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Dear Andrew

Actuaries' Code and Actuarial Profession Standards

Thank you for providing a further opportunity to comment on the development of the Actuaries' Code (the Code) and supporting Actuarial Profession Standards (AP Standards). PwC commented on the exposure drafts published late in 2007 and is now pleased to comment further, although the points we have to make follow similar lines.

As you know, we firmly support the principles-based approach the Professional Regulation Executive Committee is taking (although we still see no need for a principle on Communication). If the aim of the latest draft is to consolidate and refine broadly the same material covered in earlier drafts, then it is an improvement. It is more compact and the material is more logically grouped.

However, we continue to be concerned that, as a package, the Code and five APs lack clarity. The litmus test is whether actuaries can understand with ease and without ambiguity what the Profession expects of them. In order to be effective and enforceable, which is vital, the package must focus on telling actuaries what they actually need to do (or not do) to comply. This is not being achieved. One example is the section on Client Interests, where we are aware of significantly different practices across the profession but there is no reference to, for example, self-review or advocacy threats. In comparison with the standards of other professions and, we believe, reasonable expectations of the profession, this is inadequate.

The appendix contains our comments on the Code and five APs. A further minor suggestion is that the "Non-compliance with this Standard" section, currently included at the end of each AP, could appear just once, in the Code. We attach a mock-up of how we suggest the Code and APs could be better and less complicatedly presented. In this, we have made the changes we suggest in the appendix (although not to the section on Client Interests, as we remain unclear on what the profession expects).

Please let me know if we can assist you further with developing the Code and APs.

Yours sincerely



John Cummings

CODE

We do not think that the first three paragraphs taken together meet the litmus test of being simple and clear. Even after several reads, they seem to have a “circular” feeling. Actuaries will not be certain what is expected of them.

In the third paragraph it is particularly unclear how “*Each Member must apply his or her professional judgment in considering the specific requirements of the Code and Standards in any given context, bearing in mind the public interest objective as described above*”. What is the public interest objective? Paragraph 1 alludes to it but does not help actuaries understand what it is or how they are expected to meet it.

We commented earlier this year (in Trevor Llanwarne’s letter of 9 January 2008) on the “Common Good” Standard in the previous draft. Those comments still stand in relation to the public interest concept now in the Code. In particular, we are concerned about enforceability - We believe the only way to incorporate an enforceable public interest objective is through a “negative” requirement such as “Actuaries should avoid bringing the profession into disrepute.” How will it be possible to monitor compliance with a “positive” requirement to “bear in mind the public interest objective” at all times?

CONDUCT

Actuaries must act at all times with honesty and integrity and show appropriate respect for others

We support the principle and have no comments on the Standard. Our only question is whether there is a distinction between “appropriate respect” and simply “respect”? If so, the appropriateness aspect should be explained.

COMPETENCE

Actuaries must undertake their duties with appropriate knowledge, skill and care

We question the “care” aspect of the principle and are not clear what “appropriate” care is (3.1). Is the concept of care not met by (a) being competent and (b) complying with the other standards, particularly acting in best interests of client? If not, then we suggest something is missing from the other Standards. We prefer a heading on “instructions”; although on balance question the need for this at all.

Section (4) on new appointments within the Competence Standard is inappropriate. We do not see a need to mention new appointments at all – the principles in the other standards should cover what’s required in relation to new appointments (and any other appointments for that matter). And if new appointments are singled out, why mention them under the heading of Competence? Also, we cannot see how the “appropriate professional clearance from a ... previous advisor” might be required, nor what it might consist of. We have redrafted this as covering appointments – new or old.

It is not appropriate in this Code for actuaries to be told to agree an appropriate remuneration basis before commencing an appointment or instruction. What does this have to do with competence?

CLIENT INTERESTS

Actuaries must act with courage in the best interests of each of their clients

We support the idea behind the principle. However, we do not think there should be a requirement to “act with courage”. It is not at all clear what this means and consequently the principle is probably unenforceable. Either one acts in the best interests of one’s clients or one does not.

We are deeply uncomfortable with section 3 as it gives virtually no guidance on what would, or would not, be acceptable in an area that is fundamental to the perception of the profession, particularly when contrasted with the requirements placed on certain other professions. For example, it makes no reference at all to such matters as self-review threats, which is a significant risk to the independence of advisors. Other examples are that, in 3.3, we are not clear when the risk of a conflict would be considered “significant” and when not; and in 3.4, the number of occurrences of “reasonably” means actuaries will not be clear what they may and may not do. The same applies in 5.6.2.

We do not think there is a need to deal with contingent fee arrangements explicitly. The remainder of the standard, particularly if re-drafted, should suffice. Where contingent fee arrangements can be managed without conflict, there seems no reason to restrict them.

COMPLIANCE: Actuaries must comply with all relevant legal and regulatory requirements

This principle is important and we support it. But is there a need for an AP Standard? The principle itself would be perfectly clear enough if it were extended to “all legal, regulatory, BAS and Actuarial Profession requirements”. Also, we think there is no need to qualify the requirements as “relevant” requirements only.

We would delete this section entirely – it tautologises the law.

COMMUNICATION: Actuaries must communicate clearly, completely and effectively

Is there a need for this principle and standard? Firstly, there is a risk actuaries simply can’t comply (with the best of intentions, how can an actuary *ensure* communication is effective?); secondly, it is unenforceable (clarity and effectiveness are very subjective); and finally and most importantly, standards of communication are driven by the market for actuarial advice. Poor communicators will not survive.

Having said that, the market is nowhere near a perfect market in this respect and it can take time to react to poor communicators. One high profile case of poor communication leading to poor decision taking could result in scrutiny. And the Profession would lose credibility if it could not (a) point to a standard and (b) demonstrate a compliance breach.

If a Communication Principle is necessary, would it be better if it focused only on completeness and accuracy?