

NEW ZEALAND SOCIETY OF ACTUARIES

PROFESSIONAL STANDARD NO. 9

COMMUNICATION OF PROFESSIONAL ADVICE

MANDATORY STATUS

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1. Introduction

1.1 Application

This standard applies to every Member providing Professional Advice, as defined in this standard. If the Professional Advice is provided jointly by the Member and another person or Firm, the Member remains responsible for compliance with this standard.

The Member is responsible for determining the extent to which this standard applies to any communication of Professional Advice.

1.2 Background and purpose

The Society's Professional Standards specify certain reporting requirements, largely regarding statements to be made in respect of technical matters. However, some general matters are not dealt with in those standards, and Members frequently provide Professional Advice in areas not covered by the Society's technical standards. The purpose of this Reporting Standard is to set out a general framework to cover the communication by Members of Professional Advice, both in a Formal Report and in other ways.

Minimum requirements for all communications are set out in section 4 of this standard. The specific requirements for Formal Reports are set out in sections 5 and 6. Section 7 covers advice not presented in a Formal Report.

If a Formal Report is within the scope of one of the Society's other Professional Standards, both the reporting requirements of the other Standard and the requirements of this Standard are applicable.

1.3 Previous versions

This is the first version of this standard.

1.4 Legislation

There is no legislation relevant to this standard.

2. Effective date

This standard takes effect from 1 September 2009.

3. Definitions

Apart from the definitions Formal Report, Material and Professional Advice, the following definitions are taken from the Code.

Actuarial Advice: means written, electronic or oral Advice:

- (a) given by a Member in a professional capacity in areas of work in which actuaries are reasonably understood to have expertise; or
- (b) given by a Member and relied upon by the recipient because the recipient reasonably believes the Advice to be given in a professional actuarial capacity;

including, but not limited to, Advice:

- (i) in accordance with legislative requirements, or standards or guidelines set by a Government or statutory agency or regulator;
- (ii) in accordance with any standards or guidance issued by the Society;
- (iii) as an expert witness before a court of law or statutory tribunal;
- (iv) as a participant in the disciplinary scheme of a professional body;
- (v) in relation to liability or asset valuations, economic valuations, premium setting, investment strategy; or
- (vi) for the purpose of providing information needed to prepare financial reports for a business entity or government agency, or for the purpose of preparing such reports

and includes Advice provided on a pro bono basis.

Advice: includes any conclusion, result, opinion or recommendation.

Client: means the person or organisation, including an Employer, to whom a Member's Advice is primarily directed.

Code: means the Code of Professional Conduct adopted under clause 16 of the Rules of the Society.

Employer: means a person or Firm employing any Member under a contract of service.

Firm: means an entity of which a Member is an employee, contractor, director, partner or sole proprietor, and includes a sole trader, unless the context otherwise requires.

Formal Report: means any written document (whether "hard copy" or "soft copy") conveying Actuarial Advice to a Client that is:

- provided in a statutory role, and/or
- within the scope of one of the Society's other Professional Standards, and/or
- Material in its impact.

To avoid doubt, a Formal Report does not include anything written for general publication such as in a book, newspaper or magazine, or anything written for the education of others or for presentation/discussion at a conference or similar event.

Material: means important or significant, in the professional judgment of the Member and/or in accordance with generally accepted practice.

Member: means a member of the Society.

Professional Advice: means advice given when the Member is providing a service in a professional capacity, including Actuarial Advice, and including a service provided on a pro bono basis.

Society: means the New Zealand Society of Actuaries.

4. Minimum requirements

4.1 Code of Professional Conduct

The Society's Code, particularly section 5 "Actuarial Advice", sets out requirements that the Member must take into account in addition to the requirements of this standard when determining the content of any form of advice. Extracts from the Code which took effect on 1 October 2006 are set out in the Appendix to this standard.

The Member is responsible for determining which of the requirements of the Code apply. The Appendix may not include all of the requirements relevant to any particular situation, and may not reflect updates of the Code.

To avoid doubt, it is expressly stated that no part of this standard can be used to justify non-compliance with the Code. It remains the Member's responsibility to comply with the Code at all times.

4.2 Third parties

In considering the requirements of the Society's Code and this standard, Members should assume that a Formal Report is likely to be disclosed to third parties unless its distribution is specifically restricted.

4.3 Availability

In communicating their findings, Members must show clearly that they are available to provide supplementary information and explanation about scope, methods and data.

5. Formal Reports

5.1 General

A Formal Report must include the following, if applicable:

- a) A title
- b) The effective date of the Formal Report, and the date on which the Formal Report was completed
- c) The name and relevant professional qualifications of the Member, and the capacity in which the Member is acting
- d) The name of the Firm or Employer of the Member providing the advice
- e) The name(s) of any others responsible for the advice
- f) The title of any relevant Professional Standard of the Society, other than this standard, and a statement regarding compliance with the Professional Standard(s)
- g) The title of legislation that is directly relevant to the advice in the Formal Report
- h) The name of the Client
- i) Statements of the extent of, and any limitations to, the Member's responsibilities both to the Client and to third parties
- j) A statement of the extent to which the advice in the Formal Report should or should not be relied upon by third parties
- k) The name of the party that commissioned the Formal Report (if different from the party to whom it is addressed)
- l) Reference to any relevant previous work, including work by another author, which has a Material bearing on the Actuarial Advice contained in the Formal Report
- m) If any events have occurred between the effective date (if any) of the results in the Formal Report and the date the Formal Report is completed which the Member considers may have a Material effect on the results in the Formal Report, a statement to this effect

5.2 Reliance on the advice of others

If a Member is relying on the advice of another in formulating his or her Actuarial Advice, appropriate reference should be made in the Formal Report.

5.3 All Material matters to be included

The Member must ensure that all matters Material to the Actuarial Advice are included in the Formal Report, or that appropriate reference is made to another Formal Report in which the information can be found.

The Formal Report must address any uncertainties inherent in the use of assumptions and in the methodologies used. Where outcomes are subject to Material uncertainty, the Formal Report must convey the uncertainty, its implications, and the steps taken (if any) to allow for the uncertainty.

If a Member believes that there are Material issues which are relevant to the Actuarial Advice but which are outside the terms of reference, or if the Member believes that the scope of the work should have been wider in order to include other Material issues, the Member must make an appropriate statement in the Formal Report.

5.4 Purpose, scope and use

A Formal Report must state the use for which the advice is intended and the purpose of the advice, including a summary of the scope of the Actuarial Advice, of any agreed terms of reference and of any other instructions given by the Client.

If Material, the Formal Report must include:

- a) Comment on the extent to which the Formal Report falls short of or goes beyond its stated purpose
- b) Any limitations on the use or relevance of that advice e.g. due to the scope, purpose, terms of reference of the Formal Report or to time or cost constraints
- c) A statement that the Formal Report should be considered in its entirety, and that the distribution of parts of the Formal Report is therefore discouraged (except where a section has been prepared specifically for distribution in isolation, in which case that section must comply with the requirements of section 6.1 “short form” reports)
- d) An outline of the circumstances in which the advice can be relied on and a statement that the advice should not be used in other circumstances.

5.5 Method and assumptions

A Formal Report must include sufficient detail on the methods and assumptions used in formulating the Actuarial Advice to enable the reader to assess the appropriateness and implications of the Advice and for another appropriately qualified professional to judge whether the work has been done in accordance with generally accepted practice.

The Formal Report must include, to the extent that it is Material:

- a) A description of the methods used
- b) A description of all information and data on which reliance has been placed, with commentary on any quality issues and the extent to which the Member has verified and takes responsibility for the information and data
- c) Disclosure and discussion of any assumptions made, both explicit and implicit
- d) Information in regard to sensitivity of results to key assumptions and associated risks
- e) Comment on the fact that there could be uncertainties which have not been allowed for in formulating the Advice and which could result in significant variation between actual and expected outcomes
- f) A statement of any limitations on the accuracy of results.

6. Other matters

6.1 “Short-form” reports

If a Client wishes to publish the Actuarial Advice contained in a Formal Report, the Member may agree with the Client that both a “long-form” Formal Report (not for publication) and a “short-form” Formal Report (for publication) will be produced. In this case, the Actuarial Advice in the “short-form” Formal Report must be consistent with the Advice in the “long-form” Formal Report, and refer to the “long form” Formal Report.

6.2 Drafts

A Formal Report initially issued in draft form must be clearly identified as draft and any limitations on its applicability and on the responsibility taken by the Member for the advice therein must be clearly stated.

7. Advice not presented in a Formal Report

Professional Advice may be communicated in forms other than a Formal Report, including oral and/or visual presentations as well as written (both hard copy and soft copy) documents that are not Formal Reports.

When communicating in a form other than a Formal Report, the Member must consider the requirements of this standard and determine which of those requirements should be applied. The level of detail provided and the extent to which the requirements of this standard are met will depend on the nature of the communication and the advice.

It is possible in some circumstances that some of the requirements of this standard can be adequately covered in an abbreviated form. The Member must apply his or her judgment in each instance.

When communication is oral, the Member must consider whether there is any Material possibility of the advice being misunderstood, and if so provide the advice in writing as well.

Appendix: Extracts from NZ Society of Actuaries Code of Professional Conduct

(effective 1 October 2006)

- 5.1.1 When providing Actuarial Advice, the Member must ensure that it is clear to all concerned the identity of the Member's Client and the Member's Firm, and the capacity in which the Member is acting.
- 5.1.2 Members must disclose in any report all information on which they have placed material reliance in preparing Actuarial Advice. This includes any situation where the Member has relied upon informal information provided by the Client, in which case the nature and significance of this reliance must be commented on in the report.
- 5.1.3 When providing Actuarial Advice, Members must exercise their professional judgment on all matters material to the Advice. Unless there are limitations on the data or the Client has instructed otherwise, Members must ensure that Actuarial Advice is based on sufficient and reliable data, on adequate and appropriate assumptions, and on sound actuarial principles. Where there are limitations on the data or the Client has instructed otherwise, this must be disclosed in any report containing that Advice.
- 5.1.4 Actuarial Advice given to a Member's Firm or to a colleague within the same Firm, whether or not the colleague is a Member, must meet the same standards as external Actuarial Advice.
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- 5.1.6 If work which a Member considers necessary is precluded by cost or time constraints the Member must either decline to act or qualify the Actuarial Advice given.
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- 5.3.1 A Member giving Actuarial 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 the Advice that would be given to another Client or to a third party whose objectives and requirements may be different.
- 5.3.2 Actuarial Advice must be unaffected by interests other than those of the Client and any third party for which the Client has an identifiable professional or legal duty of care.

5.3.4 In circumstances where a Member might reasonably be perceived to lack impartiality, including where an actual or potential and material conflict of interest exists, the Member must not provide Actuarial Advice unless there has been a full disclosure to the Client of the cause of such a perception of lack of impartiality, and the Client has expressly agreed in writing to the Member providing Actuarial Advice. The Member must also disclose this cause in any Actuarial Advice and must take reasonable steps to ensure third party recipients who are likely to be materially affected by the Actuarial Advice are made aware of the circumstances.

5.3.5 If a Member is recommending the services of a third party, the Member must disclose any relevant connection between the third party and the Member or the Member's Firm.

5.3.7 If a Member is acting as an expert witness, the Member is an advisor to the court and should not act as an advocate for his or her Client. In this capacity, the Member must ensure that Actuarial Advice given is not affected by which of the parties the Member is acting for.

5.3.8 If a Member is providing Actuarial Advice regarding a transaction, the Member's Advice must be impartial unless the Member's Client has instructed the Member otherwise. If the Member has been so instructed, any Actuarial Advice provided by the Member must include a statement to this effect and details of the relevant instructions. When accepting such instructions, the Member must alert the Client to the fact that the Member's report will include such a statement, and the Member must also consider the application of clause 5.3.7 in the particular circumstances.

5.4.1 A Member must disclose to a Client prior to commencement of an assignment any direct or indirect compensation that the Member, or any party related to or associated with the Member, may receive from any source other than the Client as a consequence of the Member undertaking work for the Client.

5.4.2 A Member who has a financial interest in a Client, or receives any form of remuneration based on the financial results or share price of that Client, must ensure that this is disclosed in any Actuarial Advice to that Client. The Member must also take reasonable steps to ensure that this disclosure is included where the Member knows or reasonably believes that this Actuarial Advice will be provided, in whole or in part, to third parties who may rely on and be materially affected by it.

- 5.4.3 Members must exercise due care in accepting fees for the provision of Actuarial Advice that are contingent upon an outcome related to the Advice. Members must ensure that such fees are appropriate in the circumstances and must ensure that the fees will not impair, or could not be seen to impair, the impartiality of their Actuarial Advice. Where work is carried out on a contingent fee basis, the basis of the fee should be disclosed in any report.

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- 5.7.1 If a Member knows or reasonably believes that his or her Actuarial Advice, including any précis of or addendum to the Actuarial Advice, will be transmitted in whole or in part to a third party, the Member must take reasonable steps to ensure that authorship is acknowledged to the third party, that any material implications or limitations of the Actuarial Advice are stated, and that the Actuarial Advice is not presented in a way likely to give a misleading impression. In circumstances where the third party has been or is likely to be misled, the Member must consider the provisions in section 5.1.7.
- 5.7.2 Even if the Member has no specific reason to believe that his or her Actuarial Advice will be transmitted to a third party, the Member must clearly state any restrictions on the broader application of the Actuarial Advice.