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Ethical Dilemma in Client Relationships

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Sections

1

Context – The case study

2

Professionalism and Professional Conduct Standards

3

Applying Relevant Sections of PCS

MCQ

4

Conclusion

Q&A

Section 1

Context – The case study



Case Study

- A junior actuary, called “Actuary J”, working in area of employee benefits was recently approached by a client company for an employee benefit valuation.
- The client accepted the quotation given by Actuary J for the work through a mail and asked him to start the work urgently. Actuary J initiated the work on the same and sought data and other information from the client.
- However, the next day, the client informed him that they had decided to engage another actuary for this work.
- The other actuary was referred to them by one of their group companies. The group company has been engaging this other actuary for many years and gave a very positive reference of that actuary.
- Actuary J is upset with this behavior of the client. He contacted a responsible person working with the client and understood that the other actuary undercut the fees and also used his contact with the group company to put pressure on the client.
- Disturbed by this, Actuary J wants to file a case against the client company and the other actuary with the disciplinary committee of IAI for this unethical behavior. He sought my opinion on this matter.
- What would be my advice to Actuary J? (Given I’m a senior actuary working in the area of employee benefits for more than 20 years).

Between the lines – key highlights

- A junior actuary, called “Actuary J”, working in area of employee benefits was **recently approached by a client company for an employee benefit valuation.**
- The client accepted the quotation given by Actuary J for the **work through a mail** and asked him to start the work urgently. Actuary J initiated the work on the same and sought data and other information from the client.
- However, the next day, the client informed him that they had **decided to engage another actuary for this work.**
- The other actuary was referred to them by one of their group companies. The group company has been engaging this other actuary for many years and gave a very positive reference of that actuary.
- Actuary J is upset with this behavior of the client. **He contacted a responsible person working with the client** and understood that the other **actuary undercut the fees** and also **used his contact with the group company to put pressure on the client.**
- **Disturbed by this, Actuary J wants to file a case** against the client company and the other actuary with the disciplinary committee of IAI for this unethical behavior. He sought my opinion on this matter.
- What would be my advice to Actuary J? (Given I’m a senior actuary working in the area of employee benefits for more than 20 years.)

Section 2

Professionalism and Professional Conduct Standards



2.1 Professionalism

- “A Profession is a disciplined group of individuals who adhere to ethical standards and who hold themselves out as, and are accepted by the public as possessing special knowledge and skills in a widely recognised body of learning derived from research, education and training at a high level, and who are prepared to apply this knowledge and exercise these skills in the interest of others.”
- “It is inherent in the definition of a Profession that a code of ethics governs the activities of each Profession. Such codes require behavior and practice beyond the personal moral obligations of an individual. They define and demand high standards of behavior in respect to the services provided to the public and in dealing with professional colleagues. Further, these codes are enforced by the Profession and are acknowledged and accepted by the community.”

Australian Council of Professions, 2003

- “Professionalism for the actuarial profession means:
 1. The application of specialist actuarial knowledge and expertise;
 2. The demonstration of ethical behavior, especially in doing actuarial work; and
 3. The actuary’s accountability to the professional actuarial association or similar professional oversight organisation on the basis of a code of conduct”

International Actuarial Association

2.2 Actuaries Act, 2006 and the Professional Conduct Standards (PCS)

- The Actuaries Act, 2006
- Professional Conduct Standards v4 (PCS): effective 04 September 2021

Professional Conduct Standards provide guidance on professional conduct in addition to that is provided under the Act and Rules & Regulations made thereunder and other guidance

Professional Standards must be used as a guiding compass for all professional conduct related concerns.

Relevant PCS sections to the case at hand –

- Section 1 - General
- Section 2 - Professional Standards
- Section 4 – Standards for Advice
- Section 6 – Impartiality
- Section 7 – Acceptance of an assignment
- Section 8 – Publicity

Section 3

Applying Professional Conduct Standards



Between the lines – (1)

- A junior actuary, called “Actuary J”, working in area of employee benefits **was recently approached by a client company for an employee benefit valuation.**
- The client accepted the quotation given by Actuary J for the **work through a mail** and asked him to start the work urgently. Actuary J initiated the work on the same and sought data and other information from the client.
- However, the next day, the client informed him that they had decided to engage another actuary for this work.

“If an actuary invited to provide actuarial services to a client, knows or has reason to suspect that another actuary is acting or has recently provided advice on the same or a related matter, the actuary should communicate in writing with the actuary at as early a stage as possible.”

(Section 7, PCS)

“An actuary in practice shall be deemed to be guilty of professional misconduct if he accepts a position as an actuary previously held by some other actuary in practice without first communicating to him.”

(Part 1 of The Schedule, Actuaries Act, 2006)

Professionally, is it enough to have an email confirmation to start work?

Ideally, a signed agreement must be in place before starting off with an assignment to prevent any loose ends.

(Section 7, PCS)

Between the lines – (2)

- A junior actuary, called “Actuary J”, working in area of employee benefits was recently approached by a client company for an employee benefit valuation.
- The client accepted the quotation given by Actuary J for the work through a mail and asked him to start the work urgently. Actuary J initiated the work on the same and sought data and other information from the client.
- However, the next day, the client informed him that they had decided to **engage another actuary for this work.**
- The other actuary was referred to them by one of their group companies. The group company has been engaging this other actuary for many years and **gave a very positive reference of that actuary.**

“Actuaries must ensure that their publicity, and any publicity by others on their behalf, is appropriate to the profession. An actuary must be in a position to substantiate in an objective manner the content of any publicity for professional services.”

(Section 8, PCS)

This requirement particularly applies here as publicity is suggesting preference to take services from one actuary rather than another actuary.

“A client has an indisputable right to choose and to change professional advisors, to take a second opinion and to retain separate advisors on different matters.”

(Section 7, PCS)

Between the lines – (3)

- A junior actuary, called “Actuary J”, working in area of employee benefits employee benefit valuation.

- The client decided to engage another actuary for this work. Actuary J work through other information.

- However, the client decided to engage another actuary for this work.

- The other actuary has been working for many years and gave a very positive reference of that actuary.

- Actuary J is upset with this behavior of the client. **He contacted a responsible person working with the client** and understood that the other actuary undercut the fees and also used his contact with the group company to put pressure on the client.

- Actuary J is upset with this behavior of the client. **He contacted a responsible person working with the client and used his contact with the group company** to put pressure on the client.

How do we prove the other Actuary leveraged his contacts at the group level to get the assignment. The possibility of it being the other way round is difficult to ignore.

The integrity and reliability of this statement lies in the person contacted and the means. Does Actuary J have a written documentation of the same? Was it a verbal communication? Is it possible to ascertain the authenticity of this information?

Between the lines – (4)

“An actuary in practice shall be deemed to be guilty of professional misconduct if he accepts a position as an actuary previously held by some other actuary in practice in such conditions as to constitute undercutting.”
(Part 1 of The Schedule, Actuaries Act, 2006)

It should be realized the code of standards put reliance on collective conscience of members (and thus developing a moral compass in decision making).

(Section 1, 2 - PCS)

Business practices that are acceptable to society, a group or the community inherently forms part of the code of conduct. As professionals, is this an acceptable practice?

- Actuary J initiated the work on the same and sought data and other information from the client.
- However, the next day, the client informed him that they had decided to engage another actuary for this work.
- The other actuary was referred to them by one of their group companies. The group company has been engaging this other actuary for many years and gave a very positive reference of that actuary.
- Actuary J is upset with this behavior of the client. He contacted a responsible person working with the client and understood that the **other actuary undercut the fees** and also used his contact with the group company to **put pressure on the client**.

Between the lines – (5)

- The Professional Code of Conduct and Actuaries Act regulates Actuaries (And other members of actuarial fraternity) and does not regulate the commercial aspects of it. Thus, Actuary J may file a case against an actuary but not client company.
- However, the next day, the client informed him that they
- The other actuary was referred to them by one of their group actuary for many years and gave a very positive reference of that actuary.
- Actuary J is upset with this behavior of the client. He contacted a responsible person working with the client and understood that the other actuary undercut the fees and also used his contact with the group company to put pressure on the client.
- Disturbed by this, Actuary J wants to file a **case against the client company** and the other actuary with the disciplinary committee of IAI for this unethical behavior. **He sought my opinion on this matter.**
-

Actuary J was right to seek advice when in doubt;

A member who has any doubt about the interpretation of professional guidance or its application in particular circumstances should normally seek advice from an actuary who has relevant experience in the first instance. Objective of such advice/discussion include :

- Seeking more information on the matter, so as to form a view whether there has actually been a misconduct, and/or
- To explore whether the matter is one where is conduct can be either mitigated/rectified entirely by the other member taking remedial action.

(Section 1, 2, PCS)

MCQ's

Which is the referred legislature to the Professional Conduct Standards v4 (PCS): effective 04 September 2021?

- A) The Actuaries Act, 2006, Section 19 (2) (i)
- B) The Actuaries Act, 2006, Section 1 (2) (i)
- C) The Actuaries Act, 2006, Section 11 (2) (i)
- D) None of the above

Which of the following below is a Professional misconduct under Part 1 of The Schedule of Actuaries Act, 2006 for a member actuary?

- A) Allowing a Chartered Accountant to practice in his/her name
- B) Accepting an assignment previously held by another actuary without first communicating to him/her in writing
- C) Including any statement, return or form to be submitted to council any particulars knowing them to be false.
- D) All of the above

Section 4

Conclusion



Conclusion



There were aspects from this case study that need to be questioned. The following issues have been identified and maybe addressed as follows :-

1. Putting pressure on client (Other Actuary)

- As professionals, we have an obligation to serve the public interest within context of building and promoting confidence in work of actuaries and in the actuarial profession. Individually, members must maintain the highest standards of conduct. The standing of actuarial profession depends on the judgement of individual members.
- Members have a duty towards actuarial profession and clients and must always act honestly and with integrity.
- Putting pressure on client for personal advantage is a breach of professional standards as it denigrates the reputation of the profession and would be relevant to be reported to the Disciplinary Committee (DC).
- However, it is essential to validate the information before deciding to file a case (based on statement of a 3rd person), as currently it seems the information was received from a person working with the client. The case can't be reported in the absence of certainty of information

2. Fabricated publicity? (Other Actuary)

- The other actuary should ensure his publicity, and any publicity by others on their behalf, is appropriate to the profession. An actuary must be in a position to substantiate in an objective manner the content of any publicity for professional services.

Conclusion (Contd.)

- This requirement particularly applies here as publicity is suggesting preference to take services from one actuary rather than another actuary. Although, if the publicity came from experience and honest feedback of the client, it does not fall under breach of professional standards.

3. Acceptance of Assignment (Actuary J)

Actuary J should have gotten a contract signed before starting off an assignment. In this case, the actuary may not have any legal basis to claim malfeasance by the client of breaching any contract laws.

4. Integrity and Conduct (both Actuaries)

Actuaries should, first of all, not let their judgement clouded by bias, personal interest or influence of others. It seems like their judgement is possibly impaired by the attachment to the assignment.

5. Filing a case against client (Actuary J)

The disciplinary committee of the institute regulates and caters to members of the profession and not the commercial aspects or client organizations. Thus, Actuary J can't file a case against client with DC.

As of now, in absence of enough written evidence(and until we get the same), the case does not substantiate a breach of Professional standards.

Above all of this, it should be kept in mind that the client does not suffer because of this. As actuarial professionals we have an obligation to serve the public interest. While the Professional Conduct Standards and Actuaries Act, 2006 must be used as a guiding laws, it places reliance on the collective conscience of the members.

Q&A

Thank you!

