any misunderstandings.

ii. Whether the Client has addressed or responded to the concern raised.

iii. The category of the matter, i.e. whether it is a criminal, legislative, regulatory or professional standard matter.

iv. The Member's own reporting obligations under relevant legislation.

6. Responding to non-compliance by Members

a. Amplification 5.2 provides a specific requirement that:

> *"Members who reasonably believe that another Member may have acted inconsistently with this Code, will firstly consider taking reasonable steps to discuss with the Member or their Client, as appropriate. Subsequently and having regard to confidentiality obligations, Members will consider making a complaint under the Institute's Disciplinary Scheme."*

b. Members will be required to use their judgement in determining what reasonable steps they should take to discuss a concern with another Member or their Client and whether a **Complaint** should be made under the Institute's Disciplinary scheme[20]. Relevant factors to consider in exercising this judgement might include:

   i. the cause of the breach (including whether it was a genuine error, was due to incompetence, or involved a wilful breach of a rule);

   ii. the extent of the breach and whether it can easily be rectified;

   iii. whether the breach was disclosed to the appropriate person(s) at the earliest opportunity (for example to a senior colleague, the Client or other affected parties);

   iv. whether the breach is likely to be repeated;

   v. the consequences of the breach (for example, has it resulted in any financial, reputational or other detriment to a Client or other stakeholder?);

   vi. any wider implications of the breach (for example, is the breach indicative of wider problems in the Member's work or judgement, is it likely to cause other Members to act in a similar way, or is it likely to bring the Actuaries Institute or actuarial profession into disrepute?).

[20] The Disciplinary scheme framework and how a complaint can be made are available at https://www.actuaries.asn.au/professional-standards-and-regulation/disciplinary-scheme

c. In the majority of cases, Members will be expected to speak to the individual concerned and/or to another colleague or peer before proceeding to report a breach to a regulator or to the Actuaries Institute. It is recognised, however, that there may be circumstances where it is appropriate to report without such a discussion having taken place, such as where the circumstances make it difficult to raise it with the individual or another colleague (for example, raising an issue about the competence and care of your senior colleague in a firm where they are your line manager). In such circumstances, it may still be appropriate for the Member to discuss the issue confidentially with a legal adviser or peer outside their workplace, before deciding to report the issue.

d. There may be exceptional circumstances where Members should not flag the issue to the individual and, in some cases, to the organisation. An example of this may include money laundering where this would constitute 'tipping off'. Similarly, there could be situations where raising the issue may lead to the destruction of evidence of a legal or regulatory breach.

e. In circumstances where a breach is discovered but a Member chooses not to report it, Members must be prepared to explain and justify the approach they have taken in reaching that decision if reasonably called upon to do so. This may be in response to a request from a Client or a regulator or from the Actuaries Institute. Members are, therefore, encouraged to document the reasons for their overall approach, including whether they have sought any guidance or advice about whether to report from a solicitor or their organisation's professionalism/quality oversight committee.

f. Members could themselves be investigated for Misconduct if they have contributed to, or fail to, act when they become aware of misconduct by another Member.[21]

7. Situations where the law prevents disclosure

a. None of the provisions of the Code require Members to act in a way that is unlawful.

b. This means that where any legal provisions exist in the country in which the Member is working which prohibit disclosure, those legal provisions will override Member's duties under the Code.

c. An example of situations where disclosure might be prohibited is when a Member making that disclosure risks committing a crime by default, such as where they disclose information they received relating to state security or intelligence matters, or where they alert a person who has engaged in unlawful conduct to the fact that they are under investigation.

[21] Examples of Misconduct set out in the Disciplinary Scheme include "3.3 (b) acts or omissions that have the potential to bring into disrepute or damage the reputation of the profession, the Institute or Members" and "(c) aiding, abetting… another person to engage in Misconduct

8. Some practical considerations and questions for Members

a. In order to encourage speaking up, the aim of everyone – Members, and their Clients– should be to promote a culture in which all feel able to articulate any concern they may have and are not inhibited from, or penalised for, doing so.

b. Members can help in developing such a culture by:

   i. ensuring that their Clients understand the professional and legal obligations of Members, whether through contractual terms or the provision of a separate information note;

   ii. checking that their employer has a clear policy for staff on speaking up that is effectively promoted and regularly reviewed; and

   iii. ensuring that their employer's policy on speaking up or whistleblowing is recognised in relevant contracts.

c. Against this background, **Appendix E** includes some practical questions which Members might ask themselves both (a) before any situation of concern arises and (b) if and when one does.

9. Making a report to the Actuaries Institute

a. The Actuaries Institute will consider allegations that an individual Member (or former Member) has been guilty of Misconduct. Information about how to make a complaint, or how to obtain assistance in regards to the making of a complaint, can be found on the Actuaries Institute website.[22]

[22] https://www.actuaries.asn.au/professional-standards-and-regulation/disciplinary-scheme/making-a-complaint

PRINCIPLE 6 – COMMUNICATION

1. General duty to communicate appropriately

a. Principle 6 of the Code provides that:

"Members will communicate appropriately."

b. Members are expected to present information in a way that is accurate, objective and in accordance with relevant professional standards so that recipients of Services who are relying on that information can understand the context of the information and be clear about the message being conveyed. Communication is, therefore, a key part of a Member's role. In order for Members to ensure their communications (written and oral) are appropriate, understanding the purpose and nature of the Member's instruction is key.

2. Judging what is appropriate

a. Appropriate communication is very often a matter of putting oneself in the place of the intended audience. For example:

i. Is the communication courteous and professional?

ii. Have Member/s clearly set out their recommendations and suggested options and their implications? Have qualifications and the use and significance of assumptions been clearly stated?

iii. Is it clear what you are asking of the client when you are requesting something from them? Are the sources of information required set out clearly? Is the request for further action by the recipient of Services reasonable and clear?

iv. Is a written report structured in a manner that makes it easy for the reader to find key information? Would having the conclusion at the beginning of a report rather than the end help a reader better understand the content of the report?

v. Will the audience understand the basis on which estimates and calculations have been made, and the appropriate degree of confidence in the results? Has the use of new or emerging tools or techniques been sufficiently disclosed for the purpose and audience?

vi. If the member has adopted a generic template for a written report, whether generated using AI or otherwise, is the format appropriate for the purpose and audience?

vii. Have key assumptions and uncertainties been clearly expressed? Will the recipient be able to appreciate the uncertain nature of some actuarial services and the use of assumptions?

viii. Is it reasonable to assume that a report will be read and considered in full? Putting important explanations and limitations at the end of a report may not be optimal for the reader who only reads the conclusions.

ix. Above all, is the document fit for purpose?

b. Answering these questions requires not just good judgement and a high standard of communication, but also a degree of imagination and empathy.

c. Oral communication, whether face-to-face or via teleconference or other remote media, typically has less structure and detail than written communication. Such discussion may be important in developing the Member's understanding of the issue the client is endeavouring to address. Clients may act based on their interpretation of discussions held, whether or not disclaimers have been made around draft or informal advice.

d. Members may consider documenting their understanding of the outcomes of a meeting in a file note, which may assist other team members or reviewers in the process of completing the work. Members may also consider sharing recollections or reflections on the meeting with the client, both to clarify understanding and reduce the likelihood of misinterpretation by any party. Informal emails can be a quick and timely means of doing either of these, but the importance of reviewing any such communication and confirming the intended recipients before pressing the "send" button should always be top of mind! The points in 2(a) above are applicable to such informal communication as well.

3. Taking responsibility for your work

a. Amplification 6.1(e) requires that Members communicate "*the capacity in which the Member is acting*". It is essential to the trust in which the profession is held that there is clear accountability for any work carried out by Members. It is not appropriate for communications to recipients of Services to be presented anonymously, especially where the communications are likely to influence or be relied upon by the recipients.

b. It may sometimes be the case that the person taking ultimate responsibility for the Service has not carried out the bulk of the work. In cases like this, the person taking responsibility for the Service will need to ensure they have fully understood what has been done (including the capabilities and limitations of the key tools used) and have carried out any relevant checks before signing the work.

c. Recipients of Services are entitled to expect that the Member who has carried out a piece of work is satisfied that the information being provided is suitable and accurate. Members are expected to ensure they are never knowingly associated with misleading information.

DEFINITIONS

1. Client:

a. The Code defines a Client as “the recipient of a Service provided by a Member”.

b. In a corporate setting, this extends to your employer and includes your direct manager, other colleagues and ultimately the board and company stakeholders.

c. If you are working in the capacity of a consultant, your Client includes:

   i. Organisations you have employment contracts with;

   ii. Any other persons or organisations for which you have been engaged to provide Services.

2. Services:

a. The Code defines Services as “any engagement, work, findings, advice or act of a Member as an actuary …’’. Here, we consider what is meant by “as an actuary”.

b. Clearly a Member who performs traditional actuarial services “acts as an actuary”. Where a Member is regularly employed or contracted to provide Services, ancillary activities such as commenting on proposed marketing materials, investments or employment options may fall into the category of Services if the client was reasonably expecting a considered professional response and particularly if the Member provided a written or emailed response. Careful communication or formally declining to comment might be considered in such situations.

c. By contrast, a Member who has established something unrelated, for example, an Italian Cookery School with family members, is probably not acting as an actuary in this capacity.

d. A Member who is a company director may be acting as an actuary. Such a member may need to consider questions such as:

   i. Do other directors and management consider the work the Member is undertaking to be Services?

   ii. Does the annual report show that they are a qualified actuary which would lead stakeholders to consider that an actuary is acting on their behalf?

   iii. Is the Member considering matters from an actuarial context?

SOURCES OF GUIDANCE AND ADVICE

a. It is recommended that the first course of action for Members is to check what advice or guidance is available from their employer. Many businesses have speaking up or whistleblowing policies, as well as more general guidance on workplace behaviour. Of course, no such guidance can override a Member's obligation to follow the Code of Conduct and professional standards.

b. The Actuaries Institute provides a range of resources on the topic of 'Professionalism' for its Members. This includes links to material such as the online Whistleblowing eLearning course.

c. If a Member remains unsure of the appropriate course of action after consulting these sources, they may decide to consult a legal adviser. They may also contact the CEO of the Institute with a view to identifying one or more long-standing members of the Institute with whom they may be able to discuss non-client confidential aspects of the matter you are considering.

1. Further Question and Information

a. The content of this Guidance will be kept under review and for that reason we would be pleased to receive any comments you may wish to offer on it. Please direct any comments either via email Governance@actuaries.asn.au or by mail sent to:

Actuaries Institute
Level 34, 264 George Street Sydney
NSW 2000, Australia

Document Control Box

Version	Title of Document	Name of approving Council or Committee	Date of approval	Date of publication
1.1	Guidance to Support the Code of Conduct	Code of Conduct Guidance Group	March 2020	March 2020
1.2	Guidance to Support the Code of Conduct	Code of Conduct Guidance Group	July 2021	July 2021

Version	Title of Document	Name of approving Council or Committee	Date of approval	Date of publication
1.3	Guidance to Support the Code of Conduct	Code of Conduct Guidance Group	October 2021	October 2021
1.4	Guidance to Support the Code of Conduct	Professionalism Committee	Professionalism Committee	October 2024
1.5	Guidance to Support the Code of Conduct	Professionalism Committee	Professionalism Committee	October 2025

Appendix A – Examples of possible conflicts of interest

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

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

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

Area	Example	Example of Source of Conflict
Applicable to all Members	Client versus client or client versus former client	Duty owed to one client may affect a duty to another. Confidential information gained from one client may benefit another client. Knowledge gained from former, or existing, client/s may be of advantage to another client. (There may also be fee issues where one client has funded work which can benefit another.) The Member is acting for two entirely separate clients who (possibly confidentially) become involved in a corporate transaction (either between each other or in connection with a third party).
	Personal or professional values conflict with client objectives	The course of action proposed by the client is at odds with the values of the Member or the Member's obligations to the Actuaries Institute, or their employer.
	Personal or family interest	Where the Member's advice could personally affect the Member or their family, financially or otherwise. Member advising own employer gives advice potentially benefitting his/her part of the business.
	Conflict between interests of a client and the interests of the Member's employer	Advice given by a Member to a client may be sound but unacceptable to the client and risks jeopardising the relationship between the client and the employer in other areas. Member's advice may bring in more fee income for the Member's employer but is of questionable value to the client.

Area	Example	Example of Source of Conflict
Insurance (life, general and health)	Conflict between interests of policyholders and commercial interests of the insurer employing the Member	Likely to be most acute in advising on management of with-profits life insurance business; for example, the level of investment risk taken in the fund and the use of the fund's assets to support business development.
	Conflict between solvency of insurer and immediate management objectives	A Member's duty to advise on risks to the long- term solvency of an insurer may conflict with shorter-term commercial objectives; for example, to maintain dividends or to write new business.
	Conflict between commercial and professional interests	Member is under pressure from management to suppress claim reserve estimates.
	Conflict arising from being a policyholder	Member is a policyholder of the insurance company for which he/she works, and in a position to influence the premium charged and/or benefits provided.
	Conflict between providing accurate reserve calculations and personal gains	Methodology and assumptions on reserve calculations will affect profit and business value, which may in turn affect the Member's bonuses and long-term incentives.
Super-annuation	Direct conflicts as adviser to both trustees and company/ scheme sponsor	Trustee interests are likely to be in increasing prudence and funding and improving member outcomes. Companies will often be interested in reducing funding, with the effect of reducing prudence. When advising on whether or not to call for an actuarial valuation in response to a material change in circumstances. When advising on appropriate actuarial factors such as commutation or early-retirement factors.
	Conflicts arising due to client being conflicted	A finance director who is also a trustee (or a chair of trustees who reports into the finance director) might ask for the Scheme Actuary's advice to the trustees to be favourable to the company. The trustees do not want to be "difficult" and upset the company.
	Direct conflicts between two connected or unconnected clients	The Member is a Scheme Actuary for more than one superannuation scheme of the same employer and there is a proposal to merge the superannuation schemes or the superannuation schemes are "competing" for limited funds from the employer
	Conflicts of interest with own employer	Scheme Actuary is directly employed by the company sponsoring the superannuation scheme.

Area	Example	Example of Source of Conflict
	Conflict arising from being a fund member	Member is a member of the superannuation fund for which he/she works, and in a position to influence the fees charged and/or benefits provided.

Appendix B – Sample questions for identifying a potential conflict

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

1. Questions for Members (general)

a. Do I or my family have a stake (e.g. stocks/shares, employment or membership) in the recipient of the work or in another party with competing interests to those of the recipient?

b. Are there two or more recipients of my work in the same industry? (e.g. one consideration may be whether there is potential for merger between two recipients).

c. Are my rewards, or the manner in which I am rewarded, likely to give rise to a perception of conflict e.g. bonus or commission?

d. Is there a conflict between the commercial interests of the person who has commissioned the work, and others whose interests may ultimately depend on my advice?

2. Questions for superannuation scheme actuaries

a. What conflicts are inherent to the trustee board?

b. Are relations between the trustees and the employer likely to be adversarial?

c. Do certain functions reserved to the superannuation scheme actuary (e.g. under the trust deed and rules or legislation) give rise to potential conflicts?

d. In what areas requiring actuarial advice are the interests of trustees and the company, the administrators or the members not aligned?

e. Does my employer advise the sponsoring companies in any material capacity?

f. In my view, could the trustee board be at risk of being unduly influenced by company or fund administrator management in some circumstances?

g. What conflicts within the trustee board have the potential to affect my ability (or perceived ability) to give unconstrained, objective advice to the trustee?

3. Questions for insurance actuaries (general, life and health insurance)

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

b. Am I in a position as pricing actuary or underwriter where competitive pressures will compromise my ability to comply fully with APRA prudential standards, AI Professional Standards and/or the Code?

c. Do I or my firm provide an audit service as well as separate advice to the client?

d. Do I or my firm provide advice to both a life insurer and any independent adviser on its With-Profits business?

e. Do I act in the role of Appointed Actuary as well as providing other advice to my employer or client?

Appendix C – Sample questions to consider in managing a conflict

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

1. Questions for Members (general)

a. If I am responsible for key judgements on a piece of work, what element of peer review and checking exists in relation to my work?

b. Does the recipient rely entirely on my advice in relation to certain actuarial matters or are there other advisers who might be involved in providing advice?

c. If the recipient solely relies on my advice in relation to actuarial matters, does that create any need to manage potential conflicts differently to those situations where other personnel will be able to assess the results of my work?

d. Have I considered how I would manage potential conflicts arising from my having a duty to a different body in the organisation to that which contracted me to perform the work?

e. To manage any conflict, is there anything that needs to be agreed with a recipient at the scoping stage of the work?

f. Should a conflicts management plan be agreed, with the recipient(s) confirming their consent to the arrangements made to manage conflicts and to any conditions and limitations that are put in place?

g. Should any information barriers (Chinese Walls) be put in place within the member's organisation to avoid actual or perceived conflicts? Would a separation of teams help to manage the conflict in question?

2. Questions for superannuation scheme actuaries

a. Is there an independent trustee on the trustee board?

b. If the trustees have an appointed investment adviser, what role might that adviser be playing which might be significant in the management of a potential conflict?

c. Have the trustees effectively implemented APRA Prudential Standard SPS 521 - Conflicts of Interest?

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

3. Questions for insurance actuaries (general, life and health insurance)

a. Does the Board have appropriate personnel who are able to judge whether my conclusions around, for example, reserving levels, are appropriate?

b. As an actuarial employee of a small organisation or an organisation where I am the sole actuary, who can I call on to discuss issues and check approaches/decisions?

c. If acting as Appointed Actuary or undertaking an actuarial review for APRA (CPS320 section 35ff), will I have appropriate access to independent external advice if I consider this to be necessary?

d. Have I followed my organisation's protocols on managing conflicts (examples may be when working on an audit to ensure you have complied with any relevant investment restrictions or any restrictions that apply to performing non-audit work for the same client)?

Appendix D – Issues for Members who consider speaking up

a. *Might I be sued or disciplined for breaches of confidentiality?*

There may be public interest exceptions to a claim for breach of confidentiality. Any such disclosure needs to be made to the appropriate body, honestly and in the public interest.

b. *Do I only need to speak up where I have a specific duty to do so?*

Raising matters of concern with your employer or the appropriate regulatory body is encouraged by the Actuaries Institute through Principle 5 of the Code of Conduct even where there is no specific legal or regulatory duty to do so.

c. *Can I only speak up when I am certain of the facts?*

It will not always be possible for Members to be 100% certain of the facts and for that reason, especially when raising a concern with their employer, a reasonable suspicion of wrongdoing is generally sufficient. When taking information outside of the organisation there ought to be a reasonable belief in the truth of the information.

d. *What if I am unsure how to proceed because the confidentiality clause in my employment contract does not contain the exception 'unless relating to your professional duties'?*

Even where your employment contract does not include an exemption relating to your professional duties, you are still subject to the professional duties set out in the Actuaries Institute Code, particularly the requirement that you appropriately respond to non- compliance.

e. *What if I am concerned that I may lose my job or upset an important client if I speak up?*

Although legitimate concerns, these possibilities should not dissuade Members from speaking up. It is important to bear in mind that reputable employers and other actuaries expect all Members of the Actuaries Institute to report concerns in accordance with their professional duties.

f. *Perhaps the regulatory reaction to a disclosure is likely to be disproportionate to the concerns that I have?*

Small concerns can often provide clues to much larger problems and so it is essential that a decision on the relative importance of a disclosure is left up to Member's employers, the Actuaries Institute or the appropriate regulator.

Appendix E – Practical questions for Members in Speaking Up

a. This section contains some practical questions related to Speaking Up which Members might ask themselves both (a) before any situation of concern arises and (b) if and when one does.

1. Before any problem arises

i. Do I know and understand my professional obligations and rights and responsibilities under the law?

ii. Do I know whether my firm/employer has a written policy on speaking up or whistleblowing?

iii. If it does, am I familiar with the policy or policies?

iv. If I am a manager, do my staff know about the policy?

v. If I found myself in a situation where I might have to speak up, am I clear about my obligations and about any protections available under the law?

vi. Do I know where I can go for further advice?

vii. Do I understand that the Code is not simply a set of rules and that Members are expected to observe the spirit as well as the letter of the Code in their conduct?

viii. Do I understand what constitutes Misconduct under the Actuaries Institute Disciplinary Scheme?

ix. Do I understand that, while some situations will very clearly require me to speak up, others may be less clear cut, and that nevertheless, it would be prudent to keep a note of all such concerns as a series of actions, each in itself below the reporting threshold, may in aggregate become serious enough to require external reporting?

x. When deciding at what point to progress from raising a concern within my employer and raising it externally have I developed a clear picture of the distinction which can be made between: actions which are minor or part of work-in-progress, and can potentially be remedied, and actions which are so advanced that remedies are no longer possible?

2. If a problem does arise

i. Do I understand my obligations as a Member and the obligations and protections available to me under the law?

ii. Have I re-read my firm's speaking up or whistleblowing policy?

iii. Do I have reasonable grounds for believing my concerns tend to show wrongdoing or malpractice and disclosure of the information is in the public interest?

iv. Have I raised my concerns at the appropriate level within my organisation?

v. If I decide to raise the concern externally, am I clear how, and to whom, I should make the report?

vi. Am I clear who ought to be informed that I have made the report?

vii. Do I have reasonable grounds to believe that any disclosure made outside my employer to an appropriate third party is substantially true?

viii. Do I need to look for further sources of advice?

ix. Have I properly assessed the risks of not reporting this issue?

b. If, having identified an issue, you decide that it is not necessary to raise the concern, you may find it helpful to note down contemporaneously your reasons for your decision. You may find it helpful to note down:

i. the nature of your concern;

ii. your reason(s) for believing that there is an issue;

iii. the full name(s) of those involved, including any with whom you have already raised the issue;

iv. times and dates when your concerns were first aroused;

v. details of the location(s) concerned;

vi. details of any evidence;

vii. details of any witnesses; and

viii. whether any action has already been taken by anyone else.

c. When considering whether to raise a concern outside an employing organisation, Members are advised to first consider, where appropriate, whether they ought to first follow the internal procedures laid down by their employer.