

**MORRIS REVIEW OF THE ACTUARIAL PROFESSION**  
**INTERIM ASSESSMENT**

**RESPONSE BY BARNETT WADDINGHAM LLP**

The Review Team is asked to contact Huw Wynne-Griffith on 020 7776 2200 or [huw.wynne-griffith@barnett-waddingham.co.uk](mailto:huw.wynne-griffith@barnett-waddingham.co.uk) should there be any queries relating to this response.

What follows is the response of the actuary partners of this firm to the Interim Assessment of the Morris Review of the Actuarial Profession. Some of those partners might differ as to the emphasis they might have placed on certain comments but we concluded that these differences were not enough to burden the Review Team with a host of individual responses. Our partner actuaries are mainly involved in pensions and life insurance and so our response is mainly aimed at those practice area.

Nobody likes to be criticised. In particular, a profession that is proud of its contribution to society over very many years will not find it easy to accept criticism despite the constructive motivation behind it. It is easier for individual members of the profession (and in this case, the actuary partners of this firm) to accept criticism of the profession as a whole, but we would respectfully remind the Review Team that whilst our comments might not reflect the views that will, no doubt, be expressed by the profession itself such differences should not necessarily be taken as criticism by us of the profession or of its achievements and actions to date.

It seems to us that the profession has already put in train much of what the Interim Assessment concludes. The very fact that the Review is being undertaken will probably accelerate these processes and result in the profession re-allocating the priority given to each.

## Response to The Morris Review Interim Assessment

At the outset, we would say that, subject to the costs involved being acceptable to those who will have to pay, we agree with the principle of an independent outside agency to oversee aspects of the actuarial profession. In particular, we see oversight as being relevant to technical standards, the professional conduct of actuaries and also the discipline of non-compliant actuaries.

There are important matters of principle to be decided in relation to such oversight, however.

First, to whom is the oversight body answerable? There are good reasons for the body to be answerable to the profession on certain matters (education and CPD, for example) but to the public generally (through the FRC?) on other matters (the Actuarial Standards Board, for example). This would imply more than one oversight body.

Secondly, how much lay representation should there be on that body? Lay members would add credibility to the oversight body and as such they would have to be an important element. Lay members need not be a majority at all times, though. Setting technical standards might be an area where lay members could be in a minority, for example. On the other hand, the discipline of non-compliant actuaries would be an area where a majority of lay members might be more reassuring to the public. These differences would also imply more than one oversight body.

Thirdly, the skills and knowledge of the members of the oversight body would have to correspond with the function they were to perform. This again implies more than one oversight body.

Notwithstanding the above, if there is to be a single body, then that body needs not be the FRC (but the fact that the FRC exists does suggest that the possibility of using this body should be investigated). We believe that so much change would have to be made to the FRC “*to make it fit*” that one might as well start from scratch - albeit using the FRC as the model.

We refer in what follows to such a body or bodies as “the oversight body”.

## **CHAPTER 1: INTRODUCTION**

1. We offer no comments on other than to endorse the sentiment that the actuarial profession is not so much about providing greater certainty as it is about the modelling, analysis and communication of the effects of uncertainty about future events and in a way that enables users of actuarial advice to make informed decisions.

## **CHAPTER 2: THE MARKET FOR ACTUARIAL SERVICES:**

2. As to market concentration, our experience is that larger pension schemes will not use the services of smaller consulting firms (we class ourselves as one of the smaller consulting firms). We believe that this is a mistaken view but there is not a lot that we can do about it. This makes it even more frustrating for us to read in the Interim Assessment of a perceived dissatisfaction from users of actuarial advice and barriers preventing clients from switching actuarial advisers. We believe that there are in fact very few barriers and in our experience, the market amongst small and medium-sized pension schemes is very competitive.
3. The sense that we get is that multinational employers feel obliged to use multinational consultancies. We do not accept the rationale for this because the best firm to use in one particular environment might not be the same firm to use in a different environment.
4. There is also a feeling, we believe, that investment advice is best given by consultancies that employ lots of actuaries in that particular practice area. We do not hold with this view because we believe that investment advice (as opposed to the specialised function of selecting investment managers) is an intellectual process that does not require manpower and, in any event, requires a detailed knowledge and understanding of the pension scheme's liabilities. In our opinion, this was not fully appreciated by Myners and, we suggest, possibly not by the Review team.
5. Our experience is that the market in actuarial services is tested relatively frequently although not openly so.
6. We often find ourselves invited to pitch for work only to discover that the appointment remains with the incumbent. We suspect that such investigations are often no more than market testing of fees. This is expensive from our point-of-view and we suspect expensive also from the potential client's point of view. We do not believe that regular market testing (as required for public bodies) is necessarily a good thing. We believe it is wasteful of resources and can lead to disruption of everyday work and create unnecessary inefficiencies.
7. We would agree that our clients tend not to challenge our advice.

## Response to The Morris Review Interim Assessment

8. This could partly be due to a failure to understand the advice we give, although we suspect it is probably more to do with the fact that our clients trust us and believe what we have to say. This is not to say that some element of scrutiny that is currently missing should not be imposed.
9. Against that background we offer the following comments on the options in this chapter.

### *Options for increasing competition*

10. In general, we believe in the power of market forces to rationalise and to improve the services demanded by the market. As such, we have invested a lot in quality control systems and as a result we have adequate PI cover and we have been successful in negotiating liability caps with our clients. Option 1, therefore, is indeed already open to other members of the profession if they put their mind to it and make the necessary investment. Having said that, we do not see how the profession could exercise Option 1, even if it wished to.
11. The unbundling of advice as envisaged in Option 2 would not necessarily lead to greater competition. Such opportunities already exist and many pension schemes take advice from different advisers in relation to different kinds of work.
12. It should also be noted that there is a difference between the provision of professional advice and the provision of services.
13. It is quite often the case that the firms employing actuaries will also provide administration services to their clients. This is, in our opinion, an acceptable combination as it leads to efficiencies that would otherwise be lost. We would not be averse, however, to unbundling investment services although the principal such service would be asset allocation - and that requires knowledge not only of the liabilities but also of the data. That knowledge resides with the actuary who will already have processed the data for valuation purposes and so if the work had to be done by somebody else as well then this would lead to unnecessary duplication for a perceived gain that is not apparent to us.

### *Options for greater scrutiny of performance*

14. We believe Option 4 to be the only viable one of those listed and which is in the power of the profession to deliver.
15. It is difficult to envisage much by way of objective measurement of performance under Option 3 and the formal review of advisers, as envisaged under Option 2, would be expensive and inefficient. Option 1 is not within the gift of the actuarial profession although we support the principle.

## Response to The Morris Review Interim Assessment

### *Options for improving user understanding*

16. Whilst we support the principles underlying each of these options, we are not convinced that the actuarial profession is in a position to deliver them.
17. In particular, under Option 2 our experience is that our clients do not all take up the offer of trustee training that is already on offer. Whether they would be prepared to take up an offer of training in “*How to challenge an actuary*” is very much a moot point.

### *Options for improving clarity of advice*

18. Option 1 this is the basis of this firm’s success.
19. Realistically, Option 2 is probably the best of these four options.
20. Option 3 could be pursued with very little alteration to the existing guidance given to actuaries as to the content of their reports.
21. As regards Option 4, the profession, as well as individual members of it, have for many years been trying to simplify regulations relating to pension schemes. There has been virtually no success with this and I doubt that Option 4 is worth pursuing (but it would be very welcome if it ever happened).

## **CHAPTER 3: THE PROFESSION AND REGULATION**

22. We agree with the contents of paragraphs 3.27 and 3.28.
23. We have some comments to make on the particular items covered in paragraph 3.45.
24. First, we are pleased that the review has felt able to recognise the need for a reserved role for actuaries in certain fields. As members of the profession, we are aware of the responsibilities that go with the privileges of such a reserved role.
25. Secondly, as regards the public interest, we would make the point that the public interest does not necessarily equate with “*the interest of individual members of the public*” as seems to be the interpretation of the Consumers Association.
26. Care needs to be taken in identifying exactly what the public interest is meant to be in different situations.
27. Thirdly, we agree that there is a strong case for a robust CPD regime although we believe there is room for debate as to which members of the profession should be subject to that CPD regime.

## Response to The Morris Review Interim Assessment

28. For example, a non-retired, non-working actuary might find himself or herself subject to an actuarial CPD regime even though he or she does not carry out any actuarial function.
29. We have earlier indicated that standard-setting could be transferred to the oversight body. The same applies to the enforcement of standards and peer review.
30. Our view is that model B as set out in paragraph 3.47 is strongly to be preferred over the alternatives. However, we are not sure what is intended by the final block in Model B (“*Dealing with non-compliance*”).
31. We do not accept the suggestion in paragraph 3.63 that the profession should regulate actuarial firms (rather than just individual actuaries). We understood that the profession had decided against this which appears to be contrary to the statement in paragraph 3.63. Such an arrangement would be unworkable where there were many other disciplines represented in any particular firm. Those members of the other disciplines would find it difficult to accept that they should be regulated by an organisation to which they were not affiliated.

### **CHAPTER 4: ACTUARIAL ROLES**

32. We offer no comment on the reserved role in general insurance although we suspect that general insurance will become an area of increasing concern to the FSA and so the more “answerable” professionals there are in the industry the better.

### **CHAPTER 5: THE PUBLIC INTEREST AND ACCOUNTABILITY**

33. We would agree with the first sentence in this chapter. However, there must also be clarity as to what is meant by “*the public interest*” in different situations.
34. In this context, we would re-iterate the comments made in our initial submission to the Review. From time to time, the public interest is represented by an entity whose interests might be in conflict with those of an individual member of the public.
35. We gave the example of a company with a pension scheme. The interests of that company might well be opposed to the interests of the trustees of the pension scheme and of its members. However, that company has a right to actuarial advice just as much as the trustees of the pension scheme do.
36. It would be against the public interest to limit the actuary advising that company just because there was a concern that in doing so the interests of pension scheme members as individual members of the public might be damaged. This would, in our opinion, be far too narrow an interpretation of “*the public interest*”.

## Response to The Morris Review Interim Assessment

37. We believe this to be an example of the public interest being served whereas the interests of individual members of the public are not being served by the same advice.
38. The FSA and the Pensions Regulator might well have responsibilities that affect the general public and those narrower functions and responsibilities should not be permitted to dictate the wider definition of “*public interest*” as acknowledged in the work done by actuaries for their various kinds of client.
39. Protection for whistle blowers and the circumstances under which whistles should be blown are two separate matters and the one should not depend on the extent of the second.

### *Options for reporting and whistle-blowing*

40. If the circumstances in which reporting is required is closely defined then any circumstance outside the defined list runs the risk of not being reported and such a list could never be comprehensive. We do not favour Option 1.
41. We do not see why the whistle-blowing responsibilities of actuaries and of accountants should be “*brought into line*”. The circumstances under which “events” could occur and the consequences of them are very different. We do not favour Option 3.
42. We are in favour of better protection for whistle-blowers and would agree with any suggestion that the wording should be as tightly drawn as possible. We favour Option 2.
43. The Canadian Institute of Actuaries is quoted in paragraph 5.37 and the Consumers’ Association is quoted in paragraph 5.42. In that context we would wish to see a clear definition of “*the public*” and “*the wider public interest*”. We have earlier indicated that in our opinion, this should not be taken to mean “individual members of the public”.
44. This view would also apply in relation to the comments of paragraph 5.57 “*..potential for significant conflicts between commercial interests and the public interest.*” We would also point to the different circumstances of an actuary advising an employer in relation to his pension scheme where the end user would be that employer’s employees and an actuary employed by a life office where the “end-user” of the advice is that actuary’s employer’s client – the policyholders.
45. There is frequently a conflict between the commercial interests of the actuary and those of the client. For example, the actuary might have to advise his client to wind up the pension scheme. This kind of conflict has in our experience always been handled well.

## Response to The Morris Review Interim Assessment

46. There is also a conflict between the actuary's advice and the interests of those members of the general public who are the "end-users" of the advice. For example, the actuary advising that a closed pension scheme should be invested in bonds and so denying the scheme members any chance of higher benefits from a future equity market recovery. This kind of conflict has in our experience also always been handled well.
47. There is an important conflict that has not been identified in paragraph 5.57 and that is the conflict between the actuary's client and "the public". We have referred to this on more than one occasion already. For example, the advice from an actuary to his client that has the effect of damaging the interests of individuals whilst not damaging the interests of the client. This conflict is not of the actuary's making and the actuary cannot resolve it. If the actuary were prevented from advising then the client will act without advice (and this could be against the public interest) and quite likely with the same effect on individuals as if the actuary had been allowed to give advice.
48. Perhaps the "public interest" matter could be limited to the reserved roles? At least, initially.
49. We accept the need for clear "accountability".

### *Options for the Actuarial Function Holder*

50. Even when Actuarial Function Holders who are employees report matters in good faith, they can still face indirect sanctions from their employer. Therefore, we are in favour of Option 2 as we believe that greater protection is needed for whistle-blowers.

### *Options for the With-Profits Actuary*

51. We believe that under the status quo, a With-Profits Actuary employed by an insurer who gives advice that directly challenges the management would face significant pressure as well as the possible threat of indirect sanctions from the employer. Therefore, we believe that Option 1 does not give adequate protection to the With-Profits Actuary and hence could potentially lead to the detriment of policyholders.
52. We believe that any benefits of making the With-Profits Actuary external to the insurer are outweighed by the combination of reduced effectiveness, the impracticalities and additional cost. Option 2 should not be pursued.

## Response to The Morris Review Interim Assessment

53. Option 3 has the advantage of reducing the risks inherent in Option 1 whilst limiting the disadvantages of Option 2. We also believe that Option 4 can only enhance the protection of policyholder interests while making the insurer's use of discretion transparent to the policyholders. In our opinion, Options 3 and 4 should be combined.

### *Options for the Reviewing Actuary*

54. We do not favour Options 1 and 2 as we share the concerns that the Reviewing Actuary role has no statutory whistle-blowing duties. Except where the Actuarial Function Holder has not advised the board in line with professional guidance, we do not believe that Option 2 significantly increases the protection for policyholders. Requiring that a private management letter be sent to the Board will not achieve any increase in protection where the Board's instructions, after having taken suitable actuarial advice, to the Actuarial Function Holder, are the cause for concern.
55. Therefore, Option 3, with direct whistle-blowing duties for the Reviewing Actuary, is preferable. It would also give policyholders greater confidence in the regulatory system.

### *Options for pensions*

56. We are in favour of clear roles and we set out in our letters of appointment who it is that we would act for in the event that a conflict should arise. This is clear to both the employer and the trustees. Not all actuaries would accept that this is the correct approach in that the circumstances of the conflict might dictate at the time which client should remain.
57. We believe the actuary should resign one of the two appointments (employer and trustees) as soon as the actuary becomes uncomfortable with the potential conflict – unless, of course, one or other of the employer and the trustees has already fired the actuary.
58. In our opinion, it is not enough for the actuary to continue to act even with informed consent if he has the vaguest hint of a conflict. There is a significant danger of the actuary acting too late. Not inconsiderable difficulties can arise when the appointment is reduced to a single one because, at that stage, the actuary will probably have accumulated a considerable amount of privileged information that he or she cannot always share with his new, single client.
59. Options 1 and 2 could therefore be combined.
60. Option 3 has significant merit and should be pursued.

61. Option 4 has been considered from time-to-time by various bodies as well as the profession but is always held to be too expensive (although this need not be so) and inefficient and we would tend to agree with that view.

## **CHAPTER 6: EDUCATION AND CPD**

62. The syllabus for the education of actuaries is a substantial subject and one that requires expertise if informed comment is to be made. We do not intend to comment other than to make general observations.
63. The profession has for some time been working on projects to include a wider body of expertise than we currently share. The profession has also reviewed the syllabus on many occasions. In the light of this progress we believe some of the Interim Assessment's criticisms might be a bit harsh. For example, it is easy to claim now that Financial Economics should have been included in the syllabus a long time ago – but at that time Financial Economics did not have the reputation it now has for mathematical robustness (and, in any event, in this example, not all actuaries accepted then or do so now that the axioms upon which the mathematics is based are necessarily valid).
64. We believe the profession sees CPD as two distinct issues. The first is “professionalism” and the second is “technical competence”.
65. Professionalism courses are seen as a valuable way to share experiences of issues such as dealing with “the public interest”, “conflicts of interest” and “commercialism vs professionalism” and so on.
66. “Technical competence” CPD is designed to ensure that the actuary can still do his technical job properly.
67. We understand that courses on “professionalism” are to become a requirement as from this year for all actuaries who have not attended one within the last 10 years. We also understand that the “backlog” will be dealt with over the next 3 to 5 years.
68. The Interim Assessment offers only a very limited range of comparators as to the adequacy of the profession's current CPD requirements. Only lawyers and accountants are mentioned in the UK and there is no mention of any professions within the EU.

*Options for the CPD scheme*

69. We do not see the options listed as being alternatives. We would agree that they should all be introduced.
70. We agree with the comment in paragraph 6.138 that all actuaries holding any kind of certificate should have to undergo mandatory rather than voluntary CPD.
71. However, we do not agree with the suggestion that actuaries who hold no practising certificate, whilst clearly they cannot do “actuarial work”, cannot either do other, non-actuarial work (even though in doing so they would be applying an expertise they would have built up from the experience of being an actuary).
72. If, in order to do that other work, the actuary has to maintain CPD relevant to the work then, naturally, it would be expected that he would do that CPD – but that would not be “actuarial” CPD and would not be monitored by the profession – but by those to whom that actuary was accountable for his non-actuarial work.
73. If such a situation were not acceptable and an actuary in that position found that he had to do monitored, actuarial CPD then he could well leave the profession. One reaction to that might be to say “So what?” in that the actuary was not doing actuarial work but that would be to lose the contribution that actuary might make to the wider development of the profession.

*Options for monitoring CPD*

74. We believe the problems related to the monitoring of CPD lie principally in the definition of “working actuary”. If that can be resolved then we prefer Option 1.
75. Having said that we agree with the role of the oversight body then it is difficult for us not to say that Option 3 should also be considered and leave it to the profession to argue its case with that body over the detail.

**CHAPTER 7: STANDARD-SETTING**

76. We have said that we agree with the principle of an oversight body.
77. An Actuarial Standards Board will need careful definition of its function and terms of reference. This was always going to be so but if it is to be independent of the profession then this is even more vital to its acceptability to actuaries. However, the fact of its independence means that it will also have to acknowledge the public interest (whatever that means) and be prepared to take flak from individual actuaries (or groups of actuaries).

*Options for actuarial standard-setting*

78. Option 3 would be disastrous for society (as well as for the actuarial profession) and would reduce the role of the actuary to no more than an arithmetician in relation to statutory matters. This would relieve actuaries of all blame if things went wrong but would not satisfy those who might have lost out because the DWP and the FSA are not answerable for their actions in the way that members of an independent profession are.
79. It is clear from the tenor of the Review that Option 1 will no longer be acceptable (despite the thinking that originated it).
80. Option 2 is to be preferred.

**CHAPTER 8: SCRUTINY AND DISCIPLINE**

81. The accounts of pension schemes have never been designed as more than an historical record of transactions. Such accounts were never intended to be a statement of “adequacy” or “solvency”.
82. We are surprised to read that the Review has addressed such this matter as it has nothing to do with the role of the profession as such.
83. It is open to the Review to suggest that the calculation of liabilities in an actuarial valuation report should be open to scrutiny, audit or other examination but that is not the same thing as putting a single, point-estimate figure for liabilities into the accounts of a pension scheme. The proper place for values of that nature is in an actuarial valuation report where a full description of bases, methodology and data can be given.
84. We endorse the principle of peer review.
85. Most if not all firms have systems of peer review in place for work to which a Guidance Note relates or is other work of particular significance. We believe this to be no more than good management.
86. Initially, we were not in favour of an enforced system of peer review being imposed by the profession but have changed our mind and would now endorse such a system.
87. There is much work needed to produce a system that is acceptable to members, that protects commercial interests and yet meets the profession’s need to be able to demonstrate that enforced standards are in place.

## Response to The Morris Review Interim Assessment

### *Options for scrutiny of actuaries in life insurance*

88. Option 1 carries significant risks given that aspects of the work of the Actuarial Function Holder and most of the work of the With-Profits Actuary are not subject to scrutiny by the Reviewing Actuary.
89. We are not in favour of Options 3 and 4 as the obvious conflicts for the Reviewing Actuary could compromise their independence. In any case, Option 3 does not result in any greater scrutiny other than to formalise the requirements under Option 1.
90. We believe that the additional costs of Option 2 are greatly outweighed by the benefits of additional scrutiny of actuarial advice and would also provide greater protection for the Actuarial Function Holder and the With-Profits Actuary when challenging the Board's actions.

### *Options for scrutiny of actuaries in pensions*

91. There are difficulties with auditing actuarial work relating to the triennial actuarial valuation.
92. It is not just the triennial actuarial valuation that needs to be scrutinised but all the other actuarial advice given throughout the inter-valuation period. For example, advice on the need to fund in advance for early retirements, the extent to which investment mis-match reserves should be set up, the cost of augmenting pensions on redundancy and so on. These are all financially important matters and an audit of just the triennial valuation would be worthless if these other matters are not also addressed. Moreover, it would be prohibitively expensive to do this (in effect, employing two actuaries where one has been used in the past with no difficulty).
93. However, the actuarial work relating to the triennial work could be scrutinised in parts. For example, the actuarial assumptions could be audited but not necessarily the arithmetic.
94. We accept that Option 1 is no longer tenable.
95. We are most strongly set against Option 2.
96. Option 3 could be seen as acceptable but the oversight body would have to endorse the system of peer review that was imposed.
97. As indicated above, Option 4 would be expensive and could lead to disputes over relatively minute detail.

## Response to The Morris Review Interim Assessment

98. We are surprised that the Review felt it necessary to include the reference to the comments of the Consumers' Association in paragraph 8.91 in relation to "*market failure*" and the suggestion that "*few actuaries are being held accountable*". We do not understand why the Consumers' Association feels that any actuaries should be "*held accountable*" and what they should be held accountable for. Why not the accountants involved or the legal advisors? Why only actuaries?

99. We are pleased that the Review wants to give the new disciplinary scheme time to work.

### *Options for discipline*

100. We accept that Option 1 is no longer viable.

101. We believe Option 2 should be pursued but we are not sure that this is consistent with "Model B" in paragraph 3.47.

102. We have always felt that a failure of the present disciplinary scheme was that it treated relatively trivial administrative failures (in reporting late to Opra, for example) as being as serious as far more significant (if much rarer) failures by actuaries.

103. We consider Option 3 should be pursued so as to identify a class of offences that relate to administrative failures rather than serious professional misconduct.

## **CHAPTER 9: GOVERNMENT ACTUARY'S DEPARTMENT**

104. We are pleased that the Review has identified the criticism of the GAD by practising pensions actuaries in relation to the level of the contracting-out rebate. Many have wondered whether any pressure was brought to bear on the GAD by their Treasury masters.

105. If the Review's ideas on the GAD come to pass then we do not see that the remaining "rump" will be able to survive on virtually only its overseas business.

106. This would be a pity. We believe it is important that government should have access to actuarial advice in the same way that it does legal and other professional advice. The nature of the advice and the context in which it is given will be very different if that comes from the private sector.