



# Singapore Actuarial Society Practising Certificate Seminar VII

## SPEAKING UP

The contents of this presentation are for general information and should not be construed as legal advice. If a member is involved in a material speaking up issue, the member should consider seeking expert legal opinion.



# Speaking Up

- What is it?
  - To speak up if believe that a course of action is unethical or is unlawful
- So What?
  - *“Our lives begin to end the day we become silent about things that matter.”* - Martin Luther King;
  - Early action can allow issue to be tacked early and help maintain reputation of company or individuals;
  - Public Interest;
  - KPMG and SMU Singapore Fraud Survey 2014 indicted 54% of frauds were from notification by employees or customers <sup>a)</sup>
- Why is it necessary?
  - *“executives are prepared to compromise their own integrity – and often commit illegal acts – in a perverted view [that] the priority is to ‘protect’ the company at any cost, although many times such logic cloaks the real motivation of self-interest.”* John Woodford ex-CEO Olympus Japan

a) <https://www.businesstimes.com.sg/companies-markets/boardroom-matters/responding-to-anonymous-whistleblowers>



# Some Types of Behaviour

- Unfairly abusing one's position
  - Fraud/Corruption
  - Theft
  - Insider Dealing
  - Market Manipulation
  - Materially prejudice policyholders/customers
  - Misconduct
  - Breaches of Policy or Contract
  - Workplace Safety
  - Bullying
  - Harassment
  - Discrimination



# Some Recent Examples

- World - #Me too campaign on harassment - 2017 and on-going
- Japan - Olympus 2011
- Japan Kobe Steel Oct 2017 - on-going for 40-50 years <sup>a)</sup>
- Haiti/UK - Oxfam Charity scandal - 2018
- Singapore Construction Company e'ees whistle-blow to MoM about fallen crane 2015<sup>b)</sup>
- Malaysia - IMDB - 2015
- UK - Cambridge Analytic, Facebook data and elections - 2018
- Etc, etc...

a) <https://asia.nikkei.com/Business/Kobe-Steel-plants-faked-quality-data-for-decades>

b) <https://www.theonlinecitizen.com/2015/02/23/employees-whistle-blow-on-company-to-mom-over-covered-up-incident/>



# Actuaries Behaving Well?

- USA – drug prices -2018 <sup>a)</sup>
- Chief Actuary of Canada, Bernard Dussault, 1998 re Canada Pension Plan <sup>b)</sup>
- Australia HIH Royal Commission – not reporting to APRA as no protection in force <sup>c)</sup>
- UK – ten in 2004 <sup>d)</sup>
- Actuarial students <sup>e)</sup>
- Singapore Actuaries?

a) <http://www.healthcarefinancenews.com/news/aetna-whistleblower-accuses-cvs-healths-caremark-fraud-medicare-part-d-drug-prices>

b) <https://www.hilltimes.com/2014/07/28/issue-01-07-2002-87/29178>

c) <http://www.austlii.edu.au/au/journals/UTasLawRw/2002/3.pdf>

d) <http://www.theactuary.com/archive/old-articles/part-1/on-the-disappointed-actuary-3F/>

e) <http://www.theactuary.com/students/2015/a-cautionary-tale/>



# MAS View

- Investigates every letter it gets <sup>a)</sup>
- Guideline 12.7 of Code of Corporate Governance “NB -The Authority expects every Financial Institution to observe the Guidelines at Annex 1”
- Strengthening of senior manager individual accountability in financial institutions, including whistle blowing mechanisms in place – CP Apr 2018 <sup>b)</sup>
- **Speech by Mr Lee Boon Ngiap, Assistant Managing Director, Monetary Authority of Singapore, at the 2017 Annual Luncheon of the Life Insurance Association Singapore on 6 March 2017**

“16 Third, escalation policies. A firm’s employees and agents are its best monitors. They should feel safe to speak up and effectively challenge practices and decisions that they may have concerns about. A culture of openness will encourage staff to raise potential red flags on misconduct with confidence and without the fear of reprisals or jeopardising their jobs. It can help firms detect poor conduct at an early stage before the problems take root and become widespread in the organisation.”<sup>c)</sup>

a) [May 2018 Singapore Actuarial Society Practising Certificate Seminar VII](#)



# Singapore Generally

- No overarching protection but:
  - MAS – encourage the public to report any fraud, unethical behaviour or breaches in our Code of Conduct by our staff
  - Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act – exceptions to duty of confidentiality
  - Prevention of Corruption Act- anonymity for whistleblowers in some circumstances
  - Workplace Safety & Health Act –protection against dismissal for whistleblowing for matters within this act
  - Employment – report anonymously to MoM
  - Competition Law



# IFOA

## Principle 5 - Speaking Up

5. Members should speak up if they believe, or have reasonable cause to believe, that a course of action is unethical or is unlawful.

5.1 Members should challenge others on their non-compliance with relevant legal, regulatory and professional requirements.

5.2 Members must report to the Institute and Faculty of Actuaries, as soon as reasonably possible, any matter which appears to constitute Misconduct for the purposes of the Disciplinary and Capacity for Membership Schemes of the Institute and Faculty of Actuaries and/or a material breach of any relevant legal, regulatory or professional requirements by one of its Members.

5.3 In addition to complying with any legal requirements to report matters to relevant regulators or other authorities, Members should also report to those bodies any behaviour that they have reasonable cause to believe is unethical or unlawful, and carries significant risk of materially affecting outcomes.

5.4 Members must take reasonable steps to ensure users are aware of any substantial issues with a piece of work for which they are responsible or in which they have had significant involvement, if those issues might reasonably influence the decision-making or judgement of users.





# SoA

## Professional Conduct

- **PRECEPT 1.**

**ANNOTATION 1-2.** An Actuary shall not provide Actuarial Services for any Principal if the Actuary has reason to believe that such services may be used to violate or evade the Law or in a manner that would be detrimental to the reputation of the actuarial profession

- **PRECEPT 13.** An Actuary with knowledge of an apparent, unresolved, material violation of the Code by another Actuary should consider discussing the situation with the other Actuary and attempt to resolve the apparent violation. If such discussion is not attempted or is not successful, the Actuary shall disclose such violation to the appropriate counseling and discipline body of the profession, except where the disclosure would be contrary to Law or would divulge Confidential Information.
- **ANNOTATION 13-1.** A violation of the Code is deemed to be material if it is important or affects the outcome of a situation, as opposed to a violation that is trivial, does not affect an outcome, or is one merely of form.
- **ANNOTATION 13-2.** An Actuary is not expected to discuss an apparent, unresolved material violation of the Code with the other Actuary if either Actuary is prohibited by Law from doing so or is acting in an adversarial environment involving the other Actuary.

<https://www.soa.org/Files/static-pages/about/governance/soa-code-of-professional-conduct.pdf>



# Actuaries Institute

- 4.1.4 A Member who reasonably believes that another Member may have committed a breach of this Code or of a Professional Standard must first consider discussing the matter with the other Member with a view to resolving it. If the matter cannot be resolved, or if either Member does not consider such a discussion to be appropriate or constructive, the concerned Member must seek the guidance described in clause 4.2.4 . Following such steps the concerned Member, if warranted, must consider his or her duty to make a complaint in accordance with the rules of the Disciplinary Scheme.

<https://www.actuaries.asn.au/library/Standards/CodeofProfessionalConductNov2009.pdf>



# SAS

4. A Member who believes that there had been a breach of this Code by a member is required to bring the matter to the attention of the President. Senior Fellows have a duty to guide Members in the application of this Code in their dealings with the public and other members.



# Speaking Up –It ain't easy

- **Barclays CEO fined GBP 642k attempting to identify whistle-blower <sup>a)</sup>**
- **'Whistle-blower' taped to chair and gagged <sup>b)</sup>**

a) [http://www.leaderlive.co.uk/news/national/16220060.Barclays\\_chief\\_executive\\_fined\\_642\\_430\\_for\\_trying\\_to\\_unmask\\_whistleblower/](http://www.leaderlive.co.uk/news/national/16220060.Barclays_chief_executive_fined_642_430_for_trying_to_unmask_whistleblower/)

b) <http://www.bbc.com/news/uk-scotland-44222575>



# Challenges

- Lack of protection – end of career?
- Sense of loyalty and belonging?
- Business relations based on personal relationships, trust and mutual benefit
- Authorities lukewarm response?
- Culture of group over individual
- Low power distance/high power distance cultures

<https://www.w-t-w.org/en/osita-mba-a-lawyer-and-whistleblower-investigated-punishment/>



# Help Available

## Whistleblowing

From time to time Institute and Faculty of Actuaries (IFoA) members may be faced with difficult decisions about reporting certain matters which come to their attention

It is important that members feel able to cope with those situations and report relevant information, when required.

Ensuring that our members, and employers of actuaries, have the tools and support to deal with whistleblowing situations is not only of benefit to our members and the IFoA but, crucially, also helps to protect the public interest. For that reason, we have produced two whistleblowing guides, one aimed at actuaries and the other at those organisations which employ actuaries:

- [Whistleblowing: A guide for actuaries](#)
- [Whistleblowing: A guide for employers of actuaries](#)

**We also offer a confidential advice line for whistleblowing concerns which is provided by the whistleblowing charity, [Public Concern at Work](#)**

<https://www.actuaries.org.uk/upholding-standards/whistleblowing>



## What can you do?

- Know what is expected of you by your professional bodies;
- Ensure you are comfortable with the ethical practices of a company before you take a role;
- Know your company's whistle blowing process;
- Embed an open culture in the company where early internal speaking up is encouraged – in a no blame environment;
- AA/CA senior individual – lead by example - attempt to prevent unethical/illegal behaviour at the idea stage



# Singapore Actuarial Society

## Case Study 1 - Relying on Others

C is the newly appointed Certifying Actuary of an Established company W. This is his first job with W, however C is an experienced actuary having held the CA position at a number of companies.

When going through the various reserving tools of W he comes across an old programme used to set the reserves for a long tail line of business. The reserves for this line of business are roughly 10% of the overall solvency reserves.

C has a lot of experience with this line of business and feels that the reserves held are very low and are about one half of his expectation. The reserving model is an old Cobol programme and is just a black box.

The previous CA, now on the Board, relied on this model for the last 10 years and was assured by his predecessor that the model was robust and fully tested.

What should the new CA do:

- Continue to rely on the model.
- Qualify the valuation until he unravels the black box.
- Add a relatively small contingency margin for the likelihood that the reserves are too few.
- Add the full amount the CA thinks the reserve should be.

Points to note:

- He knows something is wrong but cannot prove it.
- Has to communicate this uncertainty to management particularly the past CA.
- Can't suddenly overturn previous actuary without good reason.
- Are there other "errors".





# Singapore Actuarial Society

## Case Study 2 - Letter of the Law

X is a large global insurance group which has recently approved a subsidiary life insurance company in a fast growing market. The management of X is excited about this new company and have in place comprehensive plans for its growth. B has been appointed as the Appointed Actuary of the company and this is a significant opportunity for her. She has never held such a high position before.

As part of X's subsidiary plans they have purchased an office block and hold it in their subsidiaries Life Insurance Fund. Solvency regulations in the country are currently very much at the discretion of the Appointed Actuary, however the local actuarial society has promoted a more explicit solvency approach and B is one of the vocal champions of the new approach. This approach will soon be implemented.

At the first year end the office block forms more than 50% of the assets of the fund. For solvency purposes under the new proposed solvency rules a single office bloc cannot count for more than 20% of the assets.

Projections show that the office block will comfortably be less than 20% of the fund in one year's time.

On the face of it the life fund would be insolvent if the new regulations, supported by B, were in force.

What should B do?

Points to note:

- Ignore the problem and certify solvency.
- Insist that the block should only count for 20% of the assets and report insolvency unless the shareholder put in more money.
- Accept the offer from a Friendly Reinsurer who proposes a Reinsurance Arrangement which is disallowed under most solvency regimes.



# Homework

- Colleague having an affair with a subordinate
- <https://www.straitstimes.com/singapore/blow-the-whistle-on-office-affair>



# Thank You!