



DAV

DEUTSCHE
AKTUARVEREINIGUNG e.V.

Ergebnisbericht des Ausschusses für berufsständische Fragen

**Prinzipien zur Governance der
internationalen aktuariellen Arbeit**

Köln, 15. Dezember 2021

Präambel

Der Ausschuss für berufsständische Fragen der Deutschen Aktuarvereinigung e. V. (DAV) hat den vorliegenden Ergebnisbericht erstellt.

Zusammenfassung

Die International Actuarial Association (IAA) hat die im Folgenden (auf Englisch) dargestellten Prinzipien zur Governance der aktuariellen Arbeit im internationalen Kontext als unverbindliche Hilfestellung für ihre Mitgliedsvereinigungen erarbeitet.¹ Da diese Ausführungen zur grenzüberschreitenden Anwendung des berufsständischen Regelwerks auch für Aktuare, die international tätig sind, von Interesse sind, hat sich der Ausschuss für berufsständische Fragen entschieden, diese in Form eines Ergebnisberichts zur Verfügung zu stellen.

Um zu verdeutlichen, auf welche konkreten berufsständischen Anforderungen jeweils Bezug genommen wird, wird an passender Stelle auf die entsprechenden Regularien der DAV verwiesen.

Der Ergebnisbericht ist an die Mitglieder und Gremien der DAV zur Information über den Stand der Diskussion und die erzielten Erkenntnisse gerichtet und stellt keine berufsständisch legitimierte Position der DAV dar.

Verabschiedung

Dieser Ergebnisbericht ist durch den Ausschuss für berufsständische Fragen am 15. Dezember 2021 verabschiedet worden.

¹ International Actuarial Association (November 18, 2020): [PG2 - PRINCIPLES IN RELATION TO THE GOVERNANCE OF INTERNATIONAL ACTUARIAL WORK](#).

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1. Definition of “International Actuarial Work”

1.1.

International Actuarial Work, for the purpose of this document, is defined as work that is under the jurisdiction or regulation of one country, but is carried out by an actuary whose principal jurisdiction of practice or the jurisdiction of their professional membership is in a different country.

1.2.

The “governance” of International Actuarial Work refers to the regulation and supervision of the actuary’s conduct and work by member associations of the International Actuarial Association (IAA).

1.3.

International Actuarial Work is broadly therefore actuarial work in relation to which the law/standards/regulatory frameworks of more than one country are relevant and material. More specifically, it is taken to include ‘actuarial work’² in relation to which the legal/ regulatory requirements of more than one legal jurisdiction or IAA member association³ are relevant and material.

1.4.

The following are a set of principles that might be applied by IAA member associations, with a view to avoiding or addressing the potential for inconsistency, duplication or gaps in relation to the governance of International Actuarial Work.

² ‘Actuarial work’ is assumed in this context to be defined broadly, to include any work done by members of IAA associations in their capacity as actuaries, including work done for the purposes of providing ‘Actuarial Services’, as defined in ISAP 1.

³ It is recognized that the regulatory jurisdiction of IAA member associations will usually arise from membership, and may not necessarily or primarily depend upon geographic/ territorial considerations. Equally, it is recognized that in certain geographic territories there may be more than one IAA body which has jurisdiction. It is envisaged that the principles set out in this paper might, according to the circumstances, also be relevant in that context i.e. where there is more than one relevant legal or regulatory framework operating within a single geographic area or territory.

2. Proposed Principles

2.1. **Qualification, Codes and Standards**

2.1.1.

Where an actuary is subject to and adheres to a **Code of Conduct** it helps to ensure that the actuary is competent to undertake work for which they are responsible, and have an appropriate understanding of relevant legal and regulatory requirements applicable to them and to that work.

2.1.2.

Except to the extent that they are inconsistent with relevant mandatory legal or regulatory requirements, actuaries therefore apply the code and standards and satisfy the **educational and qualification standards**⁴ and requirements, where applicable, of each of the full IAA member bodies of which they are a member⁵.

2.1.3.

An actuary may be required by the code of conduct of the actuary's home association or the applicable law to comply with the local standards in another country. An applicable code of conduct may require an actuary to state which code of conduct and *which standards the actuary is applying*⁶ when performing an assignment outside of the actuary's home jurisdiction.

2.1.4.

Where there is inconsistency between the codes, qualification standards and/or **practice standards** which an actuary would be required to apply to a piece of work, or between those standards and others which are more relevant to the work in question, reasonable judgment is exercised by the actuary in determining which code, qualification standards and practice standards to apply, and the extent to which they apply, having regard to all of the relevant circumstances, including the following considerations:

⁴ By 'qualification standards' we mean the standards or requirements, imposed by a body of appropriate authority, which actuaries are required to satisfy in order to be considered qualified to perform the work in question. These may include initial educational requirements required to obtain sufficient knowledge to practice (broadly or in a particular practice area), CPD requirements and/or experience requirements. In some jurisdictions these may include, for example, practicing certificates.

⁵ Die DAV ist Unterzeichnerin des „Mutual Recognition Agreements (MRA)“ der Actuarial Association of Europe (AAE) zur gegenseitigen Anerkennung von Aktuarausbildung und Mitgliedschaft. Sie ermutigt daher ihre Mitglieder ausdrücklich, wenn diese in einem Land einer anderen Mitgliedsvereinigung der AAE beruflich tätig sind, dort über das MRA die Mitgliedschaft anzustreben.

⁶ Aktuare müssen die für sie relevanten Hinweise und Richtlinien kennen und benennen können. Die Fachgrundsätze der DAV finden sich auf der Webseite der DAV www.aktuar.de, insbesondere im internen Bereich, in den jeweiligen Fachbereichen.

- The values embodied in the *Principles of Professionalism*⁷;
- The context in which, and purpose for which, the work is being provided;
- Relevant expectations and norms in the context in question; and
- The need to safeguard the interests of the client and of the public in relation to the work in question.

2.1.5.

Where the actuary is faced with a situation as identified above the actuary may consider it appropriate to indicate the standards that have been applied in their work and the rationale for the associated decisions.

2.1.6.

Associations may consider it appropriate to include *consideration of international and cross-border practice*⁸ in the development and maintenance of their code, qualification standards and (where applicable) standards of practice. Ideally this is done so as to reduce or avoid situations of direct conflict with applicable codes and standards applied to their members and the members of other IAA associations.

2.1.7.

Associations may consider it appropriate, in their guidance to individual member actuaries, to attempt to avoid situations where their members might undertake an assignment outside the actuary's home jurisdiction for which the actuary would not be considered qualified by the local actuarial organization or where the actuary might not meet professional standards that would normally apply to actuaries working in the outside jurisdiction. For example, some associations require that their members meet the local qualification and practice standards of the outside jurisdiction whilst others require that their members apply their own standards unless the outside jurisdiction standards are more onerous.

2.2. **Continuing Professional Development (CPD)**

2.2.1.

Many actuarial organizations or other actuarial authorities include a requirement for **continuing professional development** in their requirements for membership

⁷ Dies bezieht sich insbesondere auf Artikel 2 der DAV Standesregeln: Professionalität, Integrität und Kompetenz.

⁸ Die Ausschüsse und Arbeitsgruppen der DAV sind international vernetzt und versuchen, bei grenzüberschreitenden Themen, wie z.B. die internationale Rechnungslegung, europäische oder globale Entwicklungen bei der Erarbeitung von Fachgrundsätzen umfassend zu berücksichtigen.

or in their qualification standards. These requirements may range from highly prescriptive *requirements with numerous rules*⁹, to general principle-based requirements.

2.2.2.

In general, compliance is expected with the CPD regimes of every IAA member association of which the actuary is a member. The actuary may also be required to fulfil an organization's CPD requirement in order to fully meet a local qualification standard. This may create difficulties to the extent CPD undertaken to fulfil one organization's requirement cannot be used to help fulfil another organization's CPD requirement.

2.2.3.

Associations may therefore consider whether it is appropriate to *recognize CPD undertaken in fulfilment of the requirements of another full IAA member association*¹⁰ and to recognize compliance with the CPD regime of that other association as fulfilling their own requirements, including any such requirement incorporated into qualification standards. This suggestion is not meant to imply that an association should lower the level of acceptable actuarial practice.

2.2.4.

Where possible and appropriate, member associations consider whether it is appropriate to cooperate with each other on CPD related matters to avoid duplicative requirements, either in relation to the undertaking of the substantive CPD itself, or in relation to the compliance burden associated with the regulation of CPD.

2.3. Disciplinary Investigation and Enforcement

2.3.1.

Actuaries are subject to the professional **disciplinary jurisdiction** of those IAA member association(s) of which they are a member. Each association retains its jurisdiction to deal with disciplinary matters in relation to its members.

⁹ Die DAV Weiterbildungsordnung sieht einen Umfang von 60 Stunden an formeller und informeller Weiterbildung vor, der über einen Zeitraum von drei Jahren im elektronischen Weiterbildungskonto, welches jedem Mitglied zur Verfügung gestellt wird, zu dokumentieren ist.

¹⁰ Die DAV Weiterbildungsordnung sieht folgende Anerkennungsregelung für Weiterbildungsaktivitäten bei einer anderen Aktuarvereinigung vor: „Besitzt ein Mitglied der DAV eine Mitgliedschaft in einer ausländischen Aktuarvereinigung, die Vollmitglied der IAA ist, und weist nach, dass es die Weiterbildungsanforderungen der Schwestervereinigung erfüllt hat, so schreibt der Weiterbildungsausschuss dem Mitglied auf schriftlichen Antrag für das jeweilige Jahr 20 Stunden gut. Ein Verbuchen weiterer Stunden im Weiterbildungskonto ist für dieses Jahr dann nicht mehr möglich.“ (§8 (9))

2.3.2.

Subject to the considerations in paragraph 2.3.3 below, member associations may consider whether it is appropriate to facilitate the sharing of relevant information with other IAA associations¹¹ in relation to disciplinary proceedings, and to cooperate where appropriate in relation to the disciplinary investigations and/or proceedings of other member associations.

2.3.3.

Sharing of information should take into account any relevant laws, regulations and court rulings in respect of the entitlement of members and third parties (including actuarial clients) to privacy, confidentiality and/ or data protection.

2.3.4.

Member associations might in particular, while mindful of the overriding importance of procedural fairness, seek to coordinate their disciplinary arrangements in a number of ways:

- They might put in place a formal cross-border discipline arrangement¹² with another association or associations. This envisages in effect that one association (Association 1) assumes, in specific circumstances, some defined formal (legal) responsibility for undertaking investigations as to violation of actuarial standards in its relevant jurisdiction and/or disciplinary proceedings in relation to the members of another association (Association 2). (For example, and most obviously, where the proceedings relate to the conduct of the member of Association 2, whilst practicing in the geographic jurisdiction associated with Association 1).
- A similar, but less formal, arrangement would not involve the conferral of actual legal jurisdiction on Association 1. Instead, Associations 1 and 2 might instead agree simply to provide mutual assistance in relation to disciplinary matters, including the sharing of relevant information, and support in the gathering of evidence for the purposes of disciplinary investigations.

¹¹ Die DAV Disziplinarordnung enthält hierzu die folgende Regelung: „Im Interesse einer länderübergreifenden Fortentwicklung der Standesregeln und Fachgrundsätze kann der Vorstand oder der AbF Informationen über Maßregeln im Sinne von § 1 und den zu Grunde liegenden Sachverhalten in anonymisierter Form und ohne Nennung des Namens des Mitgliedes publizieren und insbesondere anderen Aktuarvereinigungen zur Kenntnis geben.“ (§ 7)

¹² Die DAV ist Unterzeichnerin des „Mutual Recognition Agreements“ der Actuarial Association of Europe (AAE) zur gegenseitigen Anerkennung von Aktuarausbildung und Mitgliedschaft. Zu den Vereinbarungen gehört auch: „All Qualifying Associations shall share relevant information on regulatory and/or disciplinary issues, particularly when requested to do so by another Qualifying Association, subject always to compliance with the relevant requirements of the law.“ (Art. 5 b.) Eine entsprechende Vereinbarung existiert zwischen der DAV und der Actuarial Society of South Africa (ASSA). Über diesen Kreis hinaus hat die DAV keine formalen Agreements abgeschlossen. Es wird im Einzelfall zu entscheiden sein, inwieweit eine Zusammenarbeit mit einer anderen Aktuarvereinigung zu einem konkreten Disziplinarfall sinnvoll ist.

This would not necessarily however envisage the conferral of any formal decision-making authority on Association 1, in relation to the members of Association 2. Arrangements of this sort are known to exist between some associations, and might be effected for example by some form of Memorandum of Understanding.

- In certain circumstances, more than one association may have jurisdiction and be required to undertake separate disciplinary proceedings. It may in these circumstances be appropriate to consider the coordination of disciplinary investigations and/ or proceedings (so as to avoid unnecessary duplication from a practical perspective). It may be appropriate for one association to take the lead in relation to any substantive investigation/ proceedings. This may, for example, be the most relevant association, having regard to the alleged conduct and to the related evidence in the case. Member associations may consider it appropriate to enter into a dialogue with other relevant association(s), where applicable, at the outset of such a case, in order appropriately to co-ordinate the investigation and proceedings, having regard to all of the circumstances.
- Member associations will also wish to consider what weight or recognition they can appropriately give to the disciplinary findings or determination of another association. So, for example, certain European associations are known to have in place provisions which permit a degree of weight or reliance to be placed on the formal findings of another association, thereby avoiding to some extent the need for a further potentially duplicative inquiry into the relevant factual circumstances.