



## Conflicts of interest

### Case study 1

You are a member of the IFoA and also a Director and shareholder of a company with separate obligations under the UK Companies Act. The company for which you are a Director is making a loss and the company's board wants to choose a course of action that would put the company into liquidation and thereby not fully pay creditors and place staff at risk of losing their jobs.

**Does the course of action decided by you as a director of the company affect you as a member of the IFoA if the conduct is not related to your actuarial work?**

- The Actuaries' Code (the "Code") applies to all conduct that could reasonably be considered to reflect upon the profession. It is likely that as a director of a company, you are in a position of trust and being a registered professional, that your conduct in this situation could reasonably be considered to reflect upon the profession. Stakeholders may also be aware that you are a practising actuary and Member of the IFoA.

**If you choose this course of action, does it breach the Actuaries' Code?**

- Your primary duties and legal requirements as a Director must be to ensure compliance with the Companies Act and any other legislation that is relevant to the decision being made. Nothing in the Code is intended to require Members to act in breach of legal requirements and where there is a conflict, the law will prevail. However, if the action proposed was compliant with the law, you would then need to consider if there would be any breach of the Code.
- Principle 1 of the Code requires you to act honestly and with integrity. The non-mandatory [guidance](#) that accompanies this principle states that Members should be "straightforward and honest" in their professional and business relationships "dealing fairly" with those around them. Consider in this situation whether the actions being proposed and the resulting consequences (i.e. not paying creditors and placing staff at risk), would be fair and ethical in the particular circumstances. If this question cannot be answered positively, then there may be a breach of the Code. You can consider the impact of any proposed action on all stakeholders, including staff and creditors, and whether any actions proposed are fair, compliant with the law and can be justified.

### Case study 2

You are providing advice to a company on a transaction which will be heavily influenced by the advice that you give. You also have a close family member who has a financial interest in the outcome of the transaction. If the transaction goes a certain way, your family member could receive a substantial financial benefit as a result.

**What are your obligations under the Actuaries' Code?**

- Among the principles of the Code, Principle 3 in particular, requires Members to ensure that their professional judgment is not compromised, and cannot reasonably be seen to be compromised, by bias, conflict of interest or the undue influence of others.



### **Are you conflicted as a result of the family member's personal/financial interest?**

- The non-mandatory conflicts of interest [guidance](#) for Members states that conflicts can arise where a Member's professional responsibility to a user of their work conflicts, or is seen to conflict, with the Member's own interests or those of close family (a personal conflict). A personal conflict involving a financial interest in an outcome of a transaction, which makes it difficult for Members to act, and to be seen to act, in the interests of the user.
- Given that a close family member could benefit financially as a direct result of the advice you provide, there would appear to be a conflict of interest. Even if you were satisfied that the advice you were giving was impartial, Principle 3 makes clear that Members cannot reasonably be perceived or seen to be compromised.

### **Should you declare this conflict? Who to?**

- Once a conflict is identified, amplification 3.2 of the Code states that Members must not act if there is an unreconciled conflict of interest. The conflict therefore needs to be managed appropriately or you must decline or cease to act. Within your steps to manage the conflict should be to declare your personal interest to the company's directors and to those instructing you (if different) and clearly explain the personal conflict and financial benefit to your family member if the transaction goes a certain way.

### **How can you be seen to act in the interests of the company that has instructed you?**

- You should bear in mind that this could be a situation where such a conflict cannot be reconciled and in those circumstances, the Code makes clear that you must not act.
- If however you are satisfied that the conflict of interest can or has been appropriately managed and reconciled, and the company is still content to instruct you in those circumstances, it will be important to ensure that continued measures are in place to manage the conflict so that it does not (and is not perceived to) impact on your advice. Relevant considerations will include whether your advice will be subject to independent peer review, the influence of other advisers to the transaction, and the knowledge of those you are advising.

It is good practice to ensure that you carefully document the reason for your decision, the steps you have taken to reconcile the conflict and be prepared to justify your decision.

### **Case study 3**

You worked for a small insurance firm a number of years ago and still keep in touch with many of your ex-colleagues. You now work for a global insurance company who are looking to instruct external consultants to provide advice on a new pricing project in a market that they are unfamiliar with. You immediately suggest that you instruct your previous company in the matter, who you feel can provide great expertise for the new project.



**By recommending your previous company, does this create a conflict of interest?**

- There is the potential for a conflict of interest in this situation because in recommending your previous firm, you are not considering any other firms who may have similar or potentially better expertise. Having worked for the company previously, it is likely that you may be reasonably seen to be biased.

**What are your obligations under the Actuaries Code?**

- Principles 3 of the Code states that Members must ensure that their professional judgment is not compromised and cannot reasonably be seen to be compromised by bias or a conflict of interest. Decisions should be based on objective criteria and advice should be independent of personal interests.

**If there is a conflict, what could you do to reconcile or manage it?**

- To manage and reconcile the conflict (or the perception of a conflict) you can declare the fact that you previously worked for the company and that you still keep in touch with many of your previous colleagues. You may also wish to suggest some other firms and that they should seek other independent recommendations, leaving your employer to decide who to instruct on the basis of an objective criteria.

**Case study 4**

A pricing actuary has been asked by his boss, the Commercial Director of a large insurance firm, to analyse and implement new data sources which will allow greater profit optimisation to take place when pricing insurance policies. This will help to better identify the cohorts of business which are more likely to produce higher profits, and also those that will have lower profitability, with prices set to reflect this.

In carrying out the analysis you become aware that the data sources being used are driving higher prices for customers who are either already within higher-priced groups, or where there may be financial vulnerability considerations to be made. This results in you having some concerns in relation to customer fairness considerations. When you raise this with the Commercial Director, they tell you that your main concern is shareholder profits and so long as the data does not breach protected characteristic legislation then it will be ok to implement the changes.

**Does this situation amount to a conflict of interest?**

- Principle 3 of the Code states that "*Members must ensure that their professional judgement is not compromised, and cannot reasonably be seen to be compromised, by bias, conflict of interest, or the undue influence of others*". In this situation the Commercial Director is seeking to influence the Member on a particular course of action. Where the Member considers this undue influence, or where the Member feels there is a risk of their professional judgement being compromised, then this may represent a conflict of interest.



### Would it make a difference if the Commercial Director was an actuary?

- If the Commercial Director was an actuary and Member of the IFoA, they would be subject to the requirements of the Actuaries' Code. In particular, Principle 1 requires them to act honestly and with integrity. They should therefore consider whether the course of action they are advising to take is ethical in the circumstances.
- Principle 5.1 of the Code requires Members to challenge others on their non-compliance with legal, regulatory and professional requirements and Principle 5.2 requires Members to report to the IFoA, as soon as reasonably possible, any matter which appears to constitute misconduct and/or any material breach of any relevant legal, regulatory or professional requirements by one of its Members. Where the Member feels their concerns have not been adequately taken on board the Member may need to consider if there would also be any obligation to report their concerns regarding the conduct of the Commercial Director to the IFoA.

### How should you deal with this situation to reach an acceptable outcome?

- In the first instance, it would be advisable for the Member to consult with a trusted colleague or senior actuary to discuss his concerns and explain the conflict that has arisen. It can be helpful to then follow up any concerns in writing and to include other directors or senior individuals at the company, if reasonable and appropriate to do so. Seeking an outcome where the Member views on customer fairness can be documented alongside the commercial proposal may be a way to deal with the issue.
- Principle 3 states that Members must not act where there is an unreconciled conflict of interest. Therefore, if the conflict remains un-reconciled and un-managed, then the Member may have to refuse to carry out the instructions. He may also need to consider any obligations he may have under Principle 5 and the requirement to 'speak up' about his concerns. If the Member requires guidance on how to report their concerns or deal with the conflict, they might find it helpful to consult the non-mandatory conflicts of interest [guidance](#).

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