



# Institute of Actuaries of Australia

**Discussion Draft  
(April 2005)**

**THE INSTITUTE OF ACTUARIES OF AUSTRALIA  
ABN 69 000 423 656**

## **CODE OF PROFESSIONAL CONDUCT**

**Code of Conduct Review Taskforce**

Institute of Actuaries of Australia  
2005 Biennial Convention 8 May – 11 May 2005

*This paper has been prepared for the Institute of Actuaries of Australia's (Institute) Biennial Convention 2005.  
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### **CODE OF PROFESSIONAL CONDUCT**

#### **PART 1. INTRODUCTION**

##### **A. Application**

All members of the Institute of Actuaries of Australia must comply with the Code of Professional Conduct. Specific provisions in this Code apply to the provision of actuarial advice by an actuary.

##### **B. 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 the 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.

##### **C. Purpose**

The Code of Professional Conduct sets out the minimum standards of professional conduct for members of the Institute of Actuaries of Australia.

##### **D. Previous versions**

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

##### **E. Legislation**

The Code of Professional Conduct applies in the context of legislation that sets out specific statutory duties and responsibilities for actuaries. Members of the Institute who are subject to statutory requirements must at all times comply with such requirements. In

the event that there is or may be a conflict between statutory requirements and the Code, the statutory requirements override the Code to the extent of the inconsistency.

**F. Effective date**

1 January 2006 [proposed]

**PART 2. CODE OF PROFESSIONAL CONDUCT**

**A. DEFINITIONS**

***Actionable Conduct***

Actionable Conduct has the same meaning as that provided in the *Institute's Disciplinary Scheme*.

***Actuary***

A Fellow or Accredited member of the Institute.

***Actuarial advice***

Actuarial advice is:

- (a) written, electronic or oral advice given by an *actuary* in areas of work in which *actuaries* are reasonably understood to have expertise because it is based on the common training and experience of an *actuary*; or
- (b) written, electronic or oral advice given by an *actuary* and relied upon by the recipient because the recipient reasonably believes the advice to be given in a professional capacity as an *actuary*.

Actuarial advice includes advice provided on a pro bono basis.

***Actuarial report***

An actuarial report is the means, whether written, electronic or oral, of formally conveying the actuarial advice of an *actuary*, including, but not limited to, conveying *actuarial advice*:

- in accordance with legislative requirements, or standards or guidelines set by a Government or statutory agency or regulator;
- in accordance with the *standards* of the *Institute*;

- as an expert witness before a court of law or statutory tribunal, or as a participant in a professional disciplinary scheme;
- in relation to liability or asset valuations, economic valuations, premium setting; or
- for the purpose of providing information needed to prepare financial reports for a business entity or government agency, or the purpose of preparing such reports.

***Client***

The recipient, other than the *member's* employer, of a *professional service* provided by a *member*.

***Code***

The Code of Professional Conduct of the *Institute*.

***Disciplinary Scheme***

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

***Employer***

An entity that employs a *member*, or an associated entity, and that is the recipient of a *professional service* provided by the *member*.

***Executive Committee***

The Executive Committee of the *Institute* comprises the President, the two Vice Presidents and the Chief Executive.

***Firm***

An entity of which a *member* is an employee, director, partner or sole proprietor.

***Institute***

The Institute of Actuaries of Australia.

***Member***

A Fellow, Accredited, Associate or Affiliate member of the *Institute*.

***Professional service or services***

A service or services provided by a *member* in a professional capacity, including *actuarial advice*.

***Senior Actuary***

A Fellow of the *Institute* nominated by a *firm* and accepted by the *Institute* as the Senior Actuary for certain purposes under the Code.

***Standard or Standards***

The *Code*, Professional Standards, Guidance Notes and Regulatory Standards issued from time to time by the *Institute*.

**B. GENERAL**

1. The *Institute* is a professional body that, in the public interest and to enhance the profession of actuary, establishes and maintains *standards* for the provision by its *members* of high quality *professional services*. In order to achieve this, it is essential that high standards of professional conduct are maintained by all *members* when they provide *professional services*.

The *Code* applies to all *members* employed or practising in Australia. The *Code* also applies 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.

2. The professional conduct of a *member* is his or her personal responsibility.
3. Professional conduct involves the *member's* sense of integrity in relationships not only with those to whom *professional services* are rendered but also with other *members* and with the public. In all these relationships, each *member* must be concerned with the conduct of his or her colleagues who are also *members* of the *Institute*.
4. When providing *professional services*, a *member* must act with honesty and in a manner to maintain the dignity and reputation of the profession.
5. Even when *members* are not providing *professional services* as a *member*, the public may judge them as if they were. In such circumstances, a *member* must conduct himself or herself with integrity and in a way that does not bring the profession into disrepute.

6. This *Code* sets out the minimum standards of professional conduct for all *members* of the *Institute*. The *Institute* will, from time to time, issue *standards* which 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 the *Code* and *standards* are applied effectively. The definition of *Actionable Conduct* in the *Disciplinary Scheme* includes conduct likely to bring discredit upon the *Institute* or the profession of actuary, and this could clearly involve conduct other than conduct specifically covered in the *Code*.
7. A *member* who is in doubt as to appropriate professional conduct in a particular situation must first consult the *Senior Actuary* of his or her firm for guidance and advice.

The *Senior Actuary* must take all reasonable steps to support other members of the *firm* when guidance or advice is sought in relation to the *Code* and matters of professional conduct. Such steps may include, but are not limited to:

- guidance in the interpretation and application of the *Code* and, if appropriate, other *standards*; and
- if necessary, assistance with seeking legal advice or external professional counselling and advice.

The *Senior Actuary* is not personally responsible for the conduct of another *member*.

If it is not possible or appropriate to consult the *Senior Actuary*, the *actuary* must consult a member of the *Executive Committee* for guidance on the matter.

A member of the *Executive Committee* who is consulted for guidance must take all reasonable steps to support the member, as if he or she were acting as the member's *Senior Actuary*.

When members of the *Executive Committee* provide guidance to a *member* concerning a matter, the member of the *Executive Committee* and the *Institute* are not responsible for the *member's* conduct or liable for the advice of a *member*.

8. There is room for honest differences of opinion 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*.
9. In circumstances where an *employer* or *client* is replacing one *member* with another, and in particular one *actuary* with another, there may be specific professional matters familiar to the incumbent or previous *member* that must be considered by the new *member* before any action is taken under the new appointment.

The new *member* must therefore consider whether it is necessary to speak to the incumbent or previous *member*. If it is considered necessary, the new *member* must

first obtain the *employer's* or *client's* agreement to do so. If the *employer* or *client* refuses permission, the new *member* must consider the reasons why permission was refused and whether there are any professional reasons why the new appointment should not be accepted.

If the new *member* speaks to the incumbent or previous *member* with the agreement of the *employer* or *client*, the incumbent or previous *member* must take all reasonable steps to cooperate with the new *member*.

A *member* who is providing a professional service to or advising an *employer* or *client* on the same matter as a previous *member* has a duty to become acquainted with the previous service or advice and, where the new *member's* method or advice differs significantly from that of the previous *member*, to explain to the *employer* or *client* the reasons for the difference.

10. A *member* who reasonably believes that another *member* may have committed or been engaged in *Actionable Conduct* must first seek to discuss and resolve the matter with the other *member*. If the matter cannot be resolved, or if either *member* does not consider such a discussion to be appropriate or constructive, the *member* who has raised the matter must make a complaint in accordance with the rules of the *Disciplinary Scheme*.
11. A *member* must have proper regard for the trust which is implicit in the relationship between the *member* and the *member's* employer or client. The *member* must be, and be seen to be, in a position to ensure that the information used and the product of any *professional services* provided remain confidential and that the *employer* or *client* is made aware if this is not the case
12. A *member* must not provide *professional services* to an *employer* or *client* when the *member* reasonably believes the product of any *professional services* provided may be misused to evade the law, or in a manner that is contrary to the interest of the profession, or contrary to the interests of third parties who may rely on or be materially affected by it.

If a *member* reasonably believes that the product of any *professional services* provided has in fact been misused, the *member* must, in the first instance, immediately alert the *employer* or *client* that he or she is aware of the misuse, and clarify in writing the purpose for which the work product must be used. The *member* must offer to provide assistance to the *employer* or *client* to rectify the misuse. If the *employer* or *client* cannot or does not rectify the misuse within a reasonable time, the *member* must consider whether section 18 applies, and whether the matter must be disclosed to certain parties in accordance with that section.

**C. ACTUARIAL ADVICE**

13. An *actuary* who provides any person or organisation with *actuarial advice* must disclose to that person or organisation the capacity in which he or she is acting .

An *actuary* is bound to comply with the Constitution, *Code* and *standards* of the *Institute* and must disclose in any *actuarial advice* that he or she is a Fellow or Accredited member of the *Institute*.

Where there is doubt as to whether the work of an *actuary* is *actuarial advice*, the *actuary* must err on the side of caution and proceed as if the work is *actuarial advice*.

14. If an *actuary* does not have practical experience in a particular area, the *actuary* must only provide *actuarial advice* if he or she takes reasonable steps to obtain professional guidance.

An *actuary* must exercise his or her professional judgment as to what constitutes reasonable steps to obtain professional guidance which may include, but not be limited to, acting with the guidance of an *actuary* who does have relevant practical experience or with the guidance of a recognised expert in the field.

All *actuarial advice* must be, and be seen to be, the responsibility of an *actuary* or *actuaries*. An exception occurs where the advice relies upon the advice of an expert for which responsibility is not or cannot be taken by an *actuary*. In this case, any *actuarial report* produced by an *actuary* must give details of the advice received, name the person and his or her qualifications, and where appropriate attach the advice received. Where an *actuary* assumes responsibility for the advice received from an expert, no mention need be made of the advice received.

15. An *actuary* has a continuing duty to maintain professional knowledge and skill at a level required to ensure that an *employer* or *client* receives the advantage of competent *actuarial advice*, based on up-to-date developments in practice, legislation and techniques.

16. To ensure the objectivity, integrity and status of *actuarial advice*, all *actuarial advice* must be unbiased.

If an *actuary* might reasonably be believed to be biased because of an actual or potential and material conflict of interest, the *actuary* must first give careful consideration to his or her ability to provide unbiased advice. If the *actuary* provides advice in this situation, the *actuary* must be certain that he or she will provide unbiased advice.

In this situation, the *actuary* must not provide advice unless there has been a full disclosure of the actual or potential conflict to the *employer* or *client* who has

requested the advice, and the *employer* or *client* has expressly agreed to the *actuary* providing the advice. The *actuary* must disclose the actual or potential conflict in the *actuarial advice* as well as the agreement of the *employer* or *client* to the provision of the advice. The *actuary* must also consider the disclosure of the actual or potential conflict of interest to third parties who may rely on or be materially affected by the *actuarial advice*.

17. An *actuary* must disclose to a *client* prior to commencement of an assignment any direct or indirect compensation that the *actuary*, his or her *firm*, the *actuary's* employer, or any other party related to the *actuary*, may receive from any source other than the *client* as a consequence of the *actuary* giving *actuarial advice* to that *client*.

An *actuary* providing expert advice as a witness or otherwise before a court of law, statutory tribunal or as a participant in a professional disciplinary scheme must not accept a fee that is related to the outcome of the proceedings.

An *actuary* providing *actuarial advice* to his or her *employer*, whether in a statutory capacity or not, must provide unbiased advice. If the *actuary* has an equity interest in the *employer*, or receives any form of remuneration or reward based on the financial results or share price of the *employer*, the *actuary* must comprehensively disclose this situation in any *actuarial advice* of the *actuary* that he or she knows will be provided to a third party who may rely on or be materially affected by the *actuarial advice*.

This section is subject to the requirement of section 16 that all *actuarial advice* must be unbiased, and the provision therein for dealing with an actual or potential conflict of interest.

18. In circumstances where:
- maintenance of confidentiality would cause an *actuary* to act contrary to law or the Institute's *standards*;
  - an *actuary* reasonably believes that maintenance of confidentiality would assist the *employer* or *client* to act contrary to law;
  - an *actuary* exercises a legal requirement or discretion to disclose certain information; or
  - an *actuary* is acting in accordance with judicial authority.

the *actuary* must make an exception to section 11 and make such disclosures as are necessary to third parties who may rely on or be materially affected by the *actuarial advice*.

Even in the absence of such circumstances, if an *actuary* reasonably believes, in good faith, that an *employer* or *client* has behaved or is behaving in a dishonest way, and that maintenance of confidentiality is or could be damaging in a material way to third parties, the *actuary* must seek guidance from the *Senior Actuary* of his

or her *firm* or, if this is not possible or appropriate, from a member of the *Executive Committee*. The *actuary* must also consider seeking legal advice on the matter.

If an *actuary* has reasonable doubt about whether actions of an *employer* or *client* are legal or honest, the *actuary* must consider his or her ongoing relationship with the *employer* or *client*.

19. If an *actuary* knows that his or her *actuarial advice* will be transmitted in whole or in part to a third party, the *actuary* must take all reasonable steps to ensure that authorship and responsibility are acknowledged to the third party, that any significant 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. This section provides a specific exception to the general requirement under section 11 for the maintenance of confidentiality between a *member* and his or her *employer* or *client*.

Even if the *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*.

20. All *actuaries* providing *actuarial advice* to an external party must maintain an appropriate level of professional indemnity insurance, either personally or through the *actuary's firm*.

Unless specific approval is given by the *Institute's* Council, the amount and coverage of professional indemnity insurance must not be less than that provided under any professional indemnity facility organised by the *Institute* and available for the use of *members*.

The *Senior Actuary* must ensure that his or her *firm* satisfies the *Institute's* requirements with respect to professional indemnity insurance.

#### **D. ACTUARIAL REPORTS**

21. When providing *actuarial advice* in an area which is the subject of a Professional Standard or Regulatory Standard of the *Institute*, the *actuary* must state in any *actuarial report* that the *actuarial advice* has complied with the particular standard.

An *actuary* must ensure that sufficient detail is available in the relevant working papers to enable another *actuary* to determine whether or not the *standard* had been followed. An *actuary* must consider the preparation of a summary document which readily shows how the *actuary* complied with the *standard* in cases where the *standard* is a detailed one or one which involves a substantial element of professional judgment.

All *actuarial reports* and *actuarial advice* must be expressed clearly and be intelligible to the persons to whom they are addressed. If technical terms or symbols are used, they must be clearly defined.

22. An *actuarial report* must state its purpose, along with the scope, terms of reference and instructions agreed with the *employer* or *client*. It must also state the purpose for which the *actuarial advice* can be used and the scope of that use. If the *actuary* considers it necessary in the circumstances, the *actuarial report* must give examples of how the *actuarial advice* should not be used.
23. An *actuary* must include in any *actuarial report* a statement indicating to whom the report is addressed, a statement describing or clearly identifying the data and the actuarial methods and assumptions used, and a statement drawing attention to any important implications thereof. Any *actuarial report* must contain sufficient information and discussion to enable the *employer* or *client* to form a view on the appropriateness and implications of the recommendations.

Reports can take many forms, including visual and oral presentations. Where visual and oral material is used and it is inconvenient to satisfy any of the specific requirements of this Part of the *Code*, a separate written *actuarial report* must be provided to the *employer* or *client*, and other parties that the *actuary* knows have witnessed the visual and oral material. In circumstance where only visual or oral presentations are appropriate, the *actuary* must convey the limitations of the *actuarial report* and the *actuarial advice* during the presentation.

Where *actuarial advice* on a particular matter has been provided in piecemeal fashion in a fluid environment over a period of time, an *actuary* must consider whether it is necessary to issue a comprehensive written *actuarial report* on the final position, rather than referring to changes from earlier positions.

24. In providing *actuarial advice* the *actuary* must exercise his or her professional judgment on all matters material to the advice. An *actuary* must ensure that *actuarial advice* is based on sufficient and reliable data, on adequate and appropriate assumptions, and on sound actuarial principles. The *actuary* must disclose in the *actuarial report* all information on which he or she has placed material reliance in preparing *actuarial advice*. This applies where the *actuary* has relied upon informal information provided by the *employer* or *client*, in which case the nature and significance of this reliance must be commented on in the *actuarial report*.
25. The *actuary* must also adequately address in the *actuarial report* the inherent uncertainty involved in the use of assumptions and actuarial methodologies.

Where a point estimate of uncertain outcomes is provided, the *actuary* must prominently state the intended nature of the estimate (for example, by relating it to the mean, mode or median of a distribution) and any specific limitations that apply to the point estimate.

In circumstances where outcomes are subject to material uncertainty, the *actuarial report* must convey this uncertainty, the sources of it (especially any systemic source) and the assumptions made by the *actuary* in addressing it. Where possible, uncertainty must be quantified. There are a number of ways this can be done. For example, by providing:

- a range in which the unbiased estimate of the outcome lies (in addition to the point estimate)
- results of sensitivity or scenario analysis
- results of stochastic analysis or simulation
- point estimates corresponding to different confidence levels.

Where the *actuarial report* provides *actuarial advice* on funding obligations in respect of beneficiaries or others who depend on those obligations being met, the *actuary* must, in the context of the purpose of the funding, discuss, develop and include appropriate margins for uncertainty when arriving at the advice in the *actuarial report*.

26. If an *actuary* provides *actuarial advice* which, in the *actuary's* opinion, deviates from the requirements of sections 24 or 25, any resulting *actuarial report*, recommendation or certificate submitted by the *actuary* must include an appropriate and prominent qualification.
27. Where an *actuary* has prepared a précis, an addendum or full report that relates to a previous *actuarial report* of either that *actuary* or another *actuary*, the *actuary* must make clear reference to the full or previous *actuarial report* and must disclose any material differences relating to significant matters addressed in the full or previous *actuarial report*. Where relevant, the *actuary* must also state that the précis, addendum or subsequent *actuarial report* must be read in conjunction with the full or previous *actuarial report*, and the *actuary* must restate or revise any qualifications in the full or previous *actuarial report*.

When an *actuary* has prepared an addendum or full report that relates to a previous *actuarial report* of either that *actuary* or another *actuary*, he or she has a duty to explain the reasons for any significant differences between the advice in the *actuarial reports*. Where possible, the subsequent *actuarial report* must contain commentary on:

- changes in methodology and assumptions, and their impact on results
- movements in results since the previous *actuarial report*
- actual experience since the previous *actuarial report* (compared with that assumed in it)
- trends in experience over time.

28. If in the circumstances to which section 27 refers, the *actuary* knows that the full or previous *actuarial report* has been provided to third parties who have relied on or are materially affected by the *actuarial advice* in that *actuarial report* the *actuary*

must take reasonable steps to ensure that the *précis*, addendum or full report to which it relates is also provided to these parties, or that such parties are at least made fully aware of the status of the full or previous *actuarial report*.

29. If, shortly after providing an *actuarial report*, the *actuary* becomes aware that the *actuarial report* is no longer relevant or applicable, the *actuary* must notify the *employer* or *client*. If the *actuary* knows that the *actuarial report* has been provided to third parties, who have relied on or are materially affected by the *actuarial advice* in that *actuarial report*, the *actuary* must take reasonable steps to ensure that such parties are notified that the *actuarial report* is no longer relevant or applicable.

#### **E. PUBLICITY**

30. Publicity which increases public awareness in an accurate way 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.
31. *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.
32. A *member* must not use a title dependent on an elective or appointive qualification within the *Institute*, such as "President" or "Member of Council", to promote or to advertise *professional services* for the commercial advantage of the *member* or the *member's firm*.

#### **F. ACTUARIAL FIRMS**

33. A *member* must not provide *professional services* for or on behalf of a *firm* which describes itself in such terms as "Consulting Actuaries" or "Actuaries" unless the *firm* has satisfied Council that its Australian operation acts in accordance with the principles set out in this *Code* and is predominantly under the control of *actuaries* who are working for it on a full time or close to full time basis. Only an *actuary* who acts as an unincorporated sole practitioner or in an unincorporated partnership where the partners are all *members* of the *Institute*, or who works for a firm that satisfies this section may describe himself or herself in terms such as "Consulting Actuary".

### **END OF CODE OF PROFESSIONAL CONDUCT**