

46th India Fellowship Seminar

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Professional Crossroad - Employee Benefits

Ethical & professional Dilemmas in Actuarial Appointments

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Institute of Actuaries of India

Agenda

- Case Study
 - Overview
 - Dilemmas
 - Problem Statement
- Applicable PCS/APS & Regulations
- Recommended Actions
- Q&A

Case Study

Overview

We are the senior actuary working in the area of employee benefits.

We just got a call from a potential client requesting a quotation for calculation of liability of a scheme with 91,500 employees.

They mentioned that there were many errors in the actuarial report last year and it had to be revised multiple times. Even then, the final report was not up to their satisfaction.

Hence, they decided to move to a new actuary this year.

Case Study: Dilemmas

Dilemma 1

If we accept the job, we need to interact with the previous actuary for PCS requirement and may have to discuss the issues with the content of last year's report which could possibly turn out to be a difficult discussion.

Dilemma 2

Since the client was not satisfied with final report last year, there could be some residual errors in the report which could lead to professional issues with the previous actuary, including a complaint (by you) to the disciplinary committee of IAI, depending on the seriousness of the errors, potentially.

Case Study: Dilemmas

Dilemma 3

There might be many issues with the data and other details provided by client and that could be the reason for all the issues last year.

Dilemma 4

Unknown issues that may surface only during deep - dive investigations.

Case Study: Problem Statement

Would you accept this job keeping these dilemmas in mind?

Discuss the professional and ethical issues that may arise while dealing with this job.

Applicable APS, PCS & Regulations

- ✓ Professional Conduct Standards Version_4 (PCS)
- ✓ Actuarial Practice Standard 27 (APS27)
- ✓ Actuarial Practice Standard 34 (APS34)
- ✓ The Actuaries Act, 2006

PCS Section 2. - Appropriate Practices

- **PCS 2.1** The actuarial profession has an obligation to serve the public interest within the context of building and promoting confidence in the work of actuaries and in the actuarial profession. 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 actuarial profession depends on the judgement of the individual members.

PCS Section 2. - Appropriate Practices

- PCS 2.2 - Members have a duty to the actuarial profession & clients and must always act honestly & with integrity
- PCS 2.3 - Clients are entitled to have absolute confidence in the skill, objectivity and integrity of any member.
- PCS 2.4 - Healthy debates & expressing different opinions on matters of professional interest are good for the betterment of the actuarial profession. However, such debates and opinions must demonstrate due respect and must not bring disrepute to the actuarial profession or other members or the professional body. Members must be aware of the requirements of confidentiality and must respect the same

PCS Section 3 - Confidentiality

- **PCS 3.1** Information acquired by an actuary in the course of professional work is confidential to the actuary's client. As such, any information that is governed by confidentiality between actuary and the actuary's client should not normally be disclosed without the client's consent.
- **PCS 3.2** There are, however, circumstances in which, despite the normal duty of confidentiality, an actuary might in law be:
 - **3.2.1** 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
 - **3.2.2** free to disclose confidential information if it is in the public interest to do so or, in some circumstances, if it is for the actuary's own protection.



PCS Section 4 - Standards for advice

- **PCS 4.1** - An Actuary is expected to use best judgement in formulating advice & must have proper regard to any relevant professional guidance or other guidance.
- **PCS 4.2** - In accepting & while performing an assignment , an actuary must ensure that he is qualified to do so as per requirements of professional guidance & other guidance.

PCS Section 5- Compliance with standards

- **PCS 5.3** Action to be taken on discovering a misconduct by another member:
 - 5.3.1 On becoming aware of the misconduct by another member, a member must take appropriate action at the earliest opportunity.
 - 5.3.2 If the member decides that the nature of the misconduct is such that action is called for, the member could, in the first instance, consider discussing the apparent misconduct with the other member. Possible objectives of having such a discussion include

PCS Section 5- Compliance with standards



- 5.3.2.1 seeking more information about the matter, so as to form a view whether there has actually been a misconduct; and/ or
- 5.3.2.2 to explore whether the matter is one where the misconduct can either be mitigated or be rectified entirely by the other member taking remedial action.
- 5.3.3 If the member does not consider a discussion to be appropriate, or if the matter is not resolved to the satisfaction of the member as a result of such discussions, then the member must refer the matter to the professional body as prescribed in the Actuaries (Procedure for Enquiry of Professional and Other Misconduct) Rules, 2008.

PCS Section 7 - Acceptance of assignment



- **PCS 7.1** A client has the indisputable right to choose and to change professional advisors, to take a second opinion and to retain separate advisors on different matters. It is not the intention of the Professional Conduct Standards to interfere in the commercial activities of an actuary or an actuary's firm.

PCS Section 7 - Acceptance of assignment



- **PCS 7.2** 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 other actuary at as early a stage as possible to ask whether, he is aware of any professional reasons to be considered in accepting the appointment or any particular considerations which ought to be borne in mind before providing actuarial services. Upon receiving such an enquiry, the other actuary may provide the required information as soon as possible, but no later than 10 days from receipt of the communication from the actuary, and should make no attempt to obstruct a client who wishes to change advisors

PCS Section 7 - Acceptance of assignment



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- PCS 7.3 If, however, the client, having been informed of the obligation to make contact, refuses to consent to contact being made, the appointment should be declined.

APS 27 - 8.3.1

- At the outset, while initiating the assignment, the member must indicate what information is required and must also be able to demonstrate the reason of requiring such information.
- The member may place reliance on information received from a third party as an input to perform actuarial work. The information relied upon, its source and the extent of the checks applied by the member in order to the accuracy and relevance of the information must be disclosed in the report.

APS 34 - Section 2. Appropriate Practices



- 2.1. Acceptance of assignment
 - 2.1.1 When providing actuarial services, the actuary should confirm with the principal the nature and scope of actuarial services to be provided, including:
 - a. The role of the principal;
 - b. Any limitations or constraints on the actuary;
 - c. Any requirements that the actuary is required to satisfy;
 - d. Identification of the schedule and expected cost or resources needed (especially if they are substantial); and
 - e. The information needed to be communicated to and by the actuary, especially if it is sensitive or confidential.

APS 34 - Section 2. Appropriate Practice

- 2.1.2 In accepting an assignment for actuarial services, the actuary shall:
 - a. Be qualified to perform the services from accepting the assignment till completion of the assignment;
 - b. Be satisfied that the assignment can be performed under the applicable code of PCS, relevant APSs and relevant GNs; and
 - c. Have reasonable assurance of time, resources, access to relevant employees of the principal and other relevant parties, access to documentation and information, and the right of the actuary to communicate information, as may be necessary for the work.



APS 34 - Section 2. Appropriate Practice

- **2.2 Knowledge of Relevant Circumstances** The actuary should have or obtain sufficient knowledge and understanding of the data and other information available, including the relevant history, processes, nature of the business operations, law, and business environment of the subject of the actuarial services, to be appropriately prepared to perform the actuarial services required by the assignment.
- **2.3 Reliance on Others** The actuary may use information prepared by another party. This information may include data, opinions of other professionals, and supporting analyses. The actuary may select the party and information on which to rely or may be given the information by the principal. The actuary may take responsibility for such information, or the actuary may state that reliance has been placed upon the source of this information and disclaim responsibility.

APS 34 - Section 2. Appropriate Practice

- 2.3.1. If the actuary selects the party on whom to rely, the actuary should consider the following:
 - a. The other party's qualifications;
 - b. The other party's competence, integrity, and objectivity;
 - c. The other party's awareness of how the information is expected to be used;
 - d. Discussions and correspondence between the actuary and the other party regarding any facts known to the actuary that are likely to have a material effect upon the information used; and
 - e. The need to review the other party's supporting documentation.

APS 34 - Section 2. Appropriate Practice

- 2.3.2 If the actuary uses information prepared by another party without disclaiming responsibility for that information, the actuary:
 - a. Should determine that the use of that information conforms to accepted actuarial practice in the jurisdiction(s) of the actuary's services;
 - b. Should establish appropriate procedures for the management and review of the information that the actuary intends to use; and
 - c. Does not need to disclose the source of the information.

APS 34 - Section 2. Appropriate Practice

- **2.3.3** If the actuary states reliance on the information prepared by another Party and disclaims responsibility for it, the actuary should:
 - a. Disclose in any report that fact (including identifying the other party);
 - b. Disclose in any report the nature and extent of such reliance;
 - c. Examine the information for evident shortcomings;
 - d. When practicable, review the information for reasonableness and consistency; and
 - e. Disclose in any report the steps, if any, that the actuary took to determine whether it was appropriate to rely on the information.

APS 34 - Section 2. Appropriate Practice

- **2.4 Materiality** - In case of omissions, understatements, or overstatements, the actuary should assess whether the effect is material. If the effect of any of these is material, the actuary should disclose this in any report to which it is relevant. The threshold of materiality under which the work is being conducted should be determined by the actuary unless it is imposed by another party such as an auditor or regulator or the principal. When determining the threshold of materiality, the actuary should:

APS 34 - Section 2. Appropriate Practice

- 2.4.1. Assess materiality from the point of view of the intended user(s), recognizing the purpose of the actuarial services; thus, an omission, understatement, or overstatement is material if the actuary expects it to affect significantly either the intended user's decision-making or the intended user's reasonable expectations;
- 2.4.2 Consider the actuarial services and the subject of those actuarial services; and
- 2.4.3. Consult with the principal if necessary.

APS 34 - Section 2. Appropriate Practice



- **2.5.1 Sufficient and Reliable Data** The actuary should consider whether sufficient and reliable data are available to perform the actuarial services. Data are sufficient if they include the appropriate information for the work. Data are reliable if they are substantially accurate.

APS 34 - Section 2. Appropriate Practice

- **2.5.2 Data Validation** The actuary should take reasonable steps to review the consistency, completeness, and accuracy of the data used. These might include
 - a. Undertaking reconciliations against audited financial statements, trial balances, or other relevant records, if these are available;
 - b. Testing the data for reasonableness against external or independent data;
 - c. Testing the data for internal consistency and consistency with other relevant information; and
 - d. Comparing the data to those for a prior period or periods.
 - e. The actuary should describe this review in any report.

APS 34 - Section 2. Appropriate Practice

- **2.5.4 Data Modification** - The actuary should disclose any modification of data before its use (such as interpolation, extrapolation, adjustment, or discarding of outliers) in any report.
- **2.5.5 Deficiencies in Data** The actuary should consider the possible effect of any data deficiencies (such as inadequacy, inconsistency, incompleteness, inaccuracy, and unreasonableness) on the results of the work. If such deficiencies in the data are not likely to materially affect the results, then the deficiencies need not be considered further. If the actuary cannot find a satisfactory way to resolve the deficiencies, then the actuary should consider whether to:

APS 34 - Section 2. Appropriate Practice

- a. Decline to undertake or continue to perform the actuarial services;
- b. Work with the principal to modify the actuarial services or obtain appropriate additional data or other information; or
- c. Subject to compliance with Professional Conduct Standards and relevant APSs, perform the actuarial services as well as possible, and disclose in any report the data deficiencies (including an indication of the potential impact of those data deficiencies).



The Actuaries Act, 2006 - The Schedule

- **Part 1** An Actuary in practice shall be deemed to be guilty of professional misconduct, if
 - (5) accepts an assignment as Actuary previously held by another Actuary without first communicating with him in writing
 - (10) discloses information acquired in the course of his professional engagement to any person other than his client so engaging him, without the consent of such client, or otherwise than as required by any law for the time being in force;

The Actuaries Act, 2006 - The Schedule

The Actuaries Act, 2006

- **Part 1** An Actuary in practice shall be deemed to be guilty of professional misconduct, if
 - (15) is grossly negligent in the conduct of his professional duties;
 - (16) fails to obtain sufficient information to warrant the formation of an opinion in regard to any matter contained in any valuation report or financial statement prepared by him or on his behalf;
 - (17) fails to invite attention to any material departure from the generally accepted procedure or professional work applicable to the circumstances, in any valuation report or financial statement prepared by him or on his behalf.

Recommended Actions



Recommended action

Know your client

- Gather knowledge w.r.t assignment
 - Know the client: Client's background i.e. how business operates, the law that apply and the environment in which the business work
 - Know the data: what data will be available and how reliable it is

Initial due-diligence of potential actuary allows an actuary to form an opinion if he/she should work with the client



Recommended actions

Know your assignment

- Clear understanding of the Job including scope of work, role & responsibility of actuary
- Assurance from client to provide sufficient time and resources (client's point of contact time and required data) to complete the assignment
- Ensure he/she is qualified & capable to complete the assignment while complying with the requirements of professional standards and code of conduct

Such discussion allows an actuary to understand if he/she will be able to provide correct, clear and reliable advice/results to the client

Recommended actions

Demonstrate professionalism

- **Reach out to prior actuary:** to understand if there is any professional reasons to not accept the assignment
- **Client's consent:** Before reaching out to the previous actuary take client's consent on the same.
- ***Form an opinion on materiality of the concerns raised by prior actuary:***
 - Accept his/her opinion considering it is given in good faith with no attempt to obstruct this client from changing advisors
 - Basis the information obtained from the prior actuary, form an opinion on the materiality of the concerns raised

Recommended actions

Actions on discovery of past report error:

- Before taking any action, actuary must:
 - Reach out to prior actuary to form a view on
 - If there is actually a misconduct
 - If misconduct can be resolved by taking remedial action
 - Consider the materiality of the errors on:
 - The client
 - Reputational damage of profession



Recommended actions

Actions on discovery of past report error

- Refer the matter to the professional body
 - If above discussions were not satisfactory
 - Ensure confidentiality requirements are met including any waiver required from the client
 - Follow procedures for enquiry of professional and other misconduct



Recommended actions

Ensure confidentiality isn't breached

- Content of the report is confidential to actuary and actuary's client. Unless there is consent from the client, the content cannot be disclosed
- Breach of confidentiality is considered as a misconduct under Actuaries Rules, 2006

Recommended action

Clearly discuss contracting requirements:

- Scope of work
- Project plan including timelines and role & responsibility of each party
- Fee and payment schedule
- Information required from the client to prepare results
- Report structure

This help manage client expectation clearly safeguarding the service provider from unknown risks

Recommended action

Clearly discuss contracting requirements

Scope of work includes data validation:

- Include validation of input collected from the client as a mandatory part of process to:
 - check the information received is sufficient and reliable data by validating it for completeness, accuracy and consistency.
 - Evaluate the materiality of limited/ incomplete/ erroneous data
 - Evaluate the extent of modification required in the data

Recommended action

Clearly discuss contracting requirements

Report structure:

- Agreement from client on the structure of the report covering following:
 - the scope and intended use of the report
 - Any restrictions on distribution;
 - the date of the report; and
 - identification of the authorship of the report
 - All required disclosure as per the applicable benefit

This ensures the report is used for intended purpose and actuaries advise is not taken out of context

Recommended action

Clearly discuss contracting requirements:

Data from third party:

- Consider caveats in contracting terms if assignment requires actuary to rely on information collected from a third party considering
 - Nature and extent of such reliance
 - qualification, competence, integrity and objectivity of the source,
 - Compliance with actuarial standard practice, guidance and regulations governing use of such information

Upfront discussion on this topic safeguards against any unforeseen issues with the client while ensuring user of the report are confident of actuary's work, skill, objectivity and integrity

Recommended actions

Decline the assignment if

- the client refuses to provide the consent to make contact with previous actuary
 - ✓ The refusal to consent is indicative of potential concerns that client want to mask
- there are material concerns raised by previous actuary
- there is material deficiency in the data obstructing actuary from providing his/her service within his professional requirements
- Client expects biased results
- Insufficient time/resources available
- Serious misconduct suspected but unresolved



Questions?

Case Study : Professional Crossroad | Employee Benefits Valuation