

# **COUP - Committee of Unilever Pensioners**

**Chairman: Graham Ball**  
**114 Charterhouse Road, Orpington, Kent, BR6 9ER**  
**Tel No: 01689826428**

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The Morris Review,  
Room GC/O8,  
1, Horse Guards Road,  
London,  
SW1A 2HQ.

Dear Sir,

We submit our views and suggestions on the matters raised in The Consultation Document in the Review of the Actuarial Profession for consideration. These comments are from the perspective of pensioners who made significant contributions to a pension fund throughout their careers, spanning up to forty four years, and are now drawing the benefits of the accumulated fund in the form of pensions.

The pensions drawn have been affected by, amongst other things, the actuarial decisions made during their working lives and our observations are made from our experiences with pensions generally and the Unilever Pension Fund (formerly Unilever Superannuation Fund) in particular.

Yours faithfully

A handwritten signature in cursive script that reads "Graham Ball". The signature is written in dark ink on a light-colored background.

G. Ball  
Chairman.

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## **GENERAL.**

1. The Actuary is perceived by the general public who are not involved in the insurance or pension industries as the independent specially skilled and trained professional. Their responsibility is to use their skills and expertise to anticipate trends and calculate the likely impact of future events to ensure that funds remain solvent. This will ensure that the contracted benefits are certain to become available at the contracted time i.e., they are perceived as the "guardian" of the interests of contributors and potential beneficiaries.

2. The present state of insurance and pension funds has shattered the above view. This is especially so as many actuaries have gone on record in the media blaming the present difficulties solely on (a) the increasing longevity of the human race and (b) the current depreciation of the value of equities. Both of those excuses sound hollow because, in the case of (a) the press have been reporting the phenomenon for several years, the factor being regularly monitored, yet no corrective action was taken. Likewise in respect of (b) it is a well documented event if one looks at the performance of the stock market over its history, indeed there were many media comments over a long period before the event of the present "collapse" that such a downturn was imminent. Both events being equally foreseeable, the question must be asked as to why earlier corrective action was not taken. Another factor which must have significantly contributed to the present sorry position of some funds must be the considerable amounts of money directly or indirectly extracted from them to give inter alia, contribution holidays to employers and employed alike. It does the actuarial profession no credit when a leading firm goes on television attributing the blame as above when they conveniently overlook this added factor which they must have recommended.

There is much disquiet about the way surpluses on funds were dealt with but the very fact that some funds got into the position of a very large surplus surely itself raises the question as to why the actuary did not recommend appropriate adjustments in time to prevent such a massive imbalance arising.

3. The foregoing view was based on the assumption the actuary had final responsibility for the decisions affecting the fund and its viability, a view which many have found, to their considerable cost, to be incorrect. Whilst it is now accepted the actuary's role is technically advisory only (para 2.14. page 20) there must surely be some fairly narrow limit to the trustee's powers to alter or override the recommendations he has made without incurring the almost certain liability for negligence in handling the fund.

4. Lord Penrose, in his report on the debacle of The Equitable Life Company, is critical of the role played by one, or a small number of, actuaries. The reports on the inquiry into Equitable mainly printed in the general media attribute that event to failure to make provision in the Society's accounts for the liability for guarantees given in respect of conversion rates. The quantum of that liability appears to have been known and, therefore, calculated. Surely it then becomes a failure in the accounting operation which should have been revealed in the accounting audit. Those who raised queries about the viability of that Company, long before its closure to new business and including many of the popular daily press, are well aware of the

bullish attitude taken to such queries but the ultimate responsibility must surely rest with the auditors for signing off those accounts with a clear certificate. Of course, there are probably factors unknown to us which made Lord Penrose adopt his view differing from the above.

#### RESPONSES TO SPECIFIC QUESTIONS POSED.

Q 1.1. It seems beyond doubt the actuarial profession has developed specialist expertise in certain areas relevant to insurance and pension funding e.g., forecasts of risk, future returns on capital needed to meet future obligations (some of which may not be precisely determined at the time of calculation). Their main weakness is potential conflicts of interest as alluded to in paragraph 1.17. The question must also arise as to whether an actuary qualifying under the new syllabus referred to in paragraph 1.29. should hold an unqualified practising certificate: the differing nature of the "specialist technical" papers referred to suggest such practising certificates should be limited to those areas where the actuary has been trained, examined and passed. It should be possible to extend permitted areas of practise by taking further topics at a later date.

Q 1.2. Given the specialist nature of certain actuarial functions it is difficult to see how other professions could replace actuaries unless they altered their training and examination structures to incorporate such subjects. It is difficult to assess whether "pensions and investment" in the specialist technical section of the new curriculum equates to the financial planning or investment skills in which financial advisors are examined before they are licensed, if not of comparable standard that could be a suitable area for prohibition of actuaries practising; such a prohibition would also avoid any potential conflicts of interest if it also prohibited associate companies of actuarial firms or partnerships acting in such capacities and also the prohibition on the receipt of any commissions arising from recommendations.

Q 1.5. There are obvious potential conflicts of interest which may affect the decisions made by actuaries because there is a great deal of discretion permitted in critical areas such as the assumption of future rates of return on investments etc., there is also doubt about the party to whom the scheme actuary primarily owes his duty of care (see also Q 1.8 below). It would seem a wise precaution therefore to also have an independent actuary appointed whose duty is to protect the interests of the beneficiaries and potential beneficiaries. If there is disagreement between the two there could be an arbitration or adjudication procedure to resolve the issue.

Q 1.7. Some caution is needed here because it may be that the actuarial firm's marketing department have presented a scheme to the public in a different way to its presentation to the actuary. In the absence of any such duplicity the actuary, or his employer, should take responsibility for any such misrepresentation. It could be made incumbent on any actuary who knows of such unsuitability to notify the persons involved.

Q 1.8. As indicated above, there is some doubt as to whom the scheme actuary's first duty of care is owed, the sponsoring company, the trustees, the contributors, or the beneficiaries and potential beneficiaries (see response to 2.12.). It is respectfully suggested that as the purpose of any pension scheme should be the payment of pension benefits, that primary duty should be to the beneficiaries and potential beneficiaries. Many Company pension schemes are themselves organised as a separate company. In those instances should not the beneficiaries and potential beneficiaries i.e. the members, be treated in the same way as the holders of equity in other companies and be allowed to vote for the appointment of the auditor and, in view of the specialist nature of the pension company, the scheme actuary. Such an arrangement may well provide some counter to conflicts of interest the actuary experiences between his primary actuarial duty and other services provided by

his employer to the fund and its trustees. If the trustees act in such a way that the scheme actuary's advice is not followed to an extent that he feels the fund's capacity to meet its obligations may deteriorate, he should be under an obligation to advise all its members directly of his views and concerns. The present actuarial certificate is couched in technical terms not readily understood by members and, further, is appended to the annual report which is not always automatically sent to every member.

As regards broader issues involved in the work of 'an actuary there is a public interest in ensuring that insurance companies remain solvent and able to pay benefits, cover insured events etc. Where schemes such as that referred to in paragraph 1.17. as being unlikely to meet policyholders expectations, he should be under a similar duty to inform the policyholders.

Q 1.9. Subject to resolution of the question of to whom the primary duty of care is owed and the institution of the additional checks suggested the present situation in the U.K. would be acceptable. There remains the problem of the Equitable Life type situation; it is suggested that actuaries be not permitted from continuing to hold practising certificates if they transfer to management roles, that should prevent any conflict between their respective interests arising from different roles.

Q 1.10. Actuaries do not presently appear to accept liability for their actions. That may be because of the doubt as to whom they owe their primary duty of care. Once that issue is resolved they should bear liability for their actions but what is to be the standard of their duty?

Q 1.19. We have no detailed knowledge of the new syllabus but feel that the points made above under Q 1.1. are still relevant.

Q 1.34. Some firms of actuaries are offering, directly or through subsidiary companies, administration and other non-actuarial services to pension funds. In our view this should be prohibited because of the potential for conflict of interest. See above comments under Q 1.1. and 1.5. The accountancy profession followed a similar course in providing consultancy services that seems to have proved a failure.

Q 2.3. This is not necessarily a fatal conflict. Professionals tend to be hard task masters on their peers. One aspect that needs attention is the lack of representation of ordinary members of the consuming public on disciplinary panels, the representatives of the other side of the debate. This shortcoming could be corrected by the profession but it may be preferable, for the sake of appearances, to set up an independent panel. The suggested peer review actuary should be under an obligation to report to that panel any cause for disquiet.

Q 2.5. See above suggestion under Q 1.5. In our view the Reviewing Actuary should be entirely independent of the auditor.

Q 2.7. The non-executive director's function is surely to act as an independent monitor of management decisions. If there is to be an independent review of actuarial decisions that leads to consensus on such issues, surely the actuarial report can be taken to be as accurate as possible and can be relied on. If the non-executive director is uncertain of any item, or aspect, of the report surely he can ask for further explanations until he is satisfied. Non-executive directors are almost always very experienced operators in company management and thus are familiar with financial issues.

Q 2.8. What is "realistic", The Board of Equitable Life considered they were presenting realistic accounts to their members before the crash. Who will monitor compliance with this standard?

Q 2.9. See above comment under Q 1.2.

Q 2.10. The realistic answer is in the negative for many, but not all, scheme trustees. Compulsory training for trustees is essential if they are to have any hope of discharging their responsibilities and interrogating actuarial proposals. Such training must be provided by independent experts and not the sponsoring company. We would not wish to restrict the choice of candidates for election as trustees. In a large company it is highly likely that it will have in house actuarial expertise which will have a primary duty to the sponsoring company rather than the beneficiaries. It is our view that there must be a clear separation between actuarial advice given to the scheme trustees and that given to the sponsoring company. Our experience with triennial valuations has not been a happy one.

Q 2.11. No. See above under Q 1.5.

Q 2.12. We are relieved to see such issues at long last being questioned. Our view is that there is a need for an actuary with a prime duty of care to the beneficiaries and potential beneficiaries See above under Q 1.5.

Q 2.13. See above under Q 1.5. The final form of the pensions legislation is not yet settled, so we offer no comment at this time.

Q 2.14. See above under paragraph 3. Q 1.2. and 1.34.

Q 2.20. Provided the regulators have satisfied themselves the standard of the qualifying examinations, there would appear to be no problem. See Q 1.1. for our view on restricted practising certificates.

Q 2.21. We have no detailed knowledge of the CPD proposals for the actuarial profession. In many professions it is impossible to maintain a firm' reputation, or even maintain a firm, unless it keeps up to date on developments within its area of expertise.

Q 2.22. The basic answer is in the affirmative, see comments above under Q 1.1. Practising certificates should be conditional upon adequate professional indemnity insurance.

Q 2.29. In our view such guidance should come from the profession. If the profession fails to discharge this burden adequately, then is the time to consider an alternative. The alternative should be the regulators, the government machinery would be too slow to be effective.

Q 2.30. The need is for the discretion to be exercised with a bias towards conservative decisions. How would it be possible to limit the exercise of discretion? The better solution appears to be peer review, see above under Q 1.5.

Q 2.31. We have no detailed knowledge of the proposals for setting actuarial standards. Our view is that standard setting by the profession is likely to be the swiftest method of reviewing and updating standards. This is another area where the inclusion of some non-actuarial members of the public in the relevant committee may be a beneficial change.

Q 2.33. In the case of some actuaries Lord Penrose is absolutely right; Equitable Life was a particular case.

Q 2.35. See comments above under Q 1.5.

Q 2.36. See above under Q 1.8.

Q 2.38. Again, we have no detailed information on the proposed new disciplinary process but we agree with Lord Penrose there is a need for the system to be more proactive and the obligation for reporting made stronger.

Q 2.39. The figures for complaints given are high in comparison to those of another profession whose figures are known to some of our members but, given the current state of many pension funds, there must be at least a suspicion insufficient complaints have been made.

Q 2.42. In our opinion discipline should rest with the Profession see Q 2.3. above.