



**Response by
The Association of Consulting Actuaries
to the
Interim Assessment**

***Morris Review*
of the Actuarial Profession**

Terms of reference

Consider what professional and / or other regulatory framework would best promote recognised, high-quality and continuously developing actuarial standards, openness in the application of actuarial skills, transparency in the professional conduct of actuaries, accountability for their actions and an open competitive market for actuarial advice in the UK.

4 February 2005

Executive summary of key points in response to the *Interim Assessment*

The Association of Consulting Actuaries (ACA) is pleased to respond to the *Interim Assessment* produced by the *Morris Review of the Actuarial Profession* published in December 2004.

The response reflects the ACA's broad views on the most important issues raised in the *Interim Assessment*. It is felt some of the options raised, for example with respect to education, are longer term in nature and are best addressed by the professional bodies over the period ahead once the more important key changes have been more fully considered and, if judged necessary, implemented.

The **key points** the ACA wishes to highlight from its response are the following:

Introduction and overview

1. The ACA welcomes the fact that the *Interim Assessment* recognises the skills and professional dedication of the '*overwhelming majority of actuaries in the UK*' and is supportive of the overall thrust of the paper, if not all of the conclusions.
2. The ACA agrees that the central question for the review, and indeed the Profession, is ***how it can ensure efficient delivery of best-practice actuarial services to users*** (page 3, *Interim Assessment*).
3. It is important that the expectation of what users want and are prepared to do in addressing some of the problems identified in the *Interim Assessment* is realistic. It should be remembered that the very many users of actuarial services - particularly of consulting actuarial services in the pensions sector - often have limited resources. Adding even a small amount of further complexity into relationships with their actuarial advisers may cause more users to turn away from products and services, many of which are discretionary in their nature.
4. The ACA is concerned that any additional regulation of the Profession and market for actuarial services takes full account of reforms already in progress (some of which will require time to bed in). Any additional reforms that are considered should be the minimum necessary to make the market operate more effectively and efficiently. The ACA is very worried that much of the regulation over the last decade in the financial services and pensions sector has been over-done and often implemented as a knee-jerk reaction to particular cases.
5. The ACA and its members will support practical and well thought through measures that promote the highest possible standards of advice across the actuarial profession. However, it would be a disaster for all concerned if the review of the Profession, by taking on too much,

too quickly, also led onto overly prescriptive reforms that damage the actuarial services market, thereby:

- reducing competition, and / or
 - reducing the supply of firms or services available to users, and / or
 - adding to costs and complexity for users, rendering both products and services increasingly beyond the pocket or interest of all but the most sophisticated users.
6. Whilst we welcome many of the conclusions in the *Interim Assessment*, there are a number of areas in our response where we feel there is a danger that a wrong direction could be taken, or much more detailed considerations are necessary before deciding upon particular options (for example, the lack of understanding of the expertise of actuaries in giving advice on investment strategy / asset allocation to pension schemes).
7. The response has been considered by a Sessional Meeting and three Regional Meetings of ACA members held in January 2005, together attended by over 25 per cent of our members, and has been developed through the ACA's own in-house consultation process through its Main and Specialist Committee structure.

Market for actuarial services

8. The ACA welcomes the fact that the review has recognised the competitive market for consulting actuarial services in the UK. Although not immune to business cycle pressures, the number of firms in the market is growing as is employment in these firms. Firms are growing their businesses in pensions, insurance and other services by dint of the high standards offered by the sector.
9. The ACA welcomes the review's comments that the high cost of Professional Indemnity insurance could reduce competition in the sector and that a wider application of liability caps may afford part of the solution, alongside other risk control measures being introduced by actuarial firms.
10. Users - particularly medium-sized and small schemes - could be seriously disadvantaged by any requirements that services offered by consulting actuaries are unbundled. Bundling of services has been market driven and has suited many users, who feel they gain from a more holistic approach from their advisers. In a market where regulatory burdens have considerably added to users' costs over the last decade or so, bundling has offered users the opportunity to negotiate savings by way of these packaged services. Moreover, there are services provided by actuaries to pension schemes such as funding advice and investment strategy that are best interlocked.

11. Consulting actuaries have been at pains to communicate information to users in a way that is readily understandable, and it is welcomed that the review recognises that this has often been frustrated by regulatory requirements that have served to confuse. Whilst the ACA is supportive of initiatives designed to improve user knowledge and understanding, there is a need to be realistic as to what can be achieved. The ACA is supportive of the greater use of professional trustees, although their use should be left as a decision to be made by schemes.
12. The fact that many users have taken advice on trust from their professional advisers should not be viewed as a criticism. Given the complex nature of advice on pensions, where many users have limited time and resources to investigate for themselves, it is entirely laudable that they should seek a professional relationship where they feel confident in relying upon the advice of a professional. Users look to advice based on trust from their lawyers, accountants and auditors and other professionals. In a very real sense, it is advice based on trust that underpins a professional relationship.

Actuarial roles

13. It is accepted that advice on investment manager selection can be given by others as well as actuaries and indeed many actuarial firms employ non-actuaries to undertake this role. However, advice on investment strategy should be considered as a key role for actuaries.
14. The ACA believes that it would be prudent to introduce a reserved role in general insurance given the success and confidence such a role has achieved in the Lloyd's market.

Public interest and accountability

15. It is probably impossible to place a workable 'public interest' duty on individual actuaries that goes beyond his or her contractual relationship with an employer or client, save where clear professional guidance and further clear statutory duties are placed on the individual actuary, including whistle-blowing.
16. Life Insurance: to best protect the consumer, the With-Profits Actuary should be external to the insurer. The Reviewing Actuary should have direct whistle-blowing duties to avoid delay in alerting regulators.
17. Pensions: the ACA believes that the Scheme Actuary should be able to advise both the scheme sponsor and trustees, unless the actuary or trustees deem there to be a conflict, in which case the Scheme Actuary only advises the trustees.

Education and CPD

18. The ACA is supportive of wider provision and accreditation of degrees that grant exemptions from the Profession's exams and the promotion of faster-track qualification. However, the ACA is opposed to any lowering in standards to achieve swifter qualification and notes the key importance of on the job training in producing the rounded professionals needed, in particular, by the consulting side of the Profession.
19. The ACA is supportive of CPD and notes that many firms operate to already much higher levels than the minimum required by the Profession. The ACA supports the extension of CPD to wider areas and appropriate improvements in monitoring.

Standard-setting

20. The ACA is broadly supportive of the independent oversight body for the actuarial profession. The ACA notes that the review is inclined to this being the Financial Reporting Council, but that many issues need to be considered before a final decision is taken.
21. The ACA feels any discussions with the FRC should be 'without prejudice' and is supportive of examining simultaneously the pros and cons of an entirely independent oversight body for the actuarial profession.

Scrutiny and discipline

22. Life Insurance: The Reviewing Actuary's remit should be expanded to include an explicit duty to report on compliance with actuarial standards.
23. Pensions: The ACA favours peer review of the Scheme Actuary as envisaged by the Profession. The ACA questions whether the extension of peer review beyond internal peer review within consulting firms is possible or workable within a competitive market.
24. General Insurance: the ACA supports the introduction of peer review in general insurance, including the Lloyd's market.
25. Discipline: the disciplinary scheme should be accountable to any new independent oversight body.

The ACA would be delighted to build on responses as required by the review team during the next stage of the review process.

CHAPTER 1 - INTRODUCTION

General comments on Morris overview

We welcome the fact that the *Interim Assessment* (hereafter referred to as the review), right from the outset, recognises the skills and dedication of the 'overwhelming majority of actuaries in the UK' and the high standing that the UK actuarial profession has in a worldwide context. The statement in the introduction to the review, following on from the above conclusion, that 'it is important that these perspectives not be forgotten in the rest of the interim assessment report if a properly balanced picture is to emerge' is also welcomed. It underscores that the review must take proper account of those strengths that have helped to contribute to the rapid growth and increased use of actuarial services over the last few decades and must not focus only on the perceived weaknesses identified by the review and respondents to the review.

The 'five concerns'

The introduction to the review identifies 'five concerns' that it feels are 'quite serious problems faced by the profession in the UK'. In summary these are:

- The Profession has been too insular and slow to adopt new approaches and techniques
- Too much has been expected of actuaries and, explicitly or otherwise, too much has been promised by them
- There has been insufficient transparency in actuarial advice
- Users may have become over-reliant on actuaries for services beyond long-term liability analysis
- The need to take a view on the role of the actuarial profession in the emergence of problems that have emerged of late in the insurance and pension sectors (ie. the long-term savings crisis)

It is recognised in the review, after a brief analysis of these five concerns, that there have been recent developments by Government, the FSA and the Profession that look to address many of the perceived weaknesses that have been identified.

The ACA has reservations on points of detail about some of these reforms, for instance the complexities and extra costs for users introduced by way of the *2004 Pensions Act* under the guise of 'simplification'. Importantly, it is concerned that these major reforms are fully acknowledged by the review and that, as a result, care is taken not to over-burden practitioners and users with a further raft of extensive reforms.

The lessons learnt from reform of financial services over the last two decades are that too much has been taken on and expected from well-intentioned

reform measures, and that this has in no small part contributed to the complexity and problems that have dogged the sector in recent years. In short, the message is do not try to do too much, too quickly as the end-result may be more damaging than helpful.

In examining briefly the 'five concerns', the ACA would comment as follows on the points made, viewing these largely from the consulting perspective.

Insularity: the ACA has some difficulty in recognising much of the analysis here that (consulting) actuaries have been insular, with insufficient contact with other professions and...too little and too late exposure to new approaches and, more generally a rather closed and inward looking culture.

Consulting firms to survive and grow new business have had to be adaptable and innovative in their approach. Market pressures alongside the requirement for CPD has helped to ensure that consulting actuaries keep pace with change. The ACA would argue that the fact that many consulting actuaries have successfully developed a range of wider services to meet the expectations of users seems to indicate a dynamic sector rather than one that is insular or inward looking.

Additionally, consulting actuaries have extensive day-to-day contact with other professionals. For many consulting actuaries working alongside accountants and lawyers, for instance, is commonplace in addressing the challenges faced by users.

Expectations of actuaries: again consultants are surprised to see the comment that, *'it has repeatedly emerged that most of those involved have tended to avoid or resist clear presentation of the unavoidable risks inherent in assessment of an uncertain future, in particular the substantially higher degree of uncertainty that accompanies most long term projections in the field of insurance, pensions and some areas of non-life insurance'*. With advances in computing power, many consultants have developed sophisticated models to help clients fully understand the risks inherent in long term financial contracts. However, we do accept that it is not within users' budgets to undertake the detailed financial modelling required to assess the risks associated with long-term financial contracts.

Lack of transparency: the ACA would note that consultants have been at pains to improve the communication of risk to their clients. The impression given here is that until very recently actuaries have been uncommunicative and reluctant to open their 'black box' of tricks.

The reality is that many firms of consulting actuaries have introduced specialised communication departments over the last two decades to improve presentation, taking advice from communication specialists or introducing such functions in-house. It is readily accepted that standards of communication will vary and can be improved. It is at least helpful that the assessment recognises that considerable progress has been made in this area of late. Much of this development has been helped by the rapid improvements in computing power that has enabled consultants to develop IT solutions to help clients understand risk.

Work undertaken by actuaries: the review reflects on whether the roles presently reserved for actuaries need to be reviewed (see later comments on pages 11 and 17) and whether users have become over-reliant on actuaries for services beyond long-term liability analysis.

On the latter point, it has to be said that the impression is given that (consulting) actuaries have in some way casually moved beyond their expertise in assessing future long-term liabilities into wider areas of which they know little or much less. The ACA feels it is important that the review appreciates that where actuarial firms move into providing advice on, for example, investment manager selection, this is not done in some 'amateur' way. The ACA would be critical of consultants who acted in such a way. Rather, the actuarial firms involved will employ specialists trained to work in these fields. Very often these specialists will not in fact be actuaries, but specialist trained in the wider areas of work. It is important to note that unlike other professional firms (eg. lawyers and accountants) actuarial firms are usually multi-disciplinary and include non-actuarial professionals in client advisory roles.

This response addresses elsewhere the issues surrounding bundling and unbundling of services. It is important to stress here that many consulting actuaries (and users) feel that it is important actuaries are involved in both assessing future long-term liabilities and the asset allocation required to meet these liabilities, and that there are very real dangers when the relationship between the two is lost.

Long-term savings crisis: the review recognises that it goes beyond its brief to recommend solutions for the long-term savings problems in the UK. However, it is felt relevant to consider what the role of the actuarial profession was in the emergence of the problem and how (for the future) such a situation might be avoided.

The long-term savings crisis can be considered in two parts. First, a large proportion of the UK population are not saving or not saving sufficiently for their old age. The ACA would be very happy to support any realistic government initiative to increase awareness of the need to save and we have expressed our strong support for this in our response to the Pensions Commission's initial report. However, actuaries do not control the sale of savings products nor are they in a position to influence companies to provide savings vehicles for their employees.

The second part is the funding pressure faced by many pension schemes and insurance companies. The review is fair in casting blame widely for the crisis and in recognising the difficulty actuaries found themselves in when advising caution when investment markets were buoyant and, for example, surpluses in pension funds were huge. It also needs to be recognised that obligations on sponsors to fund pension schemes was increased 'at a stroke' in June 2003 and so wind-up deficiencies increased markedly at that time.

There needs to be an honest appraisal that if the Actuarial Standards Board, as proposed, subject to independent oversight, been in operation and had

other proposals in the review been implemented, would the actions of actuaries or other advisers have been very different given the then prevailing state of investment markets?

Turning to Life Insurance, the ACA believes that the situation, that led to what the review refers to as the 'widespread over-distribution by life companies' in the run up to the market collapse in 2000, is unlikely to re-occur given the FSA's changes to the regulation of life companies.

Whilst concerns remain over the detail and the ever-present danger of over-regulation of the sector (and the possible over reliance on regulation as the solution to the problem), the establishment of the three new actuarial roles is supported by the ACA.

CHAPTER 2: THE MARKET FOR ACTUARIAL SERVICES

Increasing competition

The ACA provided a considerable amount of data and analysis about the development of the consulting sector, including the growth in the number of consultants and the number of firms serving users over the last twenty years. Information was also provided on the market share of firms serving the largest 750 pension schemes.

The review has accepted the case put and concludes that there is some but not undue concentration of external actuarial advice provision across the pensions and insurance industries. It accepts that over the last decade there has been significant entry by small and medium sized independent firms to the actuarial services market as well as entry by the big four accountancy firms.

The review notes, however, that the market is characterised by high levels of full-service appointments which it is concerned may restrict competition, albeit that it found no evidence or suggestion of explicit product tying or cross-subsidisation. In particular, it is concerned about the provision of actuarial and investment advice to larger pension schemes, where market concentration seemed most acute. However, the review concludes that there is no cost-effective way in which this situation can be addressed directly, but that there are a number of ways in which it could be made easier for new and small actuarial firms to compete.

As regards 'Option 1' below, put forward by the review, the ACA has as part of its guidance to members on improving risk control measures as a means over the longer-term of encouraging underwriters to write PI business in the sector, recommended to firms the adoption of more rigorous risk control and risk management strategies. One of the considerations in such a strategy is to introduce liability caps into contracts.

Whilst it is known that a significant number of firms have progressed this initiative, it needs to be recognised that some users are very resistant to the introduction of caps and may be tempted to move adviser, if alternate advisers do not operate a cap. In fact, some smaller firms have been more resistant to introducing a cap on liabilities in their contracts, as not to do so may offer them a competitive advantage in opening up the market.

That notwithstanding, the ACA is supportive of the thinking behind introducing liability caps as one means of ensuring a wide range of firms can be active in the market.

Many users - particularly medium-sized and small firms - could be seriously disadvantaged by any requirements that services offered by consulting actuaries should be unbundled (Option 2). We note that the review says that it *'is not aware of any formal tying provisions that make the supply of one*

service conditional on acceptance of another' (which is not a policy the ACA could support, if this were the case).

Bundling of services has in fact been market driven and has suited many users, who feel they gain from a more holistic approach from their advisers. In a market where regulatory burdens have considerably added to users' costs over the last decade or so, bundling has offered users the opportunity to negotiate savings by way of these packaged services.

The ACA feels the review is mis-guided in its analysis when it says that '*sub-standard investment performance has been accepted too readily within the pensions industry at least in part because of the actuarial firms' dominant market position, their ability to bundle together actuarial and investment advice and the fact that the quality of their investment advice is not subject to performance appraisal*' (page 31 *Interim Assessment*). The impression given here is that actuarial firms have in some way entered the investment advice market (and other markets beyond long-term liability advice) on an 'amateur' basis and that this has led to '*sub-standard investment performance*'. This is quite wrong. Where actuarial firms offer advice on investment this is provided either by actuaries who have undertaken additional training in investment or, very often, advice is given by a separate investment practice within the firm staffed by investment specialists, who will not necessarily have actuarial training.

In the interim assessment reference is made to the reports by Paul Myners, in particular, to his fourth principle recommending that trustees split contracts between actuarial and investment consultancy advice. More recently, there have been proposals to amend that principle requiring a further splitting of the contract for investment consultancy between advice on investment strategy or asset allocation and advice on manager selection.

In the ACA's view, actuaries are very well equipped to advise on investment strategy and asset allocation. After all, the investment strategy does depend on the liabilities of the scheme and the review acknowledges the expertise of actuaries in this area. Moreover, funding advice given by the Scheme Actuary to the trustees has to take into account the investment strategy being pursued. Funding advice and investment strategy are interlocked. Advising on investment strategy is at the very least the natural habitat of the actuary.

Both the review and Myners recognise the importance of the decisions taken by trustees regarding investment strategy. The advice given should arguably come from a person subject to the discipline of a recognised profession. Therefore, whilst it is accepted that advice on investment manager selection needs to be given by specialists knowledgeable in this area (which will often include actuaries who have, through further training, gained this specialist knowledge), advice on investment strategy to pension schemes should be considered as a key role for actuaries, although not necessarily for the Scheme Actuary.

Also, by extending their services into investment, consulting firms have enabled users to gain experienced and high quality advice at a reasonable cost. As the review has readily acknowledged, this advice is not tied and

users are free at any time to opt for alternative investment advice from a range of suppliers unconnected to actuarial firms. The fact that many users (including well-resourced larger users) do not seek alternate advisers is a reflection of the quality of advice that users feel they receive from investment practices run by consulting actuarial firms.

The same situation applies in respect of other services offered by consulting actuaries. These services have been developed in response to demand from users for a cost-effective package of products, they have not been thrust upon unwilling users. Where users feel unhappy in taking particular services on grounds of cost, quality or because they feel there may be some conflict, they are free to detach such services. A typical example is the market for outsourced pension scheme administration, where there is a healthy and significant group of providers who compete (and win significant business) and who offer no consulting actuarial services.

The ACA therefore believes that any restriction on bundling would tend to increase market failure (rather than increase competition) and would generally lead to higher costs for many users in a market where cost issues are a concern. The fact that non actuaries are free to enter these markets (save where roles are reserved for actuaries due to the highly specialised nature of advice required), provided they have the recognised skills to undertake the work, and that there are alternate suppliers available, is the key protection for users.

Options

- Option 1: to the extent that the availability of professional indemnity insurance cover is acting or may in the future act to constrain entry and limit choice, ways could be explored of introducing liability caps; and/or
- Option 2: in the pensions area, unbundling the provision of advice related to statutory roles from other types of advice (particularly investment consulting services) would help open up the market to greater competition.

Key: ACA supports

Increasing market testing

a) greater scrutiny of performance

The review comments that *'perhaps the most significant issue arising from the consultation process relates to the fact that many users of actuarial services have difficulty in checking or assuring themselves of the quality of the actuarial advice they receive. Particularly in the pensions industry, there appears to be insufficient scrutiny of adviser performance...too often there also appears to be a broad failure sufficiently or effectively to challenge the advice provided...as a result, advice is too often taken on trust'* (page 48 *Interim Assessment*).

Consulting actuaries have been at pains to communicate information to users in a way that is readily understandable, and it is welcomed that the review recognises that this has often been frustrated by regulatory requirements that have served to confuse.

The fact that many users have taken advice on trust from their professional advisers should not be viewed as a criticism. Given the often complex nature of advice on pensions, where users have limited time and resources to investigate for themselves (after all the prime purpose of users is not to offer pension schemes, it is to produce their organisation's core goods and services), it is entirely laudable that they should seek a professional relationship where they feel confident in relying upon the advice of a professional. Users look to similar advice based on trust from their lawyers, accountants and auditors and other professionals. In a very real sense, it is advice based on trust that underpins a professional relationship.

The ACA welcomes a situation where users take a greater interest in the running of a pension scheme. Pension legislation has encouraged this development, although not all users - particularly in smaller enterprises - can be expected to significantly increase their involvement. For this reason, the ACA feels that one way of securing greater clarity of advice is by way of increasing effective peer review - essentially Option 4 (below). However, as we comment later on in the response, there is a need to be realistic as to what can be achieved and expected of peer review.

The ACA is supportive of regular reviews of advisers, but feels the frequency is best left to individual schemes to decide based on their experiences and requirements, and that this is a recommended action best left to the judgement of individual schemes. The ACA opposes formal reviews of advisers, say every 3 or 5 years, being a requirement placed on trustees as this would place a huge increase in costs and administration on the market when there is no evidence of general dissatisfaction with contracts freely agreed between advisers and users.

Good practice might be that reviews are considered no less frequently than every 5 years.

Options

- Option 1: increased education/expertise of users; and/or
- Option 2: regular formal reviews of advisers could be recommended or required every 3-5 years; and/or
- Option 3: performance measurement of actuaries could be encouraged; and/or
- Option 4: effective peer review of actuarial advice could provide actuaries with a set of incentives that encourages them to improve the clarity of advice they provide, both technical and in relation to underlying assumptions.

Key: ACA supports

b) improving user understanding

While the ACA is supportive of initiatives designed to improve user knowledge and understanding, there is a need to be realistic as to what can be achieved.

As we have said before, many users, particularly mid-sized and smaller enterprises, have limited resources in terms of personnel and budgets to manage their pension scheme. In many firms, over the last few years, numbers of administrative staff engaged to run pensions and other services have been cut in order to reduce overhead costs in the face of fierce competition. Trustees and sponsors rightly look to the skilled advice of professional advisers in order to run their scheme in the most cost-effective way. Given this real situation, it is not felt trustees generally would find information on the Profession's guidance notes particularly helpful. In any event, the Profession's guidance notes are already available as public documents on the Profession's website.

Whilst the ACA is supportive of Option 1 (below), it may well be more realistic that, if the trustee board feels there is a need to challenge advice being given, that this be done by appointing an experienced professional trustee well versed in the issues concerned and practice elsewhere. The ACA believes many more schemes of all sizes are considering or are using professional trustees for these purposes. Appointments should be left to the discretion of schemes as clearly there will be a cost involved and many schemes may feel such an appointment is unnecessary.

Options

- Option 1: user knowledge and understanding should be encouraged by measures to raise the required standards of knowledge and expertise, of which several initiatives are already in train, and/or
- Option 2: in relation to pensions, trustees could be given information on the Profession's own guidance notes, to better understand what actuaries are supposed to do. This could be used as a basis for encouraging more systematic challenge, and/or
- Option 3: greater use of professional trustees (where schemes feel this would be helpful) or trustees who are members of several trustee boards.

Key ACA supports

Improving clarity of advice

As we have noted earlier in the response, consulting actuaries look to win and retain business by offering clear professional advice to users. Where advice is unclear, firms would expect to be subject to review in due course. The ACA is therefore supportive of leaving it to the market (Option 1 below), with individual firms of actuaries succeeding or failing based upon the quality of the communications they have with users. In many respects, whatever other proposals are made, this is what will actually occur, ensuring that the firms

supplying the best services secure greater market share whilst those that are less effective lose it.

That said, the ACA is supportive of improved actuarial training in communication skills and initiatives that make CPD more effective across the Profession (Option 2 below).

The ACA is also not opposed to the disclosure of key information to users, including assumptions and sensitivities. The important caveat here is that users are not over-burdened with paperwork so that the key message is lost and that actuaries are therefore able to exercise discretion in how information is communicated in the most effective way, suited to each scheme's unique requirements. In that regard, consulting actuaries need to be careful in considering the skills and experience of each trustee board and shape their communications accordingly. There is a strong commercial pressure on actuarial firms, driven by the PI insurers, to ensure clarity of their advice so as to reduce the risk of misunderstanding by clients and hence potential PI claims. The ACA does not believe therefore that 'Option 3' is necessary.

The ACA is always supportive of exploring ways by which regulatory requirements might be simplified. It needs to be recognised, however, that if there are to be significant and effective reductions in regulation (and costs of regulation) this may involve a greater exposure to 'risk', which will need to be explained carefully to sponsors, trustees and members. There needs to be greater appreciation at all levels, from government through to consumers, that very often the best response to a problem is not to regulate or legislate, but to examine the particular case in detail and to take prudent actions that do not damage the future provision of products and services to the disadvantage of all.

Options

- Option 1: leave it to the market, on the basis that if users can be encouraged to challenge more effectively, actuaries will stand or fall by their ability to respond positively; or
- Option 2: improve actuarial training and CPD requirements to equip actuaries with improved communication skills; and/or
- Option 3: require clearer disclosure of actuarial advice, assumptions and key sensitivities. For example by requiring the disclosure of forward-looking financial condition reports; and/or
- Option 4: explore means by which regulatory requirements might be simplified.

Key ACA supports

CHAPTER 3: THE PROFESSION AND REGULATION

The review notes that the regulatory framework for actuaries has four main aspects. The setting of appropriate education and CPD requirements; the setting of high-quality professional and ethical standards to protect the public interest; the monitoring of members' compliance with these professional standards and the administration of disciplinary procedures in the event of misconduct.

The review identifies a number of weaknesses it sees in the current framework of self-regulation by the Profession including:

- Inadequate protection of the public interest – for example in relation to Equitable Life and pension scheme under-funding
- Professional standards that have been weak, ambiguous or too limited in range; and perceived as influenced by commercial interests;
- An absence of pro-active monitoring of members' compliance with professional standards, and
- A profession that has been too introspective, not forward-looking enough and slow to modernise

The review concludes that the self-regulatory approach has not adequately protected the public interest and that there are potential conflicts of interest in the Profession both representing its members' needs and, simultaneously, regulating them for the benefit of members and the wider public interest.

It refers to initiatives being taken in other professions, such as the legal and medical professions. Given the size of the actuarial profession, the review feels full statutory regulation might be 'disproportionate and costly' and extending the FSA's and OPRA's role to regulating individual actuaries might be difficult given their competing priorities.

The review is therefore minded to opt for independent oversight of the Profession's self-regulation as the '*best way to combine professional actuarial input into the regulatory framework with sufficient independence from the Profession to provide the necessary protection and assurance for the public*'.

This is the regulatory model adopted for the accountancy profession under the oversight of the Financial Reporting Council (FRC). The review says that the FRC may be an appropriate independent body to provide oversight of the Profession's regulatory functions.

No options are posed by the review in this chapter, but further consideration of the issues raised are covered in our comments on Chapter 7, see pages 32 - 35.

CHAPTER 4: ACTUARIAL ROLES

The review sees the main advantages of reserving roles are that statutory regulators can expect professional standards and codes of conduct to be adhered to and can place specific whistle-blowing and public interest duties on these role holders. The main disadvantage is seen to be the creation of a professional monopoly that restricts competition and challenge from other suppliers of services.

That said, the review concludes that it *'is essential to overall stability that assessments of long-term liabilities of insurers or pension funds are done, and done well. Currently, it is widely recognised that, as a group, only actuaries have the required skills to perform these functions'*. Therefore, the review concludes that at least in the short-term there is a need to continue to reserve specific roles to actuaries in the life and pensions areas. The assessment notes, however, that in the longer-term, the statutory regulators may wish to revisit the issue and consider opening up the roles to suitably qualified professionals.

The ACA welcomes the recognition of the value of reserved roles.

Looking to the future, the ACA feels that the growth in the consulting sector in terms of providers of services is likely to ensure healthy competition without there being a need to take risks (with the danger of lower standards) by opening up reserved roles to other professionals. Indeed, it is difficult to see how such professionals could undertake the present reserved roles unless they train to levels that would in fact qualify them as actuaries. It is doubted whether other professions sensibly would wish to change their training regime to compete with another profession in this way.

The greater danger is that in an attempt to 'open up' the market, standards (and protections that users value) could be lost.

We repeat here points also addressed in the market for actuarial services chapter, concerning recommendation from Paul Myners that trustees split contracts between actuarial and investment consultancy advice. More recently, proposals have been made to then split the contract for investment consultancy between advice on investment strategy or asset allocation and advice on manager selection.

In the ACA's view, actuaries are very well equipped to advise on investment strategy and asset allocation. Investment strategy does depend on the liabilities of the scheme and the review recognises the expertise of actuaries in this area. Importantly, funding advice given by the Scheme Actuary to the trustees has to take into account the investment strategy being pursued. Funding advice and investment strategy therefore are interlocked. Advising on investment strategy is a natural area of work for actuaries given the skills they possess.

Both the review and Myners recognise the importance of the decisions taken by trustees regarding investment strategy. The advice given should come, we would argue, from a person subject to the discipline of a recognised profession. Whilst it is accepted that advice on investment manager selection can be given by others as well as actuaries, advice on investment strategy to pension schemes should be considered as a key role for actuaries, although not necessarily for the Scheme Actuary.

Reserved role in general insurance

The review notes that it received a number of submissions, including that of the ACA, arguing both for a reserved role for actuaries advising on long-term liabilities in general insurance, outside Lloyd's and its syndicates. Those in favour cited the collapse of Independent Insurance in the UK and HIH Insurance in Australia (given the Royal Commission findings there); the fact that there is a Loss Reserve Opinion role in other countries, including US, Canada and many European countries; and the important role actuaries have in providing better documentation of methods, assumptions and sensitivities to Boards and audit committees.

Those opposed pointed to the strength of FSA regulation; the fact that general insurers were voluntarily making greater use of actuaries; long-tail liabilities may only be a small part of a general insurer's business; and establishing a reserve role might undermine the responsibility of management to form its own view.

The review notes that there is considerable support for the Lloyd's Actuary and Syndicate Actuary role and that the FSA says it will be revisiting this issue with regard to other general insurers.

The ACA reaffirms its support for 'Option 3' as detailed in its initial response for the reasons given above, but feels that a careful cost-benefit analysis is needed ahead of progressing with the change. The ACA is not persuaded that such a reserved role would undermine the management's responsibility to form its own view, particularly, as is the case in the Syndicate Actuary role, the opinion relates to a review of reserves established by the company.

Options

- Option 1: continue with the status quo - no reserved role; or
- Option 2: no reserved role, but require certification of the reserves by an approved person with appropriate skills, who may or may not be an actuary; or
- Option 3: a full role reserved to actuaries, with associated public interest duties and whistle-blowing requirements; and/or
- Option 4: a requirement that the auditor take appropriate actuarial advice when auditing general insurers (a role akin to the Reviewing Actuary role for life insurers).

Key ACA supports

CHAPTER 5: PUBLIC INTEREST AND ACCOUNTABILITY

This section of the review considers at length the *'multiple and conflicting responsibilities'* faced by actuaries. It notes actuaries have duties to their employer or client, duties to statutory regulators if holding reserved roles and duties to the Profession in adhering to professional standards of conduct.

It concludes that there is a real need to provide clarity over to whom actuaries are accountable and for what; to have a clear hierarchy of accountabilities; clear guidance on when the actuary must whistle-blow and act in the public interest; and clear protections and incentives for whistle-blowing.

Reporting and whistle-blowing

The review notes the requirements on actuaries to report breaches or suspected breaches of proper practice to regulators are in principle quite severe and actuaries have incentives to report matters if they think they will otherwise be held liable. However, it recognises, actuaries also face obstacles in terms of duties to their client and to third parties; concern about damage to their relationship with their client or with their employer; and concern about damage to their reputation with their peers and colleagues; their prospective clients and employers.

Whilst there are considerable safeguards for actuaries who whistle-blow, the review says that there still seem doubts among many actuaries about the circumstances in which whistle-blowing may, or should, occur. The review says that this is partly because of the lack of comprehensive guidance and partly because of inconsistency in the way whistle-blowing obligations and protections are expressed for actuaries performing different functions in similar situations.

The review notes that for whistle-blowing obligations to be enforceable, the trigger needs to be expressed in more objective terms, such as whether the actuary has "reasonable cause to believe" that a reporting condition applies. This is the formulation used to specify whistle-blowing duties to OPRA. In contrast, the trigger for whistle-blowing obligations to the FSA is still what the actuary "reasonably believes", which is harder to enforce.

Similarly, the whistle-blowing obligations for auditors and actuaries are different, which means that actuaries working for auditors are covered by different whistle-blowing provisions from actuaries appointed by an FSA-authorized firm.

The ACA believes that all three options detailed below have value and can be supported. 'Option 3' in particular seems sensible as with the Reviewing actuary now reporting to the auditor it makes sense for them to have similar whistle-blowing requirements. In the absence of these, there would be the potential for issues arising between the auditor and Reviewing Actuary.

Options

- Option 1: more comprehensive guidance from the Profession or from regulators on the circumstances in which whistle-blowing is permitted and when it is required, covering all relevant statutory, regulatory and professional provisions, matters which regulators are likely to regard as significant, and the safeguards and sanctions available; and/or
- Option 2: ensuring that, on the one hand, legal protections for whistle-blowers are wide and give appropriate room for individual judgement, based on good faith and what an actuary "reasonably believes"; while nonetheless ensuring that, on the other hand, duties to whistle-blow are clear, objective and enforceable, for example based on what an actuary has "reasonable cause to believe"; and/or
- Option 3: bringing whistle-blowing requirements for auditors and all actuaries more closely into line, and extending protections for whistle-blowers, eg supplementing the existing relief from duties of confidentiality with statutory provisions conferring qualified privilege (ie when acting in good faith) from actions in defamation.

Key ACA supports

The Profession's role in protecting the public interest

The review says that against the background of the statutory regulatory framework described in the review, a fundamental issue concerns the role of the Profession, and of individual actuaries more generally, in protecting the wider public interest.

Presumably because the review admits to having no final view on this issue, there are no options posed in the review and hence no further comments actively invited.

The review notes the different positions taken and that these vary from one extreme, the position that the actuarial profession and its members should have no direct responsibilities to protect the wider public interest as this is entirely the duty of statutory regulators. Views range across to the opposite extreme, that actuaries have a privileged position doing important work that has a critical impact on the well-being of the community. Therefore, the work of actuaries unavoidably has a public interest dimension.

The review says that the current situation is less clear-cut and that there is a mix of statutory and self-regulation aimed at protecting the public interest within the current regime. The question then arises as to whether this division of responsibilities is effective and clear and whether there is a need to take further steps to protect the public interest. The review concludes that the single most important issue within this is that of the appropriate standard-setting mechanism, considered later in the review under Chapter 7 (see pages 32 to 35).

The review then goes on to say that the design of a regulatory framework that protects the public interest is inextricably linked to the accountability of individual actuaries. The review notes that professional bodies, firms and individuals argued in the consultations that there was a need to establish clearer lines of accountability to the public interest.

In their response to the initial consultation, the ACA and actuarial firms argued that the primary accountability of an actuary is to his or her client and that undefined duties to act in the public interest were not practical. The review notes that the Profession also argued the primacy of duty to the client, while cautioning that duties imposed by the professional body should not discourage clients from taking advice from an actuary. The review notes that a number of respondents argued that greater clarity over when and to whom an actuary is accountable is the single most important issue that the review should address.

The review puts forward what it says are a number of propositions as a first step to providing clarity in the area of accountability. The first is that multiple lines of accountability exist – this is inevitable given the work actuaries do and it is desirable this is explicitly recognised.

Second, that this need not lead to ambiguity, confusion or inconsistency provided for each type of accountability it is clear to whom and for what the actuary is accountable, and that the hierarchy of accountabilities is transparent, so that in any situation there is clarity as to which takes precedence.

Third, there must be clear guidance on how such accountability is discharged, for example, by adherence to rules or guidance, types of reporting and whistle-blowing.

Fourth, there must be clear incentives for actuaries to observe the hierarchy of accountabilities and clear protection for the when adhering to it.

The review notes, by way of illustration, consulting actuaries will be accountable to their employers, primarily as defined by their employment contracts. The actuary and his / her firm will also have contractual obligations to clients. And, to the extent that they might conflict, for example confidentiality obligations versus internal peer review commitments, the client contract needs to specify which will take precedence.

Obligations to whistle-blow to a regulator would then be part of a level of accountability which takes precedence over any other type of accountability, but would need to be backed by as much clarity as possible from regulators as to the circumstances requiring such action, the protections afforded and the penalties for non-compliance.

The review concludes this introduction to its analysis of public interest and accountability by noting:

'It is clear...that the general framework, such as that outlined above, needs to be clear. In particular, whistle-blowing obligations, precedents, protections and incentives need to be clear and embodied in regulatory provisions that the PCS reinforces. This, combined with current or prospective reforms of reserved-role, audit and other forms of scrutiny, standard-setting and compliance arguably may be sufficient. If, however, this is not evidently so then a further explicit public interest obligation, together with clear guidance on its meaning and application, may well be necessary'.

The ACA welcomes the analysis of public interest in the review and the recognition that individual actuaries are subject to a number of different accountabilities. These are issues faced on a regular basis by consulting actuaries and the review accepts that ambiguity, confusion and inconsistency need not be the result of this situation.

The ACA broadly supports the guidance given in the paper featured on the Profession's website, *The Actuarial Profession and the public interest*. This states at the outset that:

"The Actuarial Profession has an obligation to serve the public interest. Collectively it seeks to do so by informed contribution to debate on matters of public interest and by influencing those with power to protect and enhance the public interest. Individually members must maintain and observe the highest standards of conduct. The standing of the Profession depends on the judgement of individual member."

That document then details the processes whereby the Profession will address public interest issues.

Importantly, the document concludes by noting the position of the individual actuary:

"It is likely that the conclusions reached on some issues will conflict with the positions of individual actuaries in respect of their clients. The Profession's position on an issue of public interest is not binding on the membership unless it is translated into specific guidance. However, it would be expected that individual actuaries would be aware of the position taken by the Profession in matters relating to their area of work and would therefore have to consider whether to draw the Profession's position to the attention of their client or employer".

The ACA believes the responsibilities detailed above, coupled with those additional responsibilities placed on actuaries in reserved roles or by way of other statutory obligations, sufficiently spell out guidance to actuaries on matters of 'public interest'.

What the ACA finds great difficulty with is the concept that there is a clear and unambiguous 'public interest' in many matters. All too often, what is in the 'public interest' is far from clear. Very often it will depend on where an individual or organisation sits. This is why, in Parliament, we so often see two or three positions taken up by the different political parties, each of which saying their position is in 'the public interest'. If this is a legitimate stance for

politicians to take (which we believe it is) why should not the same apply in other areas? The answer is that it does and there are few issues where there is a simple stark position that is clearly in the 'public interest' – most positions and decisions lie in the grey area between black and white.

It is therefore probably impossible to place a workable 'public interest' duty on individual actuaries that goes beyond his or her contractual relationship with an employer or client, save in those areas where clear professional guidance and further clear statutory duties are placed on the individual actuary, including whistle-blowing obligations.

The ACA is certainly supportive of these matters being clearly spelt out in contracts and that further consideration is given, as the review suggests, to the clarity of both professional and statutory guidance and their relative precedence in matters of accountability.

Life Insurance

The review notes that virtually all respondents to the consultation supported the changes to the FSA rules that require the separation of actuarial roles from other executive roles; that emphasise the responsibility placed with Boards and senior management and that require larger with-profits insurers to prepare realistic regulatory reports on their with-profits business.

Respondents felt these reforms dealt with Lord Penrose's primary concerns.

Actuarial Function Holder

The review notes that a number of respondents (including the ACA) were uneasy that the FSA decided that Actuarial Function Holders will not provide a certificate as part of the actuarial investigation (as the Appointed Actuary has done). Such a public certificate would improve transparency, while it would also provide the actuary with an avenue to communicate his concern, rather than having to make a pro-active approach to the regulator.

Whilst the review supports the scope of the Actuarial Function Holder, the one situation where a serious conflict may emerge is if the Holder has to report to the FSA under his whistle-blowing duties. This, the review says, will be particularly difficult when, as is often the case, the Actuarial Function Holder is employed by the insurer. They therefore ask whether greater protection should be given for whistle-blowers. The ACA concurs with this view.

Options

- Option 1: status quo - Actuarial Function Holder role as currently specified by the FSA; or
- Option 2: greater protections for whistle-blowers.

Key ACA supports

With-Profits Actuary

The review raises two issues with respect to the With-Profits Actuary.

First, if the With-Profits Actuary is internal to the insurer it may be difficult for him or her to give advice that customers have not been treated fairly. This, says the review, is not in itself an actuarial activity (even though it is closely based on actuarial assessments) and might well be viewed as directly challenging management prerogatives of the actuary's employer. A possible solution, which the review says may be too costly, is to require With-Profits Actuaries to be external to the insurer. Alternatively, they might be appointed by a body other than the Board.

The second issue raised by the review is the public interest duty of the With-Profits Actuary in advising on whether customers have been treated fairly. The review feels that there should be a clear and direct line of accountability to the regulator in reporting on this.

The review also believes that policyholders should receive the opinion on whether customers have been treated fairly and the report on how the With-Profits Actuary has come to that opinion.

The review says that the regulator should have access to the full report of the With-Profits Actuary given to the Board, but says making this full report also available to policyholders might constrain the With-Profits Actuary in what he says.

The ACA is supportive of the view that to best protect policyholders, the With-Profits Actuary should be external to the insurer, thereby reducing possible conflicts of interest. The ACA also favours the reporting requirements detailed in 'Option 4'. It would be difficult to justify the cost of mailing such a report to policyholders, but a summary could be included in the annual bonus mailing or the opinion could be made available on the company's website. Making the full report available to policyholders might also constrain comments therein and therefore this should be excluded from the option.

Options

- Option 1: status quo - With-Profits Actuary role as currently specified by the FSA; or
- Option 2: the With-Profits Actuary should be external to the insurer; or
- Option 3: the With-Profits Actuary should be appointed by the With-Profits Committee, if one exists, or otherwise the Audit Committee; and/or
- Option 4: the With-Profits Actuary makes a full report to the regulator. Policyholders receive a copy of the With-Profits Actuary's opinion and have access to the full report.

Key ACA Supports

Reviewing Actuary

The review notes that respondents were generally supportive of this new role. However, some felt that it could be enhanced by incorporating an assessment of whether the Actuarial Function Holder has complied with professional guidance.

Second, it was noted that under the rules currently specified by the FSA the Reviewing Actuary would have no direct whistle-blowing duties; whistle-blowing would rely upon the auditor acting on the advice of the Reviewing Actuary. If the auditor ignored the Reviewing Actuary's advice, this would only come to light if the Reviewing Actuary raised the issue with the Profession as a result of non compliance with guidance or the PCS, although this would be limited by confidentiality.

For the reasons given above the ACA favours 'Option 2' and that the Reviewing Actuary has a direct whistle-blowing duty to avoid any delay in alerting regulators.

Options

- Option 1: status quo - Reviewing Actuary role as currently specified by FSA, with the Reviewing Actuary reporting privately to the auditor; or
- Option 2: Reviewing Actuary role as currently specified by FSA, with additional duty to provide a private management letter to the Board on the Actuarial Function Holder's compliance with professional guidance; and/or
- Option 3: Reviewing Actuary to have direct whistle-blowing duties.

Key ACA supports

Pensions

Many sponsoring employers and trustee boards have seen advantages in using the same actuarial adviser. In many cases there has been no conflict between the aims and objectives of the two parties and, as a result, advice has been cost-effectively provided.

It has to be recognised that in circumstance where sizeable scheme deficits have emerged, and options for corrective action have needed to be considered, the likelihood of conflicts occurring between sponsoring employers and trustee boards has increased. These conflicts have been recognised by all sides and the market has responded with an increase in the number of split appointments or of separate advisers being appointed to advise parties on contentious issues. The ACA feels that common sense solutions have emerged in such situations, with actuaries being acutely aware of when they must withdraw from a joint appointment. In that regard, many firms have established procedures and provided guidance to their own staff

and other parties on how conflicts of interest should be identified and addressed. Indeed, there is a strong commercial imperative for firms to have clear conflict resolution procedures in place to avoid any potential claims of biased advice from clients.

The ACA believes that no one option presented by the review is satisfactory, and that the best combination is offered by combining 'Option 1' and 'Option 2'. It is felt that the widespread adoption of these options would in all probability render 'Option 3' unnecessary. By combining both 'Options 1 and 2', both the actuary and trustees are free to lead the decision, with the Scheme Actuary continuing to advise the trustees in both cases.

Whilst a number of users may prefer 'Option 4', and may already operate in this way, it is not felt that there need be any requirement placed on schemes generally to operate split appointments in this way. The decision should be left to schemes to decide what is best for them.

Options

- Option 1: status quo - Scheme Actuary advises both the scheme sponsor and trustees, unless the actuary deems there to be a conflict, in which case the Scheme Actuary only advises the trustees; and
- Option 2: Scheme Actuary advises both the scheme sponsor and trustees, unless the trustees deem there to be a conflict, in which case the Scheme Actuary only advises the trustees; or
- Option 3: role of advising the scheme sponsor and the scheme trustees is separated in some clearly defined circumstances eg during scheme wind-up; or
- Option 4: role of advising the scheme sponsor and the scheme trustees is separated at all times.

Key ACA supports

CHAPTER 6: EDUCATION AND CPD

The review has identified a number of issues in relation to education and CPD. It acknowledges that this is an area where the Profession has recognised the need for action and has an extensive agenda of 'work in progress' at differing stages of development.

The issues raised by the review are:

- In the past the educational syllabus failed to take full account of developments in actuarial thinking or to give sufficient attention to communication and general business awareness skills
- There have been failures in the examination process
- The time taken to qualify has been lengthy
- The adoption of a work-based part-time education model may have contributed to an insular profession
- There has been relatively little provision of actuarial education through the university system.
- CPD content has been variable quality and compliance with CPD has been inadequately monitored.

The syllabus and governance

The review is concerned about whether existing institutional arrangements are best suited to ensure that the syllabus is properly and continuously kept up-to-date, and that the Profession maximises the benefits of cross-fertilisation with academia and other professions. Whilst recognising the progress made with the *2005 Education Strategy*, the review believes that steps are required to open up the development of the syllabus to more systematic scrutiny and influence from outside the Profession.

Whilst acknowledging that it may be regarded as unnecessarily interventionist, the review clearly favours 'Option 2'. It believes this might give greater credibility if the analysis and subsequent proposals for change in education matters were endorsed by a respected body that was seen to be independent of the Profession.

The ACA favours 'Option 1' at this stage given the need to bed in current reforms before considering whether further changes are needed.

Options

- Option 1: minor reform of the existing governance structure to promote greater academic and non-actuarial input; or
- Option 2: establish an independent body with oversight of the Profession's syllabus development along the lines of the accountancy profession's Professional Oversight Board for Accountancy (POBA).

Key ACA supports

Examination issues

The review says that there is evidence of clear problems in relation to the syllabus, the administration of the examination process and qualification times.

Whilst it is evident steps have been taken to address the syllabus, the current examination setting and marking model relies heavily on volunteers. It is not clear, says the review, that there is sufficient oversight of the examination process to guarantee the necessary level of updating, openness or innovation or quality assurance.

The ACA favours 'Option 1' and consideration of 'Option 2'. It is felt the involvement of an independent oversight body in exam setting and marking is a step too far.

Options

- Option 1: reform of the existing governance structure to improve quality control; and/or
- Option 2: involvement of full-time and dedicated professional examiners; and/or
- Option 3: involvement of an independent oversight body in exam setting and marking.

Key ACA supports

Broadening actuarial education provision

The review says the time taken to qualify as an actuary is lengthy and more should be done to bring it down. Since, says the review, the main constraint is the prevailing work-based education model, the review has explored alternative models of education delivery including shorter-term university-based courses.

The ACA is supportive of the thinking behind both of the options (below).

The only caveat, and it is a significant one, is that care is taken to ensure that the effect of these changes is not to reduce overall standards of formal

training achieved at present. It is recognised that much reform of education elsewhere in recent years designed to open up opportunities has been accompanied, unfortunately, by a reduction in standards achieved to pass. This is unacceptable for a Profession where, as the assessment notes, *'actuaries' role in advising pension schemes and insurers are central to overall financial stability'*.

There is a need to ensure that the practical day-to-day skills required, many of which are best learnt in a work-based environment, are not downgraded. Those that qualify in a shorter period than at present must acquire the same range of non-examination based skills achieved by trainees at present. This is of particular importance in the consulting sector where, as we have stated elsewhere, the picture of an insular, inward-looking profession, as described by the review, is not recognised.

Options

- Option 1: wider provision and accreditation of degrees that grant exemptions from the Profession's exams; and/or
- Option 2: promotion of post-graduate fast-track law-style conversion courses for those with university degrees.

Key ACA supports

Continuing professional development (CPD)

The review expresses concern at the Profession's overall approach to the content of the CPD scheme, which involves setting broad guidelines for what counts as appropriate CPD but leaves it to the individual to judge what it is in their best interests to attend or study. The potential shortcoming of this approach is the assumption that individual actuaries and their employers are always and everywhere best placed to judge the appropriateness of CPD opportunities. The review is also concerned about the level of confusion that appears to surround the purpose, scope and significance of the CPD scheme, particularly in relation to the current proposals for change.

The ACA is supportive of a CPD scheme that assists all practising actuaries to maintain and enhance their skills as developments occur affecting markets that are served by actuaries.

It is felt there are good reasons for supporting all the options outlined by the review (see below).

It needs to be understood by the review, that actuarial firms often require much higher levels of CPD than the minimum required by the Profession. It also needs to be underscored that for actuarial consulting firms to prosper in an open market, they are needful of highly qualified staff attuned to the latest thinking and approaches in their discipline.

The ACA, which offers CPD opportunities to consultants through its regular meetings and conferences, is keen to assist the Profession by ensuring opportunities offered by the ACA are maintained and improved, and that, where required, standards of monitoring are enhanced.

Options

- Option 1: the Profession should set out clear objectives for the CPD Scheme and clarify what constitutes formal CPD. The Profession should ensure that CPD that qualifies as formal CPD is meeting an objective of the CPD Scheme, and is not simply a tick-box exercise based on attendance at meetings or conferences; and/or
- Option 2: the Profession should consider increasing the amount and quality of formal CPD required for reserved role holders, in recognition of the importance of these roles. For example, the Profession, with regulator input, could develop tailored CPD opportunities ahead of key changes in the regulatory environment for actuaries in reserved roles; and/or
- Option 3: close links could be fostered between those within the Profession with responsibility for syllabus development, the actuarial research community and those focused on CPD to ensure that the CPD Scheme is kept up-to-date and reflects recent developments in other disciplines and actuarial research; and/or
- Option 4: greater input to the CPD Scheme could be given to research-oriented actuaries, overseas actuaries and non-actuaries, for example through involvement in an oversight body, constitutionally independent of the Profession containing a mix of actuaries and non-actuaries. This could monitor the Profession's performance in relation to CPD Scheme development to ensure that the scheme is kept up-to-date, that links to other disciplines and actuarial research are made and that CPD is available to all actuaries, not just to those working in traditional areas.

Key ACA supports

CPD monitoring

Whilst it is recognised that 'Option 2' might be the more costly option, such is the importance for all actuaries of ensuring skills are maintained and enhanced as change occurs, this is supported by the ACA.

It is felt 'Option 3' would place too great a burden on any independent professional oversight body.

Options

- Option 1: the Profession implements its three-tiered professional revalidation proposal as currently envisaged, which introduces technical CPD requirements and annual monitoring for reserved role holders, technical CPD requirements and three-yearly monitoring for holders of the new voluntary non-statutory practising certificates, and basic CPD requirements and 10-yearly monitoring for the remainder of working actuaries; or
- Option 2: as Option 1 but non-statutory practising certificate regime is expanded to cover all actuaries (except those performing statutory roles) so the technical CPD requirements and three-yearly monitoring apply to all working actuaries; and/or
- Option 3: the task of monitoring CPD requirements and monitoring of compliance with the CPD scheme should be made part of the remit of the independent professional oversight body referred to above.

Key ACA supports

CHAPTER 7: STANDARD-SETTING

Actuarial standing-setting

The review is critical of the actuarial profession's current approach to standard-setting. The failures it identifies are:

- Weak and ambiguous professional standards
- A failure to resolve contentious issues
- Inconsistent approaches across practice areas, and
- Perceived conflicts of interest in the process of standard-setting

The review regards the setting of high-quality and continuously developing actuarial standards as one of the most important issues facing the Profession. It concludes that the Profession's Practice Boards' approach in the past has failed to ensure a coherent, consistent and comprehensive set of standards which can then be relied on by users of actuarial services as a guarantee of best practice advice. Nor, says the review, has the Profession ensured that standards are met.

The review recognises the proposals made by the Profession to establish an Actuarial Standards Board (ActSB) and gives it support. An ActSB along the lines proposed by the Profession would, says the review, address *some* of the criticisms of the current Practice Board approach to standard-setting.

However, the review believes a number of issues remain unresolved with the Profession's current proposal:

- It is questionable, says the review, whether the current proposals offer a sufficient degree of independence from the Profession to restore confidence in standard setting. It must be clear to whom the proposed Standards Board is ultimately accountable.
- It is unclear, beyond the proportion of lay members, what the composition of the ActSB will be and how the Appointments Committee will itself be appointed, and
- It is unclear how the Profession intends to fund the proposed standards board.

The review says that its current thinking is that the Profession should, as it has proposed, establish an independent Actuarial Standards Board that would set, revise and regularly update professional actuarial standards. Its independence would stem from its appointment, oversight and accountability, which, says the review, all need to be clearly independent from the Profession.

The independence could be achieved, says the review, by either:

- Creating a new entity that comprises members of statutory regulators, DWP, institutional users, consumers, the Profession, experts and lay members. The review wonders whether the additional cost could be justified for a small profession, particularly when it is already subject to increasingly proactive regulation by two statutory regulators, or
- Placing the ActSB under the jurisdiction of the Financial Reporting Council (FRC). The FRC already provides oversight of the Accounting Standards Board, the Auditing Practices Board, the Professional Oversight Board for Accountancy, the Financial Reporting Review Panel and the Accountancy Investigation and Discipline Board. The review notes that the FRC's mission is 'promoting confidence in corporate reporting and governance' and that this seems a good fit with what is needed. However, the disadvantage of this option would be an initial lack of experience of the FRC to oversee actuarial standards.

Adoption of an independent oversight body could however mean that the Actuarial Standards Board itself would require fewer or no lay representation as per the Accounting Standards Board model.

The review's concern with 'Option 3' is that this would reduce the involvement of members of the Profession in the setting of standards, while the allocation of the standard-setting process to different regulators could result in a lack of consistency between the different practice areas of the profession.

The review's current thinking is to embed the ActSB within the FRC, although this is subject to further discussion and consultation with the FRC and other relevant bodies.

A number of issues arise if the FRC is to be considered as the independent oversight body of the ActSB, which would then presumably become an additional operating body of the FRC, in addition to the five bodies currently reporting into the FRC. Whilst not an exhaustive list of issues, these include:

- Whilst the FRC seems to share some of the aims of an oversight body for the actuarial profession (with its aim of promoting confidence in corporate reporting and governance), its activities are mainly directed towards listed companies and companies required to prepare accounts under the Companies Acts. It needs to be considered carefully whether this is close enough to the core work undertaken by actuaries as advisers to trustee boards (which are deliberately independent of companies) and the actuarial roles and duties employed and engaged by life and general insurance companies. Would there be any danger that the agenda an independent oversight body for the actuarial profession would pursue might be re-directed or 'captured' by the prevailing thinking in the accountancy profession?
- If the ActSB became an operating body, would there also be a need to add further operating bodies to mirror those other 6 accounting orientated bodies reporting into the FRC. Would there, for instance, be a Professional Oversight Board for Actuaries (mirroring that for accountants)

or an Actuarial Investigation and Discipline Board (mirroring that for accountants)? Or is the proposition that the scope of the existing operating bodies would be revised to encompass the actuarial profession and is this a realistic approach?

- The composition of the FRC Board (presently 5 members) and Council (presently 30 members) would need to be changed so all concerned were satisfied that the FRC could properly handle its role as the oversight body for the actuarial profession. The FRC Board would probably need to include the President of either the Institute or Faculty and perhaps at least one additional senior member with a day-to-day understanding or involvement with corporate pensions or insurance business. The Council might also need to be expanded to include the Chairmen of any new actuarial operating boards, greater trade union representation or pension scheme trustee representation and representation from actuarial consulting firms. Would such a Council, dealing with accounting and actuarial issues, be viable in terms of the issues to be considered (significant parts of the Council agenda would not necessarily be appropriate for many Council members) or would two Councils - one for accounting and another for actuarial topics - be needed?
- The funding of the ActSB and its share of the FRC is certainly an issue. The FRC employs 60 staff and has budget that at present exceeds £12 million per annum (ie. excluding the cost of running the respective accountancy professional bodies). As such, the FRC's budget is greater than the actuarial profession's entire budget at present. This is met by contributions from the UK government, listed companies and the accounting profession. Whilst placing the ActSB under the FRC should ensure some reduced overhead costs (as compared to setting up a new independent actuarial oversight body), these savings might not be that large if separate new operating bodies in addition to ActSB are required with extra support staff. The cost culture of the FRC, reflecting that of a much larger profession, might also mean acceptance of a share of a higher cost base than would otherwise be the case. How the ActSB and other new operating bodies plus any additional FRC costs are to be funded remains unclear. It is presumed that the UK government would make a contribution and the Profession, but it is difficult to see why listed businesses should be expected to pay an increased levy when some may not in fact have any great use actuarial services. A further call on pension schemes, given the new levy required from DB schemes to fund the Pension Protection Fund, would also be considered unhelpful by many schemes.
- There must also be a concern that the FRC has taken on considerably greater responsibilities in the recent past and these are by its own reports constraining its ability to take on new tasks and projects.

The ACA feels any discussions with the FRC should at this stage be 'without prejudice' and is supportive of examining simultaneously the pros and cons of an entirely independent oversight body for the actuarial profession.

There certainly could be attractions in having an entirely independent oversight body (from the FRC) in terms of a more appropriate Council than that of the FRC (already 30 members). Such an oversight body could be smaller and, whilst being lay dominated, be predominantly designed for the oversight of a profession facing different key concerns.

Should this route be taken, it would be important that the independent oversight body is seen to have close contact with the FRC and other related oversight bodies and relevant regulators, so the Profession is not accused (unfairly) of operating in an insular way.

It might also be the case that an entirely independent oversight body for the actuarial profession could identify a funding system suited to the body and not one built around the FRC's funding structure and an overhead appropriate to a much larger profession.

Options

- Option 1: Actuarial Standards Board (ActSB) which is quasi-independent of the Profession (as per the Profession's proposal); or
- Option 2: Actuarial Standards Board (ActSB) subject to oversight by a suitably independent body, for example the Financial Reporting Council; or
- Option 3: the FSA sets standards in life and general insurance, and DWP/Opra sets standards for pensions.

Key ACA supports

CHAPTER 8: SCRUTINY AND DISCIPLINE

The review says that it has also identified a lack of adequate scrutiny and challenge of actuarial advice. It says, this arises as a result of the complexity of actuarial work, the insular nature of the profession, the existence of reserved roles and professional norms that have discouraged criticism of one actuary by another.

The review concludes that there are a number of ways to improve scrutiny of actuarial advice, through better informed consumers; greater choice and market testing; enhanced supervision by regulators and either ex-ante or ex-post scrutiny. This, says the review, might be done through audit of actuarial activity and / or by internal or external peer review.

The review believes that given the understanding gap that exists between users of actuarial advice and their advisers it is essential to introduce formal scrutiny either through audit or peer review.

Scrutiny of actuaries in life insurance

The review supports the FSA's introduction of the Reviewing Actuary role, which is clearly independent of other reserved-role holders and has a clear line of accountability to the auditor.

However, the review notes a number of key issues need to be resolved, namely, the potential for overlap between the Reviewing Actuary role and the reviewer; additional costs for having both audit and peer review; and whether a Reviewing Actuary would compromise his or her independence by also acting as a peer reviewer.

The ACA favours 'Option 3' below.

Options

- Option 1: Reviewing Actuary as currently specified by the FSA, with no mandatory peer review as proposed by the Profession; or
- Option 2: Reviewing Actuary as currently specified by the FSA, and peer review as proposed by the Profession; or
- Option 3: Reviewing Actuary's remit is expanded to include an explicit duty to report on compliance with actuarial standards; or
- Option 4: Reviewing Actuary as currently specified by the FSA, with additional duty to provide a peer review letter to the Actuarial Function Holder and/or the Board.

Key ACA supports

Scrutiny of actuaries in pensions

The review believes that the current degree of scrutiny is inadequate. Until such time as there is a move to include long-term liabilities within pension scheme accounts, the review supports either the principle of peer review or audit of the triennial valuation.

In relation to peer review there are a number of issues that the review sought further views on:

- The necessary degree of independence between the peer reviewer and the Scheme Actuary
- Whether peer review should focus on the formal compliance with actuarial standards or should go beyond these, for example, to consider the assumptions made by the actuary
- Whether scrutiny should be provided of all work, or whether a sample of work would be sufficient, and
- Whether the extent of scrutiny should vary by scheme size.

The ACA is concerned that the peer review process should be both cost-effective and realistic in terms of what can be expected and achieved. It is unrealistic for all work to be scrutinised on cost grounds alone and to do so would endanger the market for actuarial services.

The extent of peer review should also not go beyond that reasonably expected of other professionals. In a competitive market, there are clearly issues which must limit the extent to which peer review can be conducted by competitor firms, who might have an interest in destabilising relationships. Save in exceptional circumstances, or in the peer review of the work of sole practitioners, peer review should be conducted by an individual from the same firm having regard to actuarial standards and the assumptions generally observed by the firm and its actuaries.

It is important too that peer review does not stifle innovation. Given the criticism made of actuaries in the review that they have not moved with changes in thinking as quickly as they might, there are real dangers that the wider application of peer review could slow down change. Markets are most innovative that do not have restrictions placed on original thinking. It would be highly dangerous to assume that peer review might speed up the introduction of innovative thinking – it is much more likely to foster a ‘safety first’ mentality in advice that may be disadvantageous to users over the longer-term.

As the review recognises, in relation to the audit of the triennial valuation, there are major questions over cost and the appropriate frequency. In paragraph 8.60 of the Interim Assessment, the role of the actuary advising the auditor is likened to the role of the Reviewing Actuary in the audit of life insurers. The ACA feels that the comparison is not appropriate as the Reviewing Actuary is auditing an institution, whereas valuations of pension schemes are very often concerned with small schemes where the cost of such

an audit would be significant relative to the size of the scheme's contribution income.

On balance, the ACA favours 'Option 3' below, as it is felt this provides the best protection for users of services who, despite attempts to extend understanding and education, we anticipate will continue to rely on the relationship of trust with their professional adviser.

Options

- Option 1: maintain the status quo of no formal scrutiny; or
- Option 2: include long-term liabilities within pension scheme financial statements, which are then audited; and/or
- **Option 3: introduce peer review of the Scheme Actuary as envisaged by the Profession;** and/or
- Option 4: audit the Scheme Actuary's triennial valuation.

Key ACA supports

Scrutiny of actuaries in general insurance

The Profession currently has no peer review proposals for actuaries in general insurance employed outside Lloyd's.

The reviews says the extent and nature of requirements for scrutiny of actuaries in general insurance will be partly determined by the decision on whether a reserved role should be introduced outside Lloyd's. If a reserved role were introduced, then there would be scope to introduce audit requirements and / or peer review arrangements similar to those in life insurance.

Even if no reserved role were established outside Lloyd's, the review says there is a case for some form of peer review and / or a requirement for actuarial advice to be obtained as part of the audit process.

The ACA supports the introduction of peer review process. The ACA is concerned that the peer review process should be cost-effective and realistic, that it should not go beyond that reasonably expected of other professions, and that it should not stifle innovation.

The ACA also considers it anomalous that different requirements apply at Lloyd's and in the company market.

Options (for the company market)

- Option 1: introduction of requirement for actuarial advice as part of audit, and/or
- Option 2: introduction of peer review.

Key ACA supports

Each Lloyd's syndicate must produce annual syndicate accounts, as well as a Statement of Actuarial Opinion (SAO). These are audited as with general insurance companies. The auditor is not required to take actuarial advice, although most auditors will normally do so. The SAO is not referred to directly in the audit report, except in the case of life syndicates.

The ACA supports 'Option 1' below.

Options (for Lloyd's)

- Option 1: if the Statement of Actuarial Opinion is produced internally then it must be externally peer reviewed; or
- Option 2: introduction of external peer review of the work of all Syndicate Actuaries; and/or
- Option 3: introduction of a requirement for actuarial advice as part of audit.

Key ACA supports

Discipline

The review believes that the Profession's new disciplinary process should be given time to work.

The two areas that the review says still need to be resolved are, first, accountability, and second, the source of complaints. The appropriate accountability of the disciplinary scheme is partly dependent upon the standard-setting framework. If an ActSB sets standards, then the review believes that it would be preferable for the disciplinary scheme to be accountable to a body that is independent of the Profession, rather than the Faculty and Institute's Councils, as this would build credibility and trust in the process.

On the second issue, the review says further thought needs to be given as to whether clarification of actuaries overall accountability, together with associated whistle-blowing obligations, could provide confidence that all cases which require disciplinary action will come to light.

Given the view expressed in favour of an independent oversight body, the ACA believes that 'Option2' is the appropriate line of accountability.

Options

- Option 1: the disciplinary scheme remains accountable to the Faculty and Institute's Councils; or
- Option 2: the disciplinary scheme is accountable to a suitable independent oversight body; and/or
- Option 3: encouragement of closer links between whistle-blowing to regulators and the disciplinary scheme.

Key ACA supports

CHAPTER 9 - GOVERNMENT ACTUARY'S DEPARTMENT

The ACA supports the overall conclusions of the review to date in respect of the continued role for the Government Actuary in that there is a need for independent actuarial advice to the Government on the National Insurance Fund and on statements of broad comparability for public service pensions.

We note that the review is considering recommending that the Government removes statutory requirements for public sector clients to use GAD as actuarial advisers in order to introduce greater competition and choice for users of this service.

Whilst it is clear members of the ACA have a direct interest in such a decision, the ACA feels such a move would be consistent with the review's desire to see greater competition in the sector.

About the Association of Consulting Actuaries

The Association of Consulting Actuaries (ACA) was founded in 1951 when there were just 29 'whole time' consulting actuaries working in the UK. Today, it draws its membership from over 1,500 individual actuaries working in the consulting sector based at around 80 firms. Firms cannot join the ACA as corporate members. There is no equivalent to the ACA in the accountancy or legal profession.

ACA members are all qualified actuaries – mainly Fellows of the Institute of Actuaries or Fellows of the Faculty of Actuaries in Scotland – and all actuarial advice given by members is subject to the profession's code of conduct.

As well as the design and valuation of pension schemes, consulting actuaries in many firms are now involved in a wide range of additional areas. These areas include investment, takeovers and mergers, benefits communication, international employee benefits, life and general insurance, healthcare, corporate finance and risk, damages, reversions and advice on financial settlements on divorce.

The consulting sector within the actuarial profession has experienced rapid growth in recent years, reflecting a wider recognition of the skills and expertise available.

The ACA is the largest national grouping of consulting actuaries in Europe.

Principal aims and objectives

The ACA has a number of aims and objectives, the principal ones being to:

- Project and promote the importance of the work done and services provided by consulting actuaries.
- Inform and educate, from an independent standpoint, decision-makers and other interested parties about the need for and implications of legislative change in areas where consulting actuaries are qualified to speak.
- Provide a forum and facilitate the exchange of information between ACA members on matters that concern them, or those to whom members owe a professional duty as consulting actuaries.
- Exchange collective views and information with other organisations having interests in the same fields as the ACA.
- Working in liaison with the Faculty and Institute of Actuaries to develop the role and enhance the standing of the consulting actuary.

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