



Society of Actuaries in Ireland

How to get into trouble without even trying

Professionalism Case Studies for actuaries in PCF roles

20 September 2023



Disclaimer

- The views expressed in this presentation are those of the presenter(s) and not necessarily those of their employer(s) (if any) or the Society of Actuaries in Ireland.
- We may resort to fiction or embellish facts to illustrate certain issues or drive a debate to an extreme conclusion.
- Our ambition is to allow you to analyse and develop your own views ...



Competency Framework Wheel (from ASP-PA1)

3.3.3 **Professionalism CPD** is any event or activity that enhances understanding of professional obligations by doing any of the following:

- Enhances members' understanding of principles of ethical behaviour and how to apply these in making professional judgements
- Equips members to make reasoned and justifiable decisions in resolving ethical dilemmas
- Enhances members' understanding of what it means to act in the public interest
- Helps members to demonstrate ethical behaviour in conducting professional life
- Enables members to recognise ethical dilemmas and take appropriate action.





Introduction





Introduction Slide

Facilitator Mike Claffey, FSAI

- I've an interest in Professionalism as a "learned skill". I've been involved in Professionalism training in the SAI since 1998.
- I did this session with HoAFs (who discharge the role of PCF-48) in June this year.
- This session is for a wider range of PCFs. We take professional responsibility in this role.
- Today you have to role play on the assumption "you are in trouble". This session is to have a difficult conversation.
- Reminder to respect all contributions today.



One of these people has just made a mistake ...



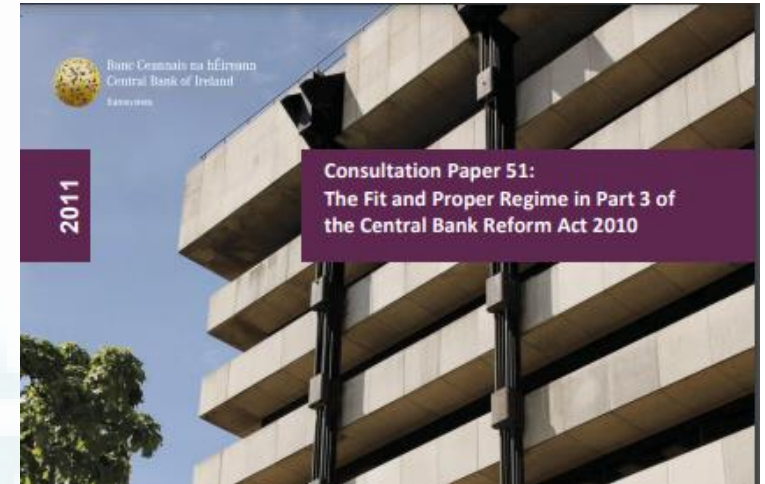


What is a “Controlled Function”?

The Fitness and Probity Regime applies to persons in senior positions, known as Controlled Functions (**CFs**) and Pre-Approval Controlled Functions (**PCFs**), within Regulated Financial Service Providers (**RFSPs**).

“A person who performs a function shall be taken to be responsible for the performance of such function notwithstanding that the person in question does not have the title commonly used by a person who performs such function.”

<https://www.irishstatutebook.ie/eli/2011/si/437/made/en/print>





What is a PCF and how did it come about?

There are currently prescribed CFs and PCFs for RFSPs

... a person is required to be:

- a) competent and capable;
- b) honest, ethical and to act with integrity; and
- c) financially sound.



What is a PCF and how did it come about?

There are currently 11 prescribed CFs and 54 PCFs for RFSPs (max 24 PCF roles apply to insurance).

... a person is required to be:

- a) competent and capable;
- b) honest, ethical and to act with integrity; and
- c) financially sound.

“Effective culture is about people – the right people focused on the right things and doing their work in the right way.”

[Derville Rowland, CBI, Speech 10 June 2021](#)



The IQ ...

Section 3 - Professional Experience Summary		
3.5	Outline how you have the competence and skills appropriate to the proposed PCF role.	Multi Line Free Text
3.6	Outline how you have a sound knowledge of the business of the regulated financial service provider as a whole, and the specific responsibilities that are to be undertaken in the relevant function?	Multi Line Free Text
3.7	Outline how you have a clear and comprehensive understanding of the regulatory and legal environment appropriate to the relevant function?	Multi Line Free Text

Section 5 - Reputation Questions		
5.1	A person is required to be honest, ethical, act with integrity and be financially sound. In this regard, have you any information to disclose regarding a material issue or do you have any concerns about your ability to perform the relevant function?	Select either: <ul style="list-style-type: none">• Yes• No
5.2	Please provide further details to explain why you answered "yes" to the previous question	Multi Line Free Text



The IQ (continued) ...

5.31

Has any business (or legal entity) where you held a position of responsibility or influence been or is being investigated, disciplined, censured, suspended or criticised by a regulatory or professional body, a court or tribunal or any similar body, whether publicly or privately, in any jurisdiction or is currently the subject of civil proceedings?

Select either:

- Yes
- No



The Case Study

A large, faint watermark of the logo elements (graph, hourglass, harp, owl) is centered in the background of the slide.



The situation – Universe 1

- It's March 2023.
- The HoAF is just finalising the 2022 TPs and discovered the TPs were understated at year-end 2021 by 4% (say €20m understatement out of €500m). The Company will declare €40m profits at end 2022, which will drop to €20m if the TPs are corrected. Group materiality is way higher than €20m.
- The HoAF is about to sign off the 2022 TPs and can fix the 2022 numbers – so all will be right from here on. The error was in one of the HoAF's consolidation spreadsheets.

Universe 1 – someone still has control of the error



The situation – Universe 2

- It's March 2023.
- You have just been told the 2021 TPs were materially understated – by an amount that's over twice the HoAF's stated materiality limit. The error was because the HoAF relied on people (... or processes or data or information or case estimates or third parties) that was not correct. It's messy.
- The error also impacts end 2022 and it means the company needs capital as the solvency cover is below appetite (but just over 100%).

Universe 2 - you have lost control of the error



The handout – explaining our “PCF Players”

Player 1	You are the HoAF. You are a senior actuary, qualified over 15 years ago and work for a Big-Four-looking-type audit firm (a large global firm with a material presence in Ireland).	Player 9	You are an Independent Director (INED). You have one insurance director role, your background is in another adjacent industry.
Player 2	You are a mid-career actuary and you took over the HoAF role from your boss three years ago. You were their deputy in the valuations team for many years. Your old boss is now “upstairs” in the senior management team (e.g. the CFO or CEO or CRO).	Player 10	You are the Chairperson of the Board (PCF-3).
Player 3	You are the CEO. The HoAF reports to you.	Player 11	You are the Chairperson of the audit committee or the risk committee (PCF-4 or PCF-5).
Player 4	You are the CFO. You have been in the role for many years. You and the HoAF are both on the senior management team.	Player 12	You are almost due to retire and had some health issues recently. You’ve been a senior actuary in various roles within your company for many years. You are a PCF.
Player 5	You are the CRO. You and the HoAF are both on the senior management team.	Player 13	You have moved jobs and employer recently and you are not in a PCF role anymore. You’ve updated your status on the SAI’s membership database. You did not like your previous employer or the work culture.
Player 6	You are a Head of Function in Ireland (ops, IT, compliance, internal audit, etc). You and the HoAF are both on the senior management team.	Player 14.	You are a sole trader working for yourself and contracting to the insurer to discharge a specified PCF role. You are well regarded around town and had various interesting roles over the last 15 years.
Player 7	You are a “GED” – a senior executive from the Group and joined the Irish subsidiary a few years ago. You think the Irish regulatory regime is very detailed and you believe your role is to represent the shareholder on the Irish board.	Player 15 **	You are an actuary in the external auditor of the firm in question (so you are not a PCF). You were particularly involved in this audit in 2021. You are a partner in the audit firm.
Player 8	You are an Independent Director (INED). You are retired from the insurance industry (either from an audit firm or as an executive within another insurance entity in Ireland, or similar). You have a few INED roles with insurance companies.	Player 16 **	You are a Reviewing Actuary (so you are not a PCF). You reviewed the HoAF at end 2021. You gave them a “clean” review but had various comments and suggestions on process improvements.



Step 1 – first impressions

Consider Universe 1. Look at the list of “PCF Players”.

- Who is best placed to deal with this problem?
- Who is worst placed?
- Does it matter to you?
- What are your instincts – what do you do?

- Repeat for Universe 2.



Step 2 – have a look at ASP-PA2

Section 4. Compensation for professional shortcomings

4.1 A member who is a responsible person where actuarial services are provided to external clients must consider the potential for those clients to suffer reasonably foreseeable loss, whether direct or indirect, caused by negligence, breach of duty of care or equivalent legal liability in relation to the external actuarial work provided and ensure that appropriate arrangements are in place in relation to compensation for such loss.

4.2 A member who is a responsible person where actuarial services are provided to external clients must ensure that the member is in a position to justify the appropriate arrangements in place in relation to 4.1, if reasonably called upon to do so to.

Discuss the following:

- Directors and Officers (D&O) insurance
- Errors and Omissions (E&O) insurance
- P&I insurance
- How about everyone else?
- And what about when you leave the role?



Step 3 – time to talk to your employer / the firm

What do “the rules” demand, expect, need?

- Internal legal procedures
- IT (data – prepare for discovery)
- Whistle-blowing
- Executives (and the executive committee)
- Board
- Group
- Your direct reports (if an employee)
- Your clients (if a consultant)
- Your other directorships

Note to self
Time to get my
files in order.



The situation – Universe 1 updated

- The HoAF is just finalising the 2022 TPs and discovered the TPs were understated at year-end 2021 by 4% (say €20m understatement out of €500m). The Company will declare €40m profits at end 2022, which will drop to €20m if the TPs are corrected. Group materiality is way higher than €20m.
- The HoAF is about to sign off the 2022 TPs and can fix the 2022 numbers – so all will be right from here on. The error was in one of the HoAF's consolidation spreadsheets. .

Update 1 – The HoAF agrees with the CEO and CFO to adjust the 2022 TPs only (and mention it in the ARTP as a model fix/error). The HoAF issues the opinion and report. The CFO resigns the following week (on gardening leave).



Step 4 – external stakeholders – phase 1

- Group (if you are a subsidiary)
- External audit
- Reviewing Actuary
- Any other third parties involved
- Reinsurers
- Stock market listings / disclosures
- When does the CBI get involved?

Discuss restatement of prior year – and revising audit opinions.
Discuss auditor responsibilities under CBI protocol.



Step 5 - CBI

- CBI F&P issues
- CBI F&P for other roles – notifications?
- Human contact in the CBI - desk officer, actuaries, others?
- CBI protected disclosures
- New CBI IAF regime for PCF roles (SEAR)
- Enforcement

Note to self
Time to update
my files.



Aside - CBI's Individual Accountability Framework

- **Senior Executive Accountability Regime (SEAR):** This will require in-scope firms to set out clearly and fully where responsibility and decision-making lie within the firm's senior management.
- **Conduct Standards:** Common Conduct Standards are basic standards such as acting with honesty and integrity, with due skill, care and diligence, and in the best interest of customers, and will apply to individuals in all regulated firms.
- Senior executives will also have **Additional Conduct Standards** related to running the part of the business for which they are responsible.
- Enhancements to the current **Fitness & Probity (F&P)** Regime: This will include clarifying firms' obligations to proactively certify that individuals carrying out certain specified functions are fit and proper.
- Amendments to the **Administrative Sanctions Procedure (ASP):** A key change will be the Central Bank's ability to take **enforcement action** under the ASP **directly against individuals** for breaches of their obligations rather than only for their participation in breaches committed by a firm.



What to ask your employer/client/company

Explain to me how I (as a PCF) fit into your approach for these IAF aspects:

- Inherent Responsibilities
- Prescribed Responsibilities
- Other Responsibilities
- Statements of Responsibilities
- Management Responsibilities Maps



IAF Section 5.3 Acting with Due Skill, Care and Diligence

- *“an individual is not expected to exhibit in the performance of their role/function a greater degree of skill, care and diligence than might reasonably be expected from an individual in the relevant role with the relevant qualifications, knowledge and experience”*

[Link to CBI consultation](#)



Inherent Responsibilities

PCF 48: Head of Actuarial Function

“Overall responsibility for managing the operation of the firm’s actuarial function.”



General Prescribed Responsibilities (29 in total)

- PR7: Responsibility for ensuring that action is taken to prevent further harm or detriment to customers where the firm becomes aware that a decision or action taken or failure to act **has caused harm** or detriment to customers.
- PR8: Responsibility to adequately consider the impact of key business initiatives and strategic decisions and to ensure that any necessary changes are made to such initiatives/decisions prior to their implementation to **avoid any harm** to customers.
- PR16: Responsibility for managing the firm's internal stress tests and ensuring the **accuracy** and timeliness **of information** provided to the Central Bank for the purposes of stress-testing.
- PR18: Responsibility for managing the **calculation** and maintenance of the firm's financial resources including **accuracy of capital**, funding and liquidity.
- PR24: Responsibility for oversight and governance of the development, design and distribution of products, review of products and sale and post-sale arrangements to **ensure fair customer outcomes**.



Sector or Circumstance Specific Responsibilities (8 in total)

- PR33: Responsibility for ensuring that appropriate independent validation of the technical provisions is conducted in the insurance undertaking.



Step 6 - SAI

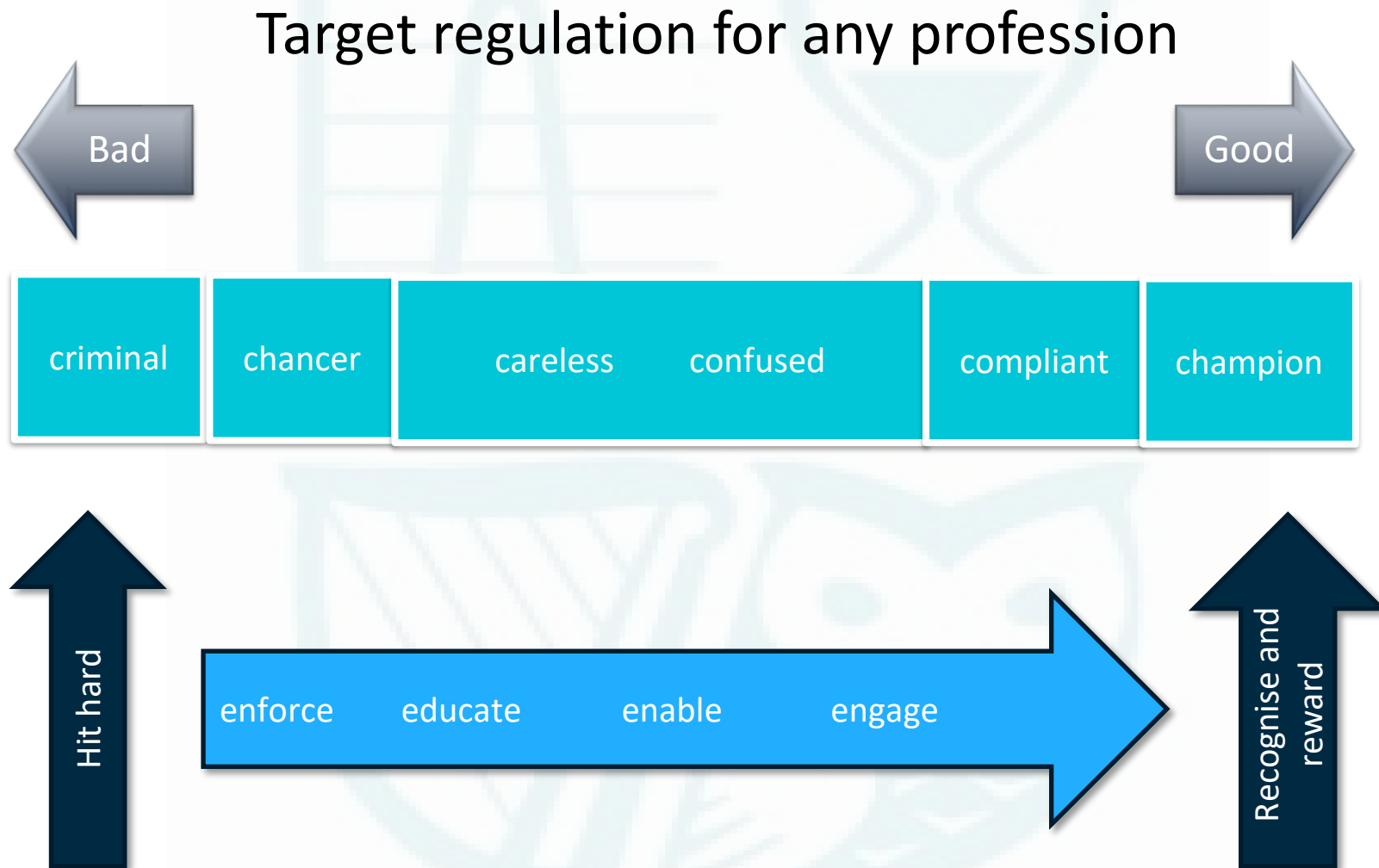
ASPs – did you (as a PCF) breach any?

- How about in spirit?
- ASP-PA-2
- Code on Professional Conduct
- ASP-INS-1
- ASP-GI-1

Any other professional memberships – other actuarial associations?



Step 7 – SAI disciplinary scheme



Source: Professor Campbell Gemmell CEO Scottish Environment Protection Agency



Definition of misconduct

- Failure to comply with “the standards of behaviour, integrity, competence or professional judgement which other members or the public might **reasonably** expect of a member”
 - taking into account any advice, guidance, memorandum or statement on professional conduct, practice or duties published by the Society



Key features of scheme

- Operation and management of the disciplinary scheme distanced from Council
- Devolved to the **Committee on Professional Conduct**
- Six persons (at least three “Lay members” and at least two Fellow members)
- Non-actuary as Chair



Step 8 - all the personal stuff

- Getting your own advisors – legal representation, another actuary?
- Getting access to information in a previous employer.
- Getting your personal financial exposure in order – your house, kids, investments.
- Reputation management over many years – you are in limbo.



Gathering it all together

Time to close the case study.

- What was the lowest point? When was it personally difficult?
- What would you do differently?
- What was the root cause? When did it occur?
- “Prepare for the worst, hope for the best”



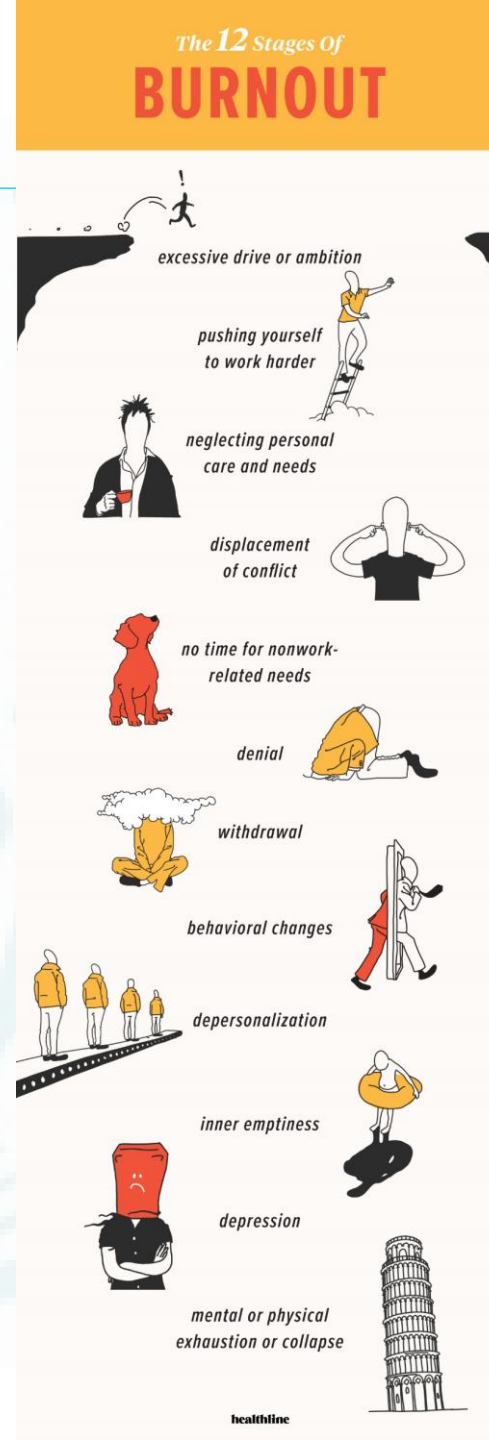
Sometimes it's not you ...

10 Signs You're in a Toxic Work Environment

1. BAD COMMUNICATION
2. CLIQUES, EXCLUSION + GOSSIPY BEHAVIOR
3. POOR LEADERSHIP
4. UNMOTIVATED COWORKERS
5. STIFLED GROWTH
6. RAPID EMPLOYEE TURNOVER
7. NO WORK-LIFE BALANCE
8. YOU FEEL BURNT OUT
9. NO FORWARD MOVEMENT
10. YOUR GUT IS TELLING YOU

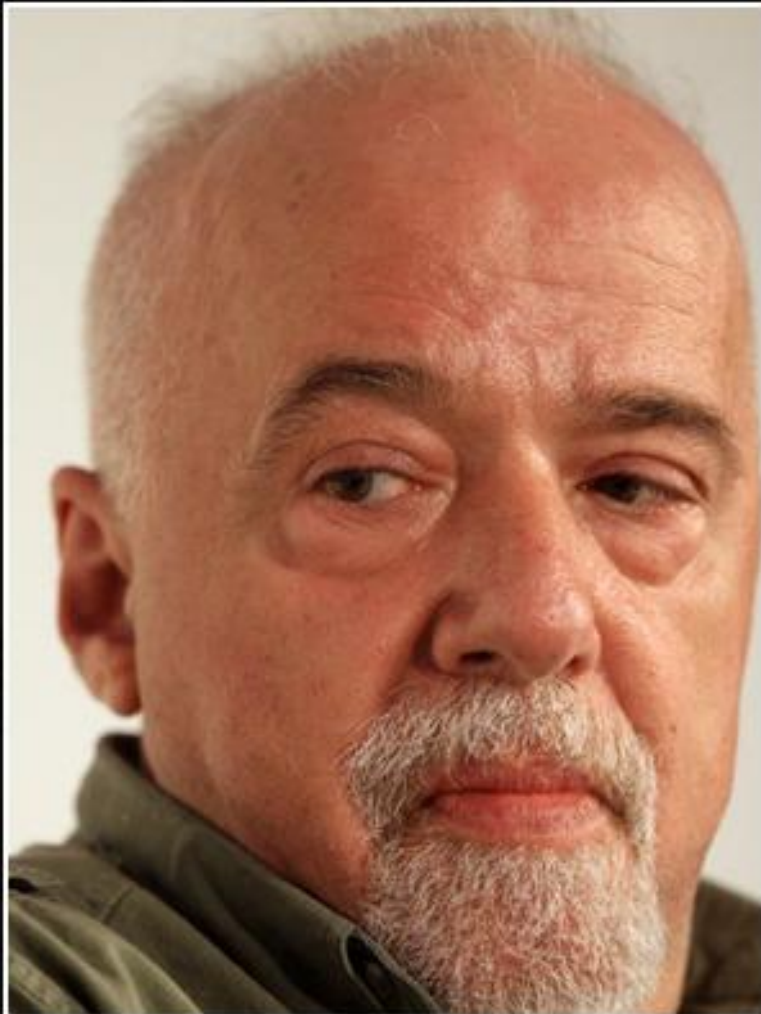


But sometimes it is you ...





Final thought



When you repeat a mistake, it is not
a mistake anymore: it is a decision.

— *Paulo Coelho* —

AZ QUOTES



Society of Actuaries in Ireland

The SAI Mentoring Service
Mike Frazer (he/him)

20 September 2023



Members' Area

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+ Professional Interest Areas

Member Engagement

Mentoring & Support Services

+ Research at the Society

SAI Award for Outstanding Contribution

Volunteering for the Society

Wellness Hub





Testimonials

I've been lucky to have had a number of people act as mentors to me over the years, and the SAI's mentoring programme is a really nice way to pay it forward.

It helped me to validate my thoughts and gain valuable guidance

It's very rewarding to feel like you have made a positive difference in someone's career path

I was very fortunate to be paired with a great mentor as a newly qualified actuary. Even if you don't plan on making any career moves it is really invaluable to talk to someone senior in the industry outside your organization

The SAI's mentoring programme is a simple way to get support; it fosters team spirit and is designed to help everyone who calls for it