



CODE OF PROFESSIONAL CONDUCT

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1 INTRODUCTION

1.1 Application

This Code is made pursuant to the Constitution and applies to all Members employed or practising in Australia. This Code also applies to the extent that it is relevant where a Member is employed or is practising outside Australia, unless replaced by another Code of Professional Conduct with the agreement of both the Council of the Institute and the professional body for Actuaries of the country in which the Member is employed or practising.

1.2 Classification

All Members of the Institute of Actuaries of Australia must comply with this Code of Professional Conduct. Specific requirements apply to the provision of Actuarial Advice by an Actuary including requirements governing impartiality, expertise and formal reporting.

1.3 Background

The Institute's Council established a comprehensive review of the Institute's Code of Conduct which was undertaken in 2005. The review was conducted to ensure that this Code properly reflects and upholds the objects of the Institute's Constitution, continues to articulate high standards and principles of professional practice, and adequately defines Actuarial Advice. Reports of relevant Institute taskforces and developments in other jurisdictions were considered as part of the review.

1.4 Purpose

This Code of Professional Conduct sets out the minimum standards of professional conduct to be observed by Members of the Institute of Actuaries of Australia.

1.5 Previous Versions

The Institute's Code of Conduct was first issued in November 1976. Revisions were made in April 1998 and December 2001.

1.6 Legislation

In some areas of professional practice there is specific legislation that sets out statutory duties and responsibilities for Actuaries. In the event that there is or may be a conflict between statutory requirements and this Code, the statutory requirements override this Code to the extent of the inconsistency.

2 COMMENCEMENT DATE

1 March 2006

3 DEFINITIONS

'Actuary' means a Fellow or Accredited Member of the Institute.

'Actuarial Advice' is any conclusion, result, opinion or recommendation provided by an Actuary as a result of performing a Professional Service:

- a) in a Statutory Role; or
- b) within the scope of the Professional Standards; or
- c) for his or her Principal concerning a matter and in circumstances where the Principal reasonably believes that the conclusion, result, opinion or recommendation is being given in accordance with professional requirements governing impartiality, expertise as an Actuary and formal reporting.

'Actuarial Report' means a formal document conveying Actuarial Advice that is provided in a Statutory Role, or that is within the scope of the Professional Standards, or that is Material in its impact, and includes electronic transmission of such a document.

'Code' means this Code of Professional Conduct of the Institute.

'Constitution' means the Constitution of the Institute.

'Disciplinary Scheme' means the Institute's Disciplinary Scheme, as set out in the Schedule to the Constitution.

'Firm' means an entity of which a Member is an employee, contractor, director or partner, and includes a sole trader.

'Institute' means The Institute of Actuaries of Australia.

'Material' means important or essential in the opinion of the Member. 'Materially' has a consistent meaning to 'Material'.

'Member' is a Fellow, Accredited, Associate or Affiliate (including student) Member of the Institute.

'Principal' means the client or employer, as the case may be, who is the primary recipient of a Professional Service provided by a Member and the primary party for whom that Professional Service has been performed.

'Professional Service' means a service provided by a Member in a professional capacity, including Actuarial Advice provided by an Actuary. A Professional Service includes such a service provided on a pro bono basis.

'Professional Standard' is a document, setting out practice requirements in a particular situation or area, that has been prepared in accordance with the Institute's *Policy for Drafting Professional Standards* and has been issued by the Institute.

'Senior Actuary' means an Actuary nominated on behalf of the Actuaries in a firm and accepted by the Institute as their Senior Actuary for certain purposes under this Code.

'Statutory Role' is any role that is defined by law to be performed by an Actuary.

4 GENERAL

4.1 Responsibility of Members in serving the public interest

- 4.1.1 The Institute is a professional body that seeks to enhance the profession of Actuary and to serve the public interest. In order to achieve this, it is essential that Members maintain proper standards of professional conduct and performance. The Institute therefore establishes and maintains Professional Standards and this Code to govern the provision of Professional Services by its Members.
- 4.1.2 When taken together the law, the Constitution, this Code and the Professional Standards, both in general and as they relate to specific statutory roles and responsibilities of Actuaries, define a Member's professional responsibility. In particular, provided that a Member meets the requirements of the law, the Constitution, this Code and the Professional Standards, then he or she will have met the expectations of the profession with respect to the public interest.

4.2 Professional conduct

- 4.2.1 A Member must act with integrity, honesty and due care, and in a manner that seeks to maintain the reputation of the profession.
- 4.2.2 The professional conduct of a Member is his or her personal responsibility.
- 4.2.3 There is room for honest differences of opinion between Members on many professional matters. Where such differences occur, a Member must avoid unjustifiable or improper criticism or malicious injury to the reputation of another Member.
- 4.2.4 This Code sets out standards of professional conduct for all Members of the Institute. The Institute will, from time to time, issue Professional Standards that will apply to particular professional situations or areas of actuarial practice. The Institute relies on the conscience of each Member and the collective conscience of all Members to ensure that this Code and Professional Standards are applied effectively and that perceived breaches are dealt with in accordance with section 4.2.7.
- 4.2.5 In accordance with the Professional Standard set by the Institute on continuing professional development, all Members have a continuing duty to maintain professional knowledge and skill at a level required to ensure that a Principal receives the advantage of competent Professional Services, based on current legislation and generally accepted practices and techniques.
- 4.2.6 A Member who is in doubt as to what constitutes appropriate professional conduct in a particular situation must seek guidance on the interpretation and application of this Code and, where appropriate, the Professional Standards from an Actuary whose opinion he or she values and must, if necessary, obtain legal or other relevant professional advice, and take the appropriate action required in the circumstances.
- 4.2.7 A Member who reasonably believes that another Member may have committed a breach of this Code or of a Professional Standard must first consider discussing the matter with the other Member with a view to resolving it. If the matter cannot be resolved, or if either Member does not consider such a discussion to be appropriate or constructive, the concerned Member must seek the guidance described in section 4.2.6. Following such steps the Member, if warranted, must consider his or her duty to make a complaint in accordance with the rules of the Disciplinary Scheme.

4.3 Senior Actuaries

- 4.3.1 The Actuaries in a Firm must nominate one of themselves to the Institute for the position of Senior Actuary.
- 4.3.2 The Senior Actuary is not personally responsible for the conduct of another Member, but he or she must ensure that all Members of his or her Firm are aware of their responsibilities under this Code and that the Firm is aware that Members have such responsibilities.

4.4 Confidentiality

- 4.4.1 A Member must have proper regard for the trust that is implicit in the relationship between the Member and his or her Principal. The Member must take reasonable steps to ensure that the information used and the result of any Professional Services provided remain confidential and that the Principal is made aware if there is a breach of confidentiality.
- 4.4.2 Notwithstanding section 4.4.1, obligations are imposed on Actuaries by law that require an Actuary to breach confidentiality in certain circumstances.

4.5 Potential misuse of Professional Services

- 4.5.1 A Member must not provide, or continue to provide, Professional Services to a Principal when the Member reasonably believes the result of any Professional Services provided will be used to evade the law or in a manner that is likely to mislead third parties.
- 4.5.2 If a Member reasonably believes that the result of any Professional Services provided is or has been subject to such misuse, the Member must, in the first instance, immediately alert the Principal that he or she believes there has been misuse, and clarify in writing the purpose for which the result was to be used. The Member must also consider whether it is appropriate to offer to provide assistance to the Principal to rectify any misuse.
- 4.5.3 In circumstances where the Principal does not address and, if necessary, rectify any misuse within a reasonable time, and maintenance of confidentiality is or is likely to be Materially damaging to third parties, the Member must obtain legal or other relevant professional advice, and take the appropriate action required. Also, in such circumstances the Member must consider if there is a greater obligation to such third parties than to the maintenance of confidentiality.
- 4.5.4 If a Member has reasonable doubt about whether the actions of a Principal are legal and honest, the Member must consider his or her ongoing relationship with that Principal.

5 ACTUARIAL ADVICE

5.1 Provision of Actuarial Advice

- 5.1.1 Where there is reasonable doubt as to whether a Professional Service provided by an Actuary is Actuarial Advice, the Actuary must proceed as if the Professional Service were Actuarial Advice, unless he or she clarifies in writing with the Principal that the Professional Service is not Actuarial Advice. However, such clarification must not have the effect of excluding from being Actuarial Advice any conclusion, result, opinion or recommendation provided by the Actuary as a result of performing a Professional Service in a Statutory Role or within the scope of the Professional Standards.

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- 5.1.2 An Actuary who provides a Principal with Actuarial Advice must have identified that he or she is a Fellow or Accredited Member of the Institute. A Member who is not an Actuary must not give, or represent himself or herself as giving, Actuarial Advice.
- 5.1.3 All Actuarial Advice must be, and be seen to be, the responsibility of an Actuary or Actuaries. An exception occurs where part of the advice relies upon the advice of an expert for which responsibility is not or cannot be taken by the Actuary but is being formally taken by the expert. In this case, any Actuarial Advice provided by the Actuary must give details of the advice received from the expert, name the expert and his or her qualifications, and where appropriate attach the advice received. Where the Actuary assumes responsibility for the advice received from the expert, no mention of the source of that advice need be made.

5.2 Professional experience

- 5.2.1 If an Actuary does not have relevant experience in a particular area, the Actuary must not provide Actuarial Advice unless he or she takes reasonable steps to obtain adequate guidance in that area.

5.3 Impartiality of Actuarial Advice

- 5.3.1 To ensure the integrity and professional standing of Actuarial Advice, all Actuarial Advice must be impartial.
- 5.3.2 In circumstances where an Actuary might reasonably be perceived to lack impartiality, including where an actual or potential substantial conflict of interest exists, the Actuary must not provide advice unless there has been a full written disclosure to the Principal of the cause of such a perception of lack of impartiality, and the Principal has agreed to the Actuary providing advice.
- 5.3.3 The Actuary must disclose the cause of the perception of lack of impartiality in his or her Actuarial Report and must take reasonable steps to ensure third party recipients of the Actuarial Report who are likely to be Materially affected by the Actuarial Advice have been made aware of the circumstances.

5.4 Nature of remuneration

- 5.4.1 An Actuary must disclose to a Principal prior to commencement of an assignment any direct or indirect compensation that the Actuary, or any other party related to or associated with the Actuary, may receive from any source other than the Principal as a consequence of the Actuary giving Actuarial Advice to the Principal.
- 5.4.2 An Actuary who has an equity interest in his or her Principal, or who receives any form of remuneration or reward based on the financial results or share price of the Principal, must ensure that this is disclosed in any Actuarial Report prepared by the Actuary. The Actuary must also take reasonable steps to ensure that this disclosure is also provided wherever the Actuary knows, or reasonably believes, that the advice in his or her Actuarial Report will be attributed to him or her and provided in whole or in part to third parties who may rely on and be Materially affected by it.
- 5.4.3 An Actuary must exercise due care in accepting fees that are contingent upon the success of an outcome related to the provision of Actuarial Advice. An Actuary must ensure that such fees are appropriate in the circumstances and must ensure that the fees will not impair, or could not be seen to impair, the impartiality of his or her Actuarial Advice. Where an Actuary provides expert advice as a witness before a court of law or statutory tribunal and the Actuary's fees depend in any way on the outcome of the proceedings, this must be disclosed to the parties, including to the court or tribunal.

5.5 Replacement of one Actuary with another

- 5.5.1 In circumstances where a Principal is replacing one Actuary with another there could be specific professional matters known to the incumbent or previous Actuary that must be considered by the new Actuary before any action is taken under the new appointment.
- 5.5.2 In the case of an appointment to a Statutory Role, the new Actuary must speak with the incumbent or previous Actuary, having first notified the Principal, and must do likewise in other circumstances if the new Actuary considers it necessary. The incumbent or previous Actuary must take reasonable steps to cooperate with the new Actuary.
- 5.5.3 In the case of a Statutory Role, if the new Actuary is aware that his or her advice differs Materially from that of the incumbent or previous Actuary, then the new Actuary must explain the reasons for the differences to the Principal, and must do likewise in other circumstances if the new Actuary considers it necessary.

5.6 Transmission of Actuarial Advice to third parties

- 5.6.1 If an Actuary knows or reasonably believes that his or her Actuarial Advice will be transmitted in whole or in part to a third party, the Actuary must take reasonable steps to ensure that authorship is acknowledged to the third party, that any Material implications or limitations of the Actuarial Advice are stated, and that the Actuarial Advice is not presented in a way likely to give a misleading impression. In circumstances where the third party has been or is likely to be misled because of inadequacies in the transmission of his or her Actuarial Advice, the Actuary must consider the provisions in section 4.5.
- 5.6.2 Even if an Actuary has no specific reason to believe that his or her Actuarial Advice will be transmitted to a third party, the Actuary must clearly state any restrictions on the broader application of the Actuarial Advice.

5.7 Professional indemnity insurance

- 5.7.1 An Actuary who provides Actuarial Advice must maintain a level of professional indemnity insurance, either personally or in the form of insurance held by the Actuary's Firm, which is adequate in the context of the field of work in respect of which the Actuarial Advice is provided and the contractual arrangements between the Actuary's Firm and the Principal. This requirement does not apply to an Actuary who is an employee of that Principal.

6 ACTUARIAL REPORTS

6.1 Adherence to Professional Standards

- 6.1.1 When providing Actuarial Advice in an area that is the subject of a Professional Standard, the Actuary must identify the particular Professional Standard in any Actuarial Report and state that the Actuarial Advice has complied with the Standard.
- 6.1.2 The Actuary must ensure that sufficient detail is available in such an Actuarial Report to enable another Actuary to determine whether or not the Professional Standard had been followed and, if given access to the data, to check the results in the Actuarial Report.

6.2 Content of reports

- 6.2.1 Where an Actuarial Report is provided, it must state its purpose, along with the scope, terms of reference and instructions agreed with the Principal. It must also state the use for which the Actuarial Advice is intended.
- 6.2.2 An Actuary must include in any Actuarial Report that he or she prepares a statement indicating to whom the report is addressed, a statement describing or clearly identifying the Material data and the actuarial methods and assumptions used, and a statement drawing attention to any Material implications of the results. The Actuarial Report must contain sufficient information and discussion to enable the Actuary who has prepared the Actuarial Report to reasonably believe that the Principal will be able to form a view on the appropriateness and implications of his or her recommendations.
- 6.2.3 Subject to section 6.2.4, in preparing an Actuarial Report, the Actuary must: exercise his or her professional judgement on all Material matters; ensure that the Actuarial Report is based on the available data, on appropriate assumptions, and on actuarial principles; and disclose in the Actuarial Report all Material information on which he or she has placed reliance and the extent to which he or she has verified and assumed responsibility for such information.
- 6.2.4 If an Actuary provides Actuarial Advice that departs from the requirements of section 6.2.3, including accepting constraints on scope and assumptions, any resulting Actuarial Report or certificate provided by the Actuary must include an appropriate and prominent qualification that explains and justifies the departure. The Actuary must also explain any implications of such departure, including where relevant the implications that arise as a result of the scope or assumptions being constrained.
- 6.2.5 An Actuarial Report must adequately address any uncertainties inherent in the use of assumptions and actuarial methodologies. Where a single estimate of uncertain outcomes is provided, the Actuary who is preparing the Actuarial Report must prominently state in his or her report the intended nature of the estimate and any relevant limitations that apply to that estimate. In circumstances where outcomes are subject to Material uncertainty, the Actuarial Report must convey this uncertainty, its sources and implications, and the steps, if any, taken by the Actuary to quantify or allow for this uncertainty.

6.3 Other forms of Actuarial Advice

- 6.3.1 Where a form other than an Actuarial Report is used to convey Actuarial Advice, the Actuary must decide whether or not the Actuarial Advice is potentially Material in its impact, and if he or she decides that it is, the Actuary must also provide an Actuarial Report. Where the circumstances are not clear to the Actuary, the Actuary must provide an Actuarial Report.
- 6.3.2 Where Actuarial Advice on a particular matter has been provided in a piecemeal fashion over a period of time, the Actuary must consider whether the advice makes sufficient reference to previous advice, and whether it is necessary to prepare and provide an Actuarial Report that draws the Actuarial Advice together.
- 6.3.3 A draft report must include a prominent statement that it will be withdrawn on the issuing of a final report or, failing that, will no longer be applicable after a specified date that is chosen to allow reasonable time for finalisation.

6.4 Relationship between reports

6.4.1 Where an Actuary has prepared:

- (a) a précis of or an addendum to an Actuarial Report of either that Actuary or another Actuary, or
- (b) a new Actuarial Report that relates to a previous such report,

the Actuary must clearly identify the previous report and must identify any Material differences, including differences in advice, between the précis, addendum or new report and the previous report.

6.4.2 Where relevant, the Actuary must also state that the précis, addendum or new report must be read in conjunction with the previous report, and the Actuary must restate, make reference to or, if necessary, revise any limitations or qualifications that were present in the previous report.

6.4.3 The Actuary must take reasonable steps to ensure that any third parties who have been provided with a précis, addendum, new report or previous report are made aware of the status of these documents and how they relate to each other.

6.5 Outdated reports

6.5.1 In circumstances where an Actuary reasonably believes that an Actuarial Report that he or she has prepared continues to be relied on, and the Actuary becomes aware that it is no longer relevant or applicable, then he or she must notify the Principal that this is the case.

6.5.2 If the Actuary knows that the outdated Actuarial Report has been provided to third parties who may rely on and be Materially affected by the Actuarial Advice in it, the Actuary must take reasonable steps to ensure that they are notified that the Actuarial Report is no longer relevant or applicable.

7 PUBLICITY

7.1 Appropriate use of publicity

7.1.1 Publicity that increases public awareness of the nature of Professional Services provided by Members, the training and skills of the actuarial profession and the value and scope of the work that Members perform is desirable and in the public interest.

7.1.2 Members are permitted to advertise or obtain publicity for their Professional Services provided that the content and nature of such advertising or publicity is not false, misleading or deceptive, or otherwise contrary to law.

7.1.3 A Member is permitted to convey an elective or appointive position within the Institute, such as "President" or "Member of Council", as part of a curriculum vitae or for a similar purpose, but not so as to use such position to promote or to advertise Professional Services or for the express commercial advantage of the Member or the Member's Firm.

END OF CODE OF PROFESSIONAL CONDUCT