

## **PROFESSIONAL CONDUCT STANDARDS** referred to as the PCS

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1.0	01.12.2003

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## DEFINITIONS

Reference	Definition
Member	A Fellow, an Associate, an Affiliate or a Student of the Society of Actuaries in Ireland.
member's firm	The entity of which the <i>member</i> is a partner, a director or an employee. Where there is more than one <i>member's firm</i> in relation to a <i>member</i> , the term shall be construed as meaning the relevant firm or firms in the context in which the expression is used.
other guidance	Legislation, regulations or guidance provided by any statutory or regulatory body relevant in the context of any particular issue with which a <i>member</i> is involved.
professional guidance	These Professional Conduct Standards and the Guidance Notes issued by the Society.
reserved advice	<p>Advice given by a <i>member</i> which, because of prescription in:</p> <ul style="list-style-type: none"><li>• legislation,</li><li>• regulation or the requirements of any statutory or regulatory body, or</li><li>• a contract, deed or other legal document,</li></ul> <p>usually to the effect that the advice must be given by an actuary as therein defined, could not have been given by the individual if that individual were not a <i>member</i>.</p> <p>Where legislation provides for the recognition of a non-member as an actuary for specified purposes, any such power is not to be construed as removing the associated advice from the scope of <i>reserved advice</i> as defined here.</p>
senior actuary	A Fellow of the Society of Actuaries in Ireland in a <i>member's firm</i> who has been nominated by that firm in respect of professional actuarial matters.
Society	The Society of Actuaries in Ireland. When reference is made to seeking guidance from the Society, this should in the first instance be sought by contacting the Chairman of the Professional Affairs Committee or the Director of Professional Affairs.

In addition, the PCS uses the term “should normally” to indicate that *members* must comply with a particular requirement or prohibition, unless the circumstances are such that the requirement or prohibition is inappropriate and non-compliance is consistent with the standards of behaviour, integrity, competence and professional judgement which other *members* or the public might reasonably expect of a *member*.

## 1 GENERAL

- 1.1 The PCS is issued under the authority of the Council of the Society. It applies equally to all *members* and it is the professional responsibility of each *member* to be conversant with it.
- 1.2 The PCS gives guidance on professional conduct to which all *members* must conform in both the spirit and the letter.
- 1.3 The PCS is not comprehensive or exhaustive. Considerable reliance is therefore placed on the conscience of each individual *member* and on the collective conscience of all *members* to maintain the highest standards of conduct.
- 1.4 One of the responsibilities of the *senior actuary* in a firm (or the *senior actuaries* acting collectively, where a firm has nominated more than one *senior actuary*) is to draw the relevant provisions of the PCS to the attention of appropriate senior non-actuarial colleagues with a view to ensuring that the firm does not act in such a way as would put its *members* in breach of *professional guidance*. In addition, it is a responsibility of a *senior actuary* to give guidance on the application of *professional guidance* to other *members* within the firm.
- 1.5 A *member* who has any doubt about the interpretation of *professional guidance* or its application in particular circumstances should normally seek advice from a *senior actuary* in the first instance. If it would be inappropriate to do this or if, having consulted a *senior actuary*, the *member* has residual doubts about the course of action to be taken, the *member* should seek guidance from the Society.
- 1.6 The PCS sets out general principles and standards which must be adhered to when interpreting *professional guidance*. Guidance Notes may impose additional requirements in specific circumstances and are classified either as Practice Standard or as Recommended Practice (see paragraphs 4.1 and 4.2 below).
- 1.7 The profession regulates individual *members*, not *members' firms*. Where a *member* becomes aware that the *member's firm* intends to act, or has already acted, in a way which would put the *member* (or any other *member* employed by the firm) in breach of *professional guidance*, the *member* must take appropriate preventative or corrective action (see also paragraph 4.4.1).

- 1.8 The PCS places no barrier on the establishment of a corporate practice or of a mixed partnership with members of other professions. A *member* must avoid arrangements which inhibit the *member's* ability to conform to the standards of behaviour, integrity, competence and professional judgement which other *members* or the public might reasonably expect of a *member* (including, but not limited to, the requirements of *professional guidance*).
- 1.9 *Members* working outside the Republic of Ireland are strongly encouraged to join the local actuarial body when it is appropriate, having regard to the nature of their work, to do so. If the requirements of a local actuarial body to which the *member* belongs appear to conflict with the PCS or any other relevant *professional guidance*, the *member* should normally seek advice from a *senior actuary* and, if that does not resolve the matter, seek guidance from the Society.

## 2 PROFESSIONAL STANDARDS

- 2.1 The actuarial profession has an obligation to serve the public interest. Collectively it seeks to do so by informed contribution to debate on matters of public interest and by influencing those with power to protect and enhance the public interest. Individually *members* must maintain and observe the highest standards of conduct. The standing of the profession depends on the judgement of individual *members*.
- 2.2 A *member* has a duty to the profession and must not act in a manner which denigrates its reputation or impugns its integrity. Responsibility to any client must be consistent with that duty. The requirements of this paragraph do not, however, preclude criticism of the profession which forms part of a justifiable debate conducted in the public interest.
- 2.3 Users of a *member's* services, which may include a *member's firm* and/or colleagues in that firm, are entitled to have absolute confidence in the skill, objectivity and integrity of the *member*. If work which a *member* considers necessary is precluded by cost or time constraints the *member* should normally either decline to act or qualify the advice given.
- 2.4 Advice given to the *member's firm* or to a colleague within the same firm, whether or not the colleague is a *member*, should normally meet the same standards as for external advice.
- 2.5 **Confidentiality**
- 2.5.1 As a matter of law, information acquired by a *member* in the course of professional work is frequently confidential to the *member's* client or the *member's firm*. As such, it should not normally be disclosed unless consent has been obtained from the *member's* client or the *member's firm*, as the case may be.

- 2.5.2 There are, however, circumstances in which, despite the normal duty of confidentiality, a *member* might in law be:
- obliged to disclose confidential information, either by virtue of statutory or judicial authority or by virtue of *other guidance* by which the client is bound, or
  - free to disclose confidential information if it is in the public interest to do so or, in some circumstances, if it is for the *member's* own protection.

A *member* may wish to seek legal advice before invoking this provision.

### 3 STANDARDS FOR ADVICE

- 3.1 In formulating advice, a *member* must pay proper regard to any relevant *professional guidance* or *other guidance* and, subject to that guidance, is expected to exercise best judgement.
- 3.2 Many assignments offered to *members* require considerable knowledge and experience for proper completion. Requisite knowledge includes methodology, relevant legislation and local conditions. *Members* must not give advice, unless:
- satisfied of personal competence in the relevant matters, **or**
  - acting in co-operation with, or with the guidance of, someone (not necessarily a *member*) with the requisite competence.
- 3.3 Notwithstanding paragraph 3.2, a *member* may provide advice if the circumstances are such that, having regard to all the relevant factors, it would be contrary to the client's interests to decline to do so. However, the *member* must make clear to the recipient that, in the absence of the constraining circumstances, the *member* would have recommended referring the matter to someone with the relevant knowledge and experience.
- 3.4 A *member* must consider the extent to which it is appropriate to carry out investigations to assess whether the data is sufficiently accurate and complete for the purpose for which it is being used. The advice should normally include an explanation or qualification if the *member* has any reservations about the data.
- 3.5 Advice should normally include sufficient information and discussion about each relevant factor and about the results of the *member's* investigations to enable the intended recipient of the advice to judge both the appropriateness of the recommendations and the implications of accepting them, including, where the advice relates to an insurance company, a friendly society or a retirement benefit arrangement, the implications for the policyholders of the insurance company, the members of the friendly society or the beneficiaries of the retirement benefit arrangement, as the case may be.

- 3.6 Where a *member* provides *reserved advice*, the *member* must ensure that the client is aware of:
- the name and qualifications of the *member* providing the advice,
  - the name of the *member's firm*,
  - the scope, purpose and terms of reference of the advice provided by the *member*.

If the *member* has cause to believe that a third party will have access to *reserved advice* provided in written form, the information listed above and the client's name must both be contained within that advice.

- 3.7 A *member* giving advice which is formulated in the interests of a particular client must ensure that:
- the client is aware that the advice is of no broader applicability than intended by the *member*; and
  - the advice is not presented as if it were necessarily the advice that would be given to another client or to a third party whose objectives and requirements may be different.

#### **4 BREACH OF PROFESSIONAL GUIDANCE**

- 4.1 A material breach of the PCS, or of a Guidance Note classified as Practice Standard, is of itself a ground for complaint under the disciplinary procedures and would amount to strong prima facie evidence of unprofessional conduct. Such evidence could normally be displaced only if the *member* could show that any departure from strict compliance with any aspect of the PCS or of a Guidance Note had been adequately disclosed and there is reasonable justification for the course of action in question.
- 4.2 A failure to comply with a Guidance Note classified as Recommended Practice is not of itself a ground for complaint under the disciplinary procedures. However the determination of a complaint under the disciplinary procedures is likely to take into account any such failure to comply, and whether or not it had been adequately disclosed by the *member* concerned.
- 4.3 A *member* found guilty of unprofessional or unacceptable conduct will be liable to disciplinary action. The definitions of unprofessional conduct and unacceptable conduct are set out in Rule 2 of the Disciplinary Scheme established under Article 39 of the Society's Articles of Association.
- 4.4 **Action to be taken on discovering a breach of guidance by another *member***
- 4.4.1 On becoming aware of any matter which appears to be a material breach by another *member* of any *professional guidance* or *other guidance*, a *member* must take appropriate action at the earliest opportunity.

- 4.4.2 Before taking any action, however, and before discussing the matter with the other *member* or with the Society, the *member* will need to consider whether the matter is protected by confidentiality (see paragraph 2.5).
- In some circumstances, the *member* may be able to talk to the other *member* without breaching confidentiality, but will be prevented from taking the matter any further.
  - A matter which is protected by confidentiality at the time it becomes known to a *member* may cease to be confidential for many reasons, for example because it becomes a matter of public knowledge or because confidentiality is waived by the person to whom that confidentiality is owed. The *member* must take reasonable steps to secure such a waiver, but if one cannot be obtained, the *member* should keep sufficient information on the matter to enable appropriate action to be taken if the confidential status subsequently changes.
- 4.4.3 In deciding whether a breach of guidance is material, the *member* may need to exercise judgment. The fact that a breach did not lead to a materially adverse outcome is not sufficient to establish that the breach was immaterial. If the *member* is unsure whether or not a matter is material, the *member* must seek guidance from the Society.
- 4.4.4 If the *member* decides that the nature of the breach is such that action is called for, the *member* must, in the first instance, consider discussing the apparent breach with the other *member*. Possible objectives of having such a discussion include:
- seeking more information about the matter, so as to form a view whether there has actually been a material breach; and/or
  - to explore whether the matter is one where the other member can either rectify or mitigate the breach by appropriate action.
- 4.4.5 If the *member* does not consider a discussion to be appropriate, or if the matter is not resolved as a result of such discussions, then (subject to paragraph 4.4.2) the *member* must refer the matter to the Society.

## **5 CONFLICT OF INTEREST**

- 5.1 Clients are entitled to assume that advice given by a *member* is unaffected by interests other than those of the client, taking account of any identifiable professional or legal duty of care of the client in respect of a third party.
- 5.2 If there is or might appear to be a conflict of interest between two or more clients of a *member* or of the *member's firm*, or a conflict between a client and the *member* or the *member's firm*, the *member* must consider the nature and extent of the conflict and whether it is such as to make it improper for the *member* to give advice to one or more of the clients involved in the conflict.

- 5.3 In the event of any such conflict or apparent conflict of interest, the client or clients involved must be notified at the earliest opportunity and if any advice given to a client is, or will be, influenced by interests other than those of that client or by any constraint other than that imposed by professional guidance, this must be disclosed in the advice.
- 5.4 If there might be a conflict between the interests of different clients or previous clients of the *member* or of the *member's firm*, the *member* must have proper regard to their respective interests and in particular must not communicate information within the *member's firm* which the *member* has reason to believe might harm the interest of any client or previous client.
- 5.5 Notwithstanding the provisions of paragraph 1.3, paragraph 5.3 shall not be construed as extending the obligations of a *member* to ensure compliance with the provisions of that paragraph by the *member's firm* unless:
- the *member* is identified as an adviser to one or more of the clients concerned, or
  - the *member's* input to the formulation of advice provided by the *member's firm* is knowingly influenced or constrained by interests other than those of the client.

## 6 FINANCIAL INTERESTS

- 6.1 A *member* must make full and timely disclosure to the client of any financial interest which the *member* or the *member's firm* may have in any assignment that the member undertakes for that client or in its outcome. Financial interest includes direct remuneration, direct and indirect benefits, commission and introductory fees paid by or to the *member* or the *member's firm*.
- 6.2 In considering whether a *member* or a *member's firm* has a financial interest in an assignment, a *member* must have regard to other firms with which the *member* or the *member's firm* is associated.
- 6.3 Financial rewards which are large in relation to the professional time spent, including success-related or contingency fees, can threaten objectivity and thus contravene the general requirements of the PCS. Accordingly, *members* are advised to exercise extreme care in determining whether to accept such rewards or fees and must ensure that they are appropriate in the circumstances of the advice given and that there is no conflict with the requirements for professional objectivity.

## 7 APPOINTMENT OF NEW ADVISER

- 7.1 A client has the indisputable right to choose and to change professional advisers, to take a second opinion and to retain separate advisers on different matters even though the purpose of a new appointment may be in conflict with the interests of third parties. It is not the intention of the PCS to interfere in the commercial activities of a *member* or a *member's firm* and it is not intended to protect the position of an incumbent.
- 7.2 If a *member* who is invited to give *reserved advice* to a client or to the *member's firm* knows or has reason to suspect that another *member* is acting or has recently provided advice on the same or a related matter, the *member* should normally contact the other *member* at as early a stage as possible to ask whether, in that *member's* opinion, there are any professional reasons not to accept the appointment or any particular considerations which ought to be borne in mind before giving advice. Upon receiving such an enquiry, the other *member* must provide the required information as soon as possible and may make no attempt to obstruct a client who wishes to change advisers.
- 7.3 If the *member* concludes that there is a requirement to make contact with the other *member*, the appointment may be confirmed in principle before the other *member* has replied, but the *member* must ensure the client is aware that acceptance is provisional and the *member* may provide *reserved advice* to the client only after receiving an undertaking from the client that the advice will not be acted upon or communicated to others until the other *member* has had sufficient opportunity to reply.
- 7.4 If, however, the client, having been informed of the obligation to make contact, refuses to consent to such contact, the appointment should normally be declined.
- 7.5 Where the appointment is to give advice which is not *reserved advice*, but the *member* who is the incoming adviser is aware that the prospective client has been involved in a dispute with a previous adviser over some matter which affects the interests of third parties, the incoming adviser is advised to consider whether, having regard to paragraph 2.1 of the PCS, it is desirable to investigate the nature of that dispute (whether or not the previous adviser was a *member*), either by consulting the previous adviser or by making enquiries of the prospective client, before accepting the appointment.

## **8 RELATIONS WITH OTHER MEMBERS**

- 8.1 *Members* must avoid any action that would unfairly injure the professional reputation of any other *member*. Criticism of one *member's* work by another *member* is acceptable, provided that the criticism is properly reasoned and believed to be justified. Statements which could be made with complete propriety where there is an opportunity for reply could well be inappropriate in the context of any form of publicity.
- 8.2 Where criticism of another *member's* work is made in the context of any form of publicity and whether in relation to specific instances or in general, care must be taken to acknowledge that other *members* may quite properly hold different professional opinions and that special circumstances may exist in any particular case.

## **9 PUBLICITY**

- 9.1 While publicity for the actuarial profession is encouraged, any form of publicity that might give a *member* an unjustified or unfair professional advantage, as opposed to a legitimate commercial advantage, is prohibited. Publicity which is likely to detract from the standing of the profession is prohibited, unless the criticism forms part of a justifiable debate conducted in the public interest. A *member* may publicise the professional services offered, may indicate specialisation in a particular area of work and may publish the basis of charging.
- 9.2 *Members* must ensure that their publicity, and any publicity by others on their behalf, is appropriate to the profession. A *member* must be in a position to substantiate in an objective manner the content of any publicity for professional services. This requirement applies particularly where the publicity could be taken as suggesting that for some reason it is preferable to obtain advice from the *member*, rather than from another *member*. A *member* who is in any doubt about a particular advertisement is urged to seek guidance from the Society.
- 9.3 A *member* speaking in public or writing for publication should normally seek to ensure that it is made clear in what capacity the contribution is made. A *member* must not imply that what is said or written has any official standing with respect to the Society unless authorised to speak or write as a representative of the Society.
- 9.4 In publications, CVs, seminars or conferences, a factual description of work on behalf of the profession and the titles of positions held or previously held may be included. Statements must not be made that imply that this work provides the *member* or the *member's* firm with any special or additional standing or expertise.

