

Direct line: 020 7066 9346
Local fax: 020 7066 9728
Email: enquiries@fs-cp.org.uk

The Morris Review
Room GC/08
1 Horse Guards Road
London
SW1A 2HQ

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Dear Sirs

Morris Review of the Actuarial Profession

This is the Financial Services Consumer Panel's response to the Review.

Whilst events at Equitable Life and the publication of the Penrose Report have highlighted the role played by actuaries in pensions and life assurance, most consumers have very little awareness of the roles undertaken by actuaries, and virtually no understanding of an actuary's professional duties or the manner in which the profession is regulated. Steps must be taken to inform consumers about the role played by actuaries and the profession must consider how it can become more accountable and open. Actuaries must also consider in whose interests are they acting is it in the interest of policyholders or shareholders?

The role of actuaries, the Profession and the actuarial services market

Q1.1: What do you see as the main value provided by actuaries and, conversely, what are their weaknesses? In general, are actuaries properly equipped for the roles that they perform?

Actuaries clearly play an important role in the long-term planning of the management of assets and liabilities in the areas of insurance, pensions and annuities, but it is the Panel's view that their training, practice and professional regulation should be open to public scrutiny and accountability.

Q1.2: Are there areas of business that you think actuaries should become more involved in or conversely are there areas of work you think actuaries should leave to other professionals?

The Panel believes that it is entirely appropriate for actuaries to become involved in other areas of business if they can demonstrate the appropriate levels of competence, otherwise these areas should be left to suitably qualified professionals.

Q1.3: Do you think that there is still a need for particular roles for actuaries to be reserved by statute and, if so, which roles and for what reasons? If not, why not?

The Panel would welcome further debate on whether those roles currently reserved for actuaries could be opened to other professions.

Q1.5: If roles reserved exclusively to actuaries are maintained, do you think that there is a need to introduce greater peer review and scrutiny of such work?

The Panel believes that there is a need for greater peer review and scrutiny of work reserved exclusively for actuaries.

Q1.7: To what extent should actuaries accept some responsibility for their role in designing financial services products that have subsequently turned out not to be "fit for purpose" for consumers? Why were these issues not brought to light by the profession earlier and therefore perpetuated to the detriment of consumers? What lessons can be drawn from these experiences for the future?

Actuaries should accept some responsibility for their role in designing products. The fact that some products have proved 'not fit for the purpose' points to the need for:

- Transparency as to whom the actuary is responsible;
- A need for a 'consumer actuary', whose report would be made public if the actuary has no responsibility to consumers.

If an actuary does have some responsibility to consumers, we suggest that should be required to sign a certificate that the product is fit for purpose and state the categories of consumer that the product is suitable for.

Q1.8: Are actuaries sufficiently accountable for their actions? To whom should actuaries be primarily accountable – to their clients or employers, to pension fund trustees or sponsors, or to a broader public interest, which encompasses the strength and stability of the insurance and pension sectors and the interests of those consumers involved?

Based on past events we believe that actuaries are not sufficiently accountable for their actions. Identifying who should be the primary client will require some debate as all of the parties named have a strong case. The Panel believes that it would be appropriate to have an actuary appointed to look after the interests of consumers/policyholders only.

Q1.9: How would you characterize the current situation in the UK in this respect? Are there changes you would like to see introduced in terms of the accountability of actuaries to their employer or to the public interest?

In all circumstances there should be actuarial accountability to consumers/policyholders. Where it does not exist, an actuary solely accountable to consumers/policyholders should be appointed.

Q1.10: Are actuaries sufficiently liable for their actions? If actuaries provide poor advice, to whom should they pay compensation?

No. If an actuary provides poor advice, compensation should be paid to those affected.

Q1.14: Are there any aspects of the Profession's governance structure that you would like to draw to the attention of the review? Do the Profession's various decision-making bodies represent a diverse range of interests? Should there be greater lay input into the Profession's key decision-making bodies?

The establishment of professional standards should not lose sight of the fact that ultimately all professions serve consumers. As a result there should be some method of allowing consumer input into regulation, standard setting and disciplinary procedures.

Q1.20: Is there sufficient diversity in the composition of the student body and are there enough links with other professions' qualifications?

The intake, as set out in Table 1.2 of the paper, is very narrow. The profession recruits from a small number of universities. The possibility that the profession could become too insular must be addressed.

Q1.21: is it of concern that, apart from a few universities that offer degrees in actuarial science, there is only a single provider of actuarial education in the UK?

It is a concern that there is only a single provider of actuarial education in the UK. This monopoly means that there is no incentive for innovation or change and no choice. Whilst we appreciate that the legal profession is larger than the actuarial profession, the provision of the professional legal education has been successfully widened from the previous monopolies held by the College of Law, in respect of solicitors and the Inns of Court School of Law, in respect of barristers. We suggest that the possibility of other providers such as the universities and colleges should be considered.

Q1.24: Is it easy for consumers to switch between actuarial service providers? If not, what do you think could be done to encourage switching?

There is no choice for the retail consumer, so consumers can exercise no power in improving the service of this profession.

Q1.34: Do you agree that the review can learn lessons from recent developments in the UK accountancy profession, for example, in areas such as standard-setting or in the establishment of a single unified and independent regulator – the Financial Reporting Council?

There are lessons to be learnt from the developments in the accountancy profession. The Panel would support a single, unified regulator such as the Financial Reporting Council. However any equivalent body for Actuaries must have some form of consumer representation or input. The setting and overseeing of standards would also benefit from an "accountancy" approach.

Q1.36: Are there lessons for the actuarial profession from comparison with the professional and regulatory framework of the legal profession?

Whilst the presence of 5 lay representatives appointed by the Master of the Rolls on the Council of the Law Society is welcomed, it is completely outweighed by 100 solicitor members of the Council. Effective consumer input should not be confined to the governing bodies, consideration should be given to how consumer representation could be built into the processes used to govern and regulate the profession.

Q1.37: Which other professions' regulatory models, and what aspects of them in particular, do you think the review should consider? Does this [the approach set out in paragraphs 3.18-3.20] clarify who can (and should) identify wider implications cases? Would the proposal for nominated individuals facilitate this? Are there any practical barriers that need to be overcome?

There are several other regulatory structures around which could be used as models for the actuarial profession, in particular the consumer panels of the FSA and OFCOM. The process for dealing with wider implications cases being devised for the Financial Ombudsman Service could be followed by the actuarial service.

The current regulatory framework of the actuarial profession

Q2.1: What should be the objective of a regulatory framework for the actuarial profession?

The objective of the regulatory framework should be to define and monitor the activities of the profession and to discipline those members who are in breach of the standards required.

Q2.2: What is your overall view of the strengths and weaknesses of the current self-regulatory approach as applied to actuaries by the professional bodies? Does it adequately protect the interests of consumers? If not, are there key aspects of the regulatory framework that you think should be changed? Is there too much emphasis on reserved roles for individual actuaries?

Self-regulation has not protected consumers and is therefore unacceptable.

Q2.3: Does the Profession's dual responsibility for representing its members to the outside world and regulating them in the public interest create a conflict of interest? Is this conflict acceptable?

The Panel believes that the Profession's dual responsibility creates an unacceptable conflict of interest which should be ended.

Q2.4: Are there areas where you believe the burden of regulation is disproportionate and should be reduced? Are there areas that you believe should continue to be self regulated by the professional bodies?

We do not believe that there are areas where regulation is disproportionate at present. Self regulation has failed. One possibility for addressing the failure of self-regulation would be effective consumer representation on a proper regulatory body. Consideration should be given to having the audit of actuarial work and monitoring, complaints and discipline being handled by an external body.

Q2.5: Do you think that the FSA's proposals to change the Appointed Actuary regime address the concerns that Lord Penrose raised in this regard? Is there a need to do anything further to address Lord Penrose's concerns?

We believe the FSA's proposals do address the concerns raised by Lord Penrose.

Q2.6: Do you have any other concerns about the role of actuaries working in life assurance?

We are concerned that the main actuarial functions should make the actuaries responsible to the insurer, policyholders, its shareholders and the public in general. Recommendations the actuaries make may be entirely consistent with these responsibilities, but at the same time could be detrimental to policyholders in general or a particular class of policyholder. We suggest that there should be a requirement for an actuary to be responsible for reviewing all aspects of the insurer's business and to take into account the effect on policy holders.

Q2.7: Do non-executive directors in life insurers have sufficient expertise and information available to enable them to challenge the actuarial calculations of the value of the insurer's assets and liabilities or whether policyholders are being treated fairly?

As Lord Penrose highlighted in his report non-executive directors appear to have insufficient knowledge or information available to them to challenge actuaries.

Q2.8: Will the FSA's realistic reporting basis make actuarial calculations more accessible for non-actuaries?

Clearly this is a strong step in the right direction; however the actuarial calculations will still be difficult for a lay reader to interpret.

Q2.9: Should the Scheme actuary's role be reserved exclusively for actuaries? Could other professionals provide similar advice?

As we have stated previously we would welcome a discussion on the opening up of roles currently reserved to actuaries.

Q2.10: Do pension scheme trustees have the expertise and information to question and challenge the advice of Scheme Actuaries? In the absence of effective challenge from trustees are Scheme Actuaries effectively making policy decisions by default on the distribution of benefits between different generations of pensioners and on funding strategies?

While some pension scheme trustees may well have the expertise and the information to challenge the advice of the scheme actuary others do not have the knowledge to do so. As a result of this the actuary is in a strong position to influence the outcome of distributions.

Q2.12: To whom should the Scheme Actuary be accountable? What will be the effect of the intended removal of the minimum funding requirement on the potential for conflicts of interest if the same Scheme Actuary is advising both the trustees and the pension scheme sponsor? Is there a need for the separation of these roles?

The scheme actuary should be responsible to the present and future beneficiaries of the fund. However, the Panel understands that the actuary's responsibilities are usually split between the beneficiaries and the scheme sponsor. This split of responsibilities results in conflicts of interest even before the intended removal of the minimum funding requirement. As a result the Panel believes that these roles should be separated.

Q2.16: Do you agree that a reserved role for actuaries in general insurance is unnecessary?

We agree that a reserved role is unnecessary if it can be shown that other professions are competent to carry out this function.

Q2.20: Is there the right balance between the profession issuing practicing certificates and regulators giving their approval?

If in reality regulatory approval is simply a question of checking whether a current practicing certificate is in force then the answer has to be no. More robust checks should be in force to satisfy the regulator, checks which would also apply to other professionals carrying out these functions.

Q2.22: Do you support the Profession's proposals to extend the concept of practicing certificates to cover all actuaries who give advice on actuarial matters?
This is both appropriate and timely.

Q2.24: Are there appropriate legal and professional duties and safeguards for disclosures by actuaries to protect the public interest in regulated sectors?

The Panel recommends that the Morris review looks at the number and detail of any disclosures to Opra, the FSA and the professional body to judge whether there are appropriate legal and professional duties and safeguards.

Q2.27: Does the Profession's technical guidance, as set out in the Manual of Actuarial Practice, provide unambiguous, up-to-date and clear standards for practicing actuaries and other professionals, eg auditors, who work with them? Do you agree with Lord Penrose's view that professional guidance in the past has not protected policyholders' interests?

The Panel agrees with Lord Penrose, whose remarks on the issue of the protection of policyholders' interests are very persuasive.

Q2.31: Will the Profession's own proposals for an actuarial standards board go far enough to improve the quality and timeliness of standard-setting to protect the public interest? Is there a need for even greater independence from the profession or a statutory underpinning to bring greater credibility to the technical standard-setting process?

The Panel would like to know more about the 'independent' members. These members should include individuals able to represent the interests of consumers and policyholders.

Q2.33: Do you agree with Lord Penrose's assessment of the lack of openness and transparency of the profession to non-actuaries, including other professionals, and their clients?

The Panel agrees with Lord Penrose's assessment.

Q2.34: What steps can be taken to improve communications between the actuarial profession and their clients and other professionals?

Actuarial opinions should be communicated in a clear, understandable way to policy holders.

Q2.40: Should the review consider whether a fully independent disciplinary process is needed?

We believe the review should consider what the best structure is for the disciplinary process consistent with other approaches to professional regulation in this field. The Panel would like to see much more involvement of external stakeholders in the process.

Q2.41: In the accountancy profession the joint monitoring unit verifies whether firms are complying with audit standards. Given Lord Penrose's criticisms and the long-term nature of actuarial advice, is there a need to move away from reactive complaint-driven disciplinary procedures to a more proactive regime of monitoring of compliance with professional actuarial standards? If so, who should have responsibility for overseeing the monitoring and disciplinary proceedings and who should bear the associated costs?

The Panel believes that a proactive monitoring system would be more valuable. The methods used by other professions such as the accountancy and legal profession should be examined to see whether the actuarial profession could benefit from their example.

Q3.5: In your view, which of the 10 reasons in para 3.20 highlighting the rationale for a separate GAD remain valid? Are there any other reasons for maintaining the GAD as an independent entity?

We believe that: reason 6 - to provide advice not driven by a profit motive, reason 7- to provide advice with no conflict of interest created by the interests of private sector clients, reason 9 – to bring knowledge of the ways of government and how advice should best be formulated and presented by being civil servants and reason 10- to give advice that is not influenced by a wish to sell other services - remain valid.

Q3.6: Overall, in your view is there a continuing need for a separate GAD? Are there alternative institutional structures for the provision of actuarial advice to government departments, Ministers and the wider public sector that the review should consider?

The Panel think that consideration should be given to whether alternative structures could provide actuarial advice to government departments, Ministers and the public sector.

I am sorry that this response is being submitted after the date by which you requested submissions; I hope that our comments will nevertheless be helpful to you.

Yours sincerely



Chairman
FS Consumer Panel

FS Consumer Panel can be contacted c/o The
Consumer Panel Secretariat at the FSA

Tel: 0207 066 9346 Fax: 0207 066 9711

Email: enquiries@fs-cp.org.uk