

Morris Review of the Actuarial Profession

Response to consultation document

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The scope of the actuarial role

Q1.1

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

Actuaries are skilled at making long-term projections using complex calculation methods and also at using statistical methods to analyse historical data to assist in the forecasting of future trends. In essence those skills (and the willingness to undertake calculations that other professionals might not be qualified to undertake) are the strengths of the Profession.

It is, of course, right that people should expect those projections and the statistical analysis to be arithmetically and logically correct but the reality is that they are based on assumptions which will almost certainly differ from actual experience. Given the length of time over which actuarial projections are made and the size of many of the funds that actuaries advise, small changes to assumptions or experience can have a significant impact on the outcome.

Other professions, such as economists, have strength in the area of long-term projections and present value calculations but the key difference in what actuaries do and what economists do is that actuarial calculations focus much more on long-run phenomena where markets are not complete and hence valuations based on hedging considerations are not realistic. Actuaries do use economic and financial economic methods where

appropriate, but as markets in long-term liabilities are virtually non-existent there is, at present, little overlap in the domains.

It is perhaps a weakness of the Profession that it has not succeeded fully in explaining to the general public the limitations of the advice that actuaries are able to give. In addition actuaries may have given too great an impression of certainty when delivering their advice.

Whilst there are undoubtedly criticisms that could be fairly and justly made of the Profession and of individual actuaries and firms, the overall impression that actuaries are to blame for the current crisis of confidence in financial services and pensions saving are, we think, entirely unfair. The reality is that much of the under-funding in pensions has been brought about as a result of economic changes and changes in government policy, particularly in relation to taxation and solvency requirements. Confidence has also been undermined by a move to accounting for pension costs on a short-term basis.

In principle actuaries are properly equipped for the role they perform. There may, however, be unduly high expectations of what that role can sensibly encompass.

Q1.2

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

Actuarial services are being used in an ever-growing number of businesses. New and innovative financial products often require detailed and long-term financial calculations that actuaries are well placed to provide. Actuaries offer distinct expertise at long-run risk assessment which complements services offered by investment analysts and economists.

The fact that actuaries are being involved in a wider number of roles by an increasing number of different businesses suggests that those businesses see the value in actuarial services being provided to them. In

that way, the marketplace will dictate those areas of business in which actuaries actually become involved.

Like other professionals, the actuary is expected to have an understanding of the basics of other professions as they inter-relate with the work that he is doing and often actuaries are asked to comment on issues of an accounting, tax or legal nature. Our terms and conditions of business make it clear that where we comment on matters of an accounting, legal or tax nature we do so as actuaries and not as professionals practising in those fields.

Q1.3

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

If one wishes to have regulation of financial services institutions or other financial entities (for example, pension scheme trusts) then it would seem to us that there is the need for reserved roles to be created to enable there to be control over standards. The purpose of those roles would be to exercise independent and external input.

What is needed in relation to the reserved roles is some certainty that those individuals who assumed the roles are suitably qualified both in terms of professional technical qualification and experience. Unless very specific regulatory bases are to be laid down, the work to be undertaken by someone operating in a reserved role must involve elements of judgement. The key

component would be that the individuals performing the reserved role must be technically qualified, must have a sufficient degree of experience to bring to bear to the issues in question and must be subject to professional standards with sanctions for non-compliance.

The question of whether those roles need to be reserved for actuaries depends on what one hopes to achieve from the reserved roles under consideration. If one hopes to obtain the benefit of professional judgement over long-term projections using complex calculation methods and a statistical analysis of historical data then actuaries would seem well suited for that role.

Q1.4

What impact, if any, has the existence of reserved roles had on the effectiveness with which actuaries work with non-actuaries?

In general, we do not believe the existence of reserved roles has had any particular impact on the effectiveness with which actuaries work with non-actuaries. The reality is that the effectiveness of those relationships is likely to depend on the degree of contact between the individuals in question, the nature of the roles that each is performing in relation to a particular matter, the attitude of clients and the ongoing

development of the professional services market.

In the life sector there has been too much reliance on the Appointed Actuary in the past, which was undesirable. There is now much more emphasis on communication and identification of risks so that decision makers have a better understanding of the underlying issues.

Q1.5

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

The Profession has recently produced new guidelines on peer review. These guidelines are intended to maintain the quality of advice given and provide a greater degree of independent review. Extensive peer review and audit, however, will add to cost which eventually, whether through funding issues in pension schemes or through the charges made to policy holders, will feed through to the ultimate consumer. It is important to remember that in a professional services context significant importance is already placed on the need for good quality advice, both

by reason of competitive position and also the need for advisers to manage their own risks.

A better means of increasing the scrutiny is to improve transparency through fuller disclosure. Mandatory publication of certain sensitivity analyses in actuarial reports along with higher standards of disclosure of calculation assumptions (for example salary scales, mortality, and so on) will make it easier for both actuaries and non-actuaries to understand the details behind calculations.

Q1.6

Could other professions work more closely with actuaries or in related functions to help maintain and improve actuarial effectiveness?

Close working between the various professionals involved in matters for clients is always desirable. A closer working relationship is likely to create a greater understanding of the issues faced as a whole, to draw on the strengths of all of the professionals involved and, ultimately, to improve the quality of the advice given. Indeed,

we have a wide range of individuals with different skills within our firm who work on related areas such as pension design, remuneration and investment consulting in conjunction with actuaries. We feel this close working relationship does lead to greater understanding and is appreciated by clients.

Accountability of actuaries

Q1.7

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

This question proceeds on an assumption that the product designed was not 'fit for purpose' rather than the product having been used within a context where its use was inappropriate. That context could be either specific to the situation in question, as is the case with inappropriate financial advice being given to a customer, or created by governmental or economic backdrop, for example the use of incentives to individuals to contract out which drove, to some extent, the personal pension boom in the late 1980s.

If actuaries had actually designed financial services products which were not fit for purpose then they should, of course, accept responsibility for that. Whilst financial services products

are perceived to be ultimately inappropriate for consumers, the reasons why those products were inappropriate has as much to do with their positioning to the consumer as with their intrinsic design. Issues such as commission charging and governmental initiatives play a significant role in those matters.

There have been instances where actuaries, both individually and collectively have drawn attention to unsuitable products, but commercial pressure and the 'light touch' regulatory regime has still led to the products being sold. It is hard to see how actuaries can be given a veto on product sale, but without that, if the pressure still exists, unsuitable products will still be sold.

Q1.8

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

We believe that actuaries are sufficiently accountable for their actions.

They, like other professionals, carry the risk that if their advice is incorrect or inappropriate then they can be held to account for that. The means through which they can be held to account are various. This can be by complaint to the Profession. In some cases an actuary's conduct can be subject to the jurisdiction of a complaint to the Pensions Ombudsman and, in all cases, if an actuary's advice is incorrect or inappropriate he may be subject to legal action in relation to allegations

of professional negligence. In this regard, the Profession as a whole has seen an explosion of claims within the last five years.

In terms of to whom the actuary should be primarily accountable there is no one definitive answer. This question will be a matter of fact which will depend on the relationship between the actuary in question and his client and any duties imposed on him by professional standards. In broad concept, however, an actuary is primarily accountable to his client, subject to an overriding professional obligation that an actuary must not

act in a manner which denigrates the reputation of the Profession or impugns its integrity.

As such there is a tension between the concept of an actuary advising his client whilst also having a public interest duty. The degree and severity of that conflict depend on the depth and extent of the public interest role that one regards as being placed on the actuary.

For example, where an actuary is working on designing a new financial product, the client for whom he is working will wish to maximise its profit from that product. Whilst satisfying the client's needs is easily identifiable, meeting any wider public interest duty could place an immediate and unrealistic restraint upon the actuary's ability to advise.

We acknowledge the Profession as a whole has a public interest duty and has itself taken steps that have

brought this perception of a public interest duty upon its members. Priority needs to be brought to bear to decide whether actuaries are to have independent reporting roles, something akin to an audit role or whether they act as advisors to their clients, with duties to their clients something more in line with the position of solicitors. In the former role, they could owe more general accountability to the public at large but that role would be very different from the consulting activity carried out to date and would have to be specifically delimited and justified.

Any imposition of public responsibility would also have to address its impact on actuarial firms in so far as issues of liability and ensuring there is sufficient insurance cover in relation to that liability, to ensure that they can continue to provide actuarial services to clients and the market place generally.

Q1.9

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

We do believe that there is an expectation gap between what an actuary engaged by a client can, or should, do in relation to the concept of 'public interest' and what is realistically achievable. The question of the tension between

acting for a client and having a 'public interest' duty is one with which the Profession has grappled for some time. Greater clarity in this regard would be needed to justify any wider public interest duty.

Q1.10

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

The Profession has seen an explosion in the number of claims and the willingness to bring them over the past five years. Whilst many of those claims are not justified, they are often expensive to defend and lead to commercial settlements. The reality of the situation is that, where negligent advice has been provided which caused a financial loss, there is

sufficient recourse against those (including actuaries) responsible.

Whilst there may be arguments over the existence and extent of a responsibility, those arguments do not, of themselves, mean that individuals who feel they have suffered loss have been unable to recover compensation.

The Profession

Q1.11

How effectively does the Profession engage with government, business, regulators and other professions?

The Profession has made strenuous efforts to engage with government, business, regulators and other professions but in recent years

has not succeeded in influencing government and regulators on policy to the extent that would be desirable.

Q1.12

Has the Profession successfully expanded the horizons of actuarial knowledge and promoted innovation?

The Profession has worked hard to encourage actuaries to move into new areas and to demonstrate the value actuaries can add across a wide spectrum of activities. This has more impact on younger aspiring actuaries than on actuaries in established firms.

The Profession could, perhaps, have done more to generate original research but most of the innovation takes place in the actuarial firms themselves.

Q1.13

Has the Profession done enough to promote the work of the Actuarial Profession?

The Profession has been successful in promoting its work to its clients and to government and regulators, but less so to journalists and the

general public, who do not normally have direct contact with actuaries (in contrast to lawyers and accountants).

Q1.14

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

We consider the Profession's governance structures to be reasonably appropriate for the size and responsibilities of the Profession. Lay members have been

introduced in significant numbers as Honorary Fellows and Affiliates, as well as into the previous and the new Disciplinary Scheme.

Entry into the Profession

Q1.15

How important an influence on the Profession are the companies that recruit and train student actuaries? To what extent is the curriculum shaped by the needs of employers? Is this good or bad?

Most of the members of the councils of the professional bodies work for large actuarial employers, so these employers inevitably have some influence.

In our view, it would be undesirable for employers to exert too much influence over the curriculum, although they do need to be able to

make their needs clear, which we believe they do.

The strongest influence on the recent changes to the curriculum was the desire to achieve international consensus. This will tend to make the qualification more recognised around the world, and may generate economies of scale in due course.

Q1.16

What is your view of the appropriateness of the current actuarial qualification syllabus (set in 1999) in preparing actuaries for their actuarial and broader business and management roles?

The current syllabus is oriented towards book work and has a bias towards technical skills and ability. It is a necessary foundation to preparing actuaries for broader

business and management roles, but is not sufficient on its own. Like other large employers, we provide our own training in areas relevant to our business.

Q1.17

In particular, do you think that it should take on average five or six years for an actuary to qualify? Is there the right balance between academic and practical experience, sufficient breadth of subjects studied or not studied and the appropriate degree of specialisation at the right time?

The most common time taken to qualify is four years, which seems about right given the complexity and range of issues covered. The average duration is increased by a minority of students taking a long time to qualify, in many cases because they find it difficult to pass the last one or two papers. The time in qualifying to become an actuary is similar to that required to earn a Ph.D. in economics or finance. However, the scope of the curriculum is, of course, very different, reflecting the specialist skills required to look at long-run issues in

pensions and life assurance as well as the greater practical and less purely theoretical exposure.

We are content with the current balance between academic and practical experience. In particular, it would be undesirable for actuaries to be able to qualify in a totally academic environment.

In a small profession, there is a difficult balance to be struck between breadth (which allows mobility) and specialisation.

Q1.18

Has actuarial education and training kept up with developments, particularly in the financial markets and in financial economics?

It is inevitable that an academic exam system will tend to lag behind developments in faster-moving areas of professional life, but we agree that it could have responded more

quickly to some changes in financial economics. On the other hand, in the introduction of an examination in general insurance, the Profession was ahead of its time.

Q1.19

Do you have any comments about the proposed new qualification syllabus that will come into effect in April 2005?

The proposed new qualification is very much a step in the right direction and does begin to address some of the issues raised in the preceding questions. There seems to be a better balance between exams and work-based knowledge. One concern is that the qualification will still be 80 per cent exam-based, although it would appear that there will be more choice, for example the option to study derivatives. Another concern is the lack of clarity over some aspects of the syllabus, for example the Learning Log. Actuarial employers need to review and plan their training content/support to ensure that

what they offer to their students complements the new strategy. This is proving difficult as there are still some question marks over the content of some of the new syllabus. This may be an issue for small firms which lack the economies of scale to invest resource at short notice. We also have a concern over the increasing costs to the employer under the new syllabus, and the fact that, as an employer, we have no choice of supplier. For example, we understand that there will be a charge for the compulsory audit of the Learning Log.

Q1.20

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

In terms of gender and ethnicity, we feel that there are no real diversity issues. Given the nature of the exams to be passed, it is not surprising that most actuarial students have a strong background in maths, statistics or economics. However the Profession does admit students with degrees in other disciplines. We feel this adds to the diversity of the Profession. There

are few links with other professions' qualifications, but it is difficult to see how there could be many more, without extending the route to qualification.

Some of our actuarial students in the investment field change over to the AIMR CFA qualification rather than complete the actuarial exams.

Q1.21

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

Yes, it is a concern that there is only one provider of actuarial education in the UK as they

effectively operate a monopoly, but it is a small market, so competition may be hard to encourage.

The market for actuarial services

Q1.22

What have been the main drivers of demand for actuarial services over the last ten years? (Part 1)

In common with many actuarial consulting firms we have found our clients wanting advice outside the pure actuarial fields in broader concepts of benefit design and remuneration along with investment consulting advice. This has led to a broadening of service offerings so that, whilst most of our partners are actuaries, we now offer services in some areas which are outside the traditional actuarial field (for example, in our Human Capital Group and Investment consulting practices) where most of our consultants are not actuaries.

In terms of key drivers for demand we would list:

- client globalisation and greater awareness of size, extent and importance of pension and benefit issues
- economic developments and investment performance
- legislative, regulatory and accounting developments
- more complex financial instruments
- mergers, acquisitions and demutualisations
- the increasing exposure of pension funds and life assurance companies to long-term risks.

Q1.22

How do you see the demand for actuarial services evolving in the future? (Part 2)

As far as we can see, the drivers in the future are likely to be:

- greater legislative, regulatory and accounting requirements
- use of alternative medium to long-term benefit structures such as stock options and share plans
- development of IT tools to enable clients to do some of the work themselves, particularly in relation to the funding of closed schemes and a greater differential between 'compliance' advice and 'value added' advice
- innovative advice for companies on risk management of their financial liabilities
- implications of closure and winding up of defined benefit schemes and operation of whatever pension arrangements take their place.

Q1.23

Do the consumers of actuarial services have access to a wide range of providers or is choice in this market in any way constrained? (Part 1)

Actuaries do not operate within a single well-defined market. The pensions market is much different from both the insurance market and the investment advisory market. In some markets, where there are no reserved roles, actuaries compete alongside other professionals on their merits.

There are a large number of consulting actuarial firms. For example, *Pension Funds and their Advisers* lists 164 firms of actuaries and benefit consultants. These range from the large global firms to accounting firms which have

growing actuarial businesses, medium-sized actuarial firms through to a large number of one-man firms. In addition, we would point to the emergence of merchant banks offering products that can assist clients with hedging investment risks.

Each firm is easily accessible and many have well-developed websites advertising their services. We operate in well-informed markets with sophisticated users of our, and other, professional services.

Q1.23

If so, in what way and why is consumer choice limited? (Part 2)

Our view is that there is a substantial number of providers available to meet the needs of all

types of client. We do not believe that choice is limited to any significant extent.

Q1.24

Is it easy for consumers to switch between actuarial service provider? If not, what do you think could be done to encourage switching?

Actuarial advice is a professional service. As such its provision can (by implication and under our terms of business) be terminated by clients easily and immediately. It is our experience that many schemes have multiple advisers or use particular advisers for 'ad hoc' advice which suggests it is not hard to change. There is an increasing

trend towards these regular reviews of appointments. Clients value the benefit of advice in the context of long-term liabilities from those with significant knowledge and understanding of these particular liabilities.

Q1.25

Do those receiving actuarial advice sufficiently understand what they are being told and how the advice was produced? (Part 1)

On the whole, those receiving actuarial advice do sufficiently understand what they have been told even if they do not appreciate exactly 'how the advice was produced'. The main recipients of actuarial advice will be either directors or management of financial services companies, pension scheme trustees or those involved in pension matters at the sponsoring companies.

A comment that is sometimes made is that pension scheme trustees have to rely totally on their advisers and have little or no experience of their own which they can apply to the pension funds for which they are responsible. This is rarely correct. A typical pension fund trustee body will comprise a number of trustees who hold significant roles within the organisation and who may have significant financial expertise. Some of the biggest schemes in the country also have the presence of professional independent trustees amongst their number. We would say that all trustees should be able to participate fully in the running of pension funds as, in their capacity as trustees, they are responsible

for the management of significant sums of money. If they are unwilling to take the time to understand the matters in question then they should not be participating as trustees of pension schemes.

Over recent years the pressure from clients to produce more succinct, readily-understandable advice has increased. Today clients urge their professional advisers to provide specific recommendations rather than merely present options. This is increasing the clarity of the advice being provided.

In terms of understanding how the advice was produced, it is unlikely that those who are non-actuaries will fully understand the complexity of the processes that often sit behind the advice given. The same is equally true of other professions such as engineers and architects. We believe that the advice provided, however, is given in an understandable and intelligible manner. Our Work Excellence programme, introduced in 2001, aims to ensure high standards. One of its principles is that advice must not only be correct and complete but also be clearly communicated.

Q1.25

If not, what generates this informational shortfall? (Part 2)

The nature of the advice given by actuaries does not render it particularly difficult to understand. If it is clearly expressed and its limitations set out then it can be easily understood. We aim, as part of our quality processes, to ensure that all of our advice is not only correct and complete but is also clearly communicated.

Any information shortfall will arise from:

- poor communication
- the nature of the relationship between the actuary and the client covering issues such as the amount of time and money the client is willing to spend taking advice and analysing it and the resources available to the client.

Q1.25

How important an influence on the market is it and what, if anything, do you think might be done about it? (Part 3)

Whilst we do not think that the informational shortfall has a significant impact on the marketplace in terms of clients that purchase professional actuarial advice, it does have an impact on the general level of public understanding. This is particularly pertinent when considering the position of, not only members of defined benefit pension schemes, but also policyholders of life assurance companies.

The key items that have to be addressed in this informational shortfall are:

- ensuring that those who need to take actuarial advice have sufficient time and budget to pay for the advice that they need and then are able to spend the time understanding that advice and its implication for them
- a willingness on the part of employers sponsoring pensions to

prepare for any education required to ensure understanding. Paul Myners, in his report, indicated that, if a company was not prepared to pay for that education, then it should not have a pension scheme. We would endorse that position but note that since that comment was made, the exit cost has risen

- open dialogue between actuaries and their clients over the styles of communication that can be adopted and the relative strengths and weaknesses of those styles
- educational and promotional activity to better enlighten the general public to the purpose and limitations of both the investment vehicles, such as pension schemes and life assurance policies, used to deliver benefits and the actuarial advice in relation to those vehicles.

Q1.26

Which factors have influenced the supply of actuarial advice over the last ten years?

On the whole, supply of actuarial advice has been driven by the demand generated by the factors set out in our answer to question 1.22. Perhaps one of the biggest of those factors has been the increasing legislative, regulatory and accounting burden. At times in the past, one of

the very constraints on the ability to provide advice has been a shortage of resource. Recently, however, the tailing off of the pensions mis-selling review has released many actuaries into the market place so that, generally speaking, resource issues are less acute.

Q1.26

What are likely to be the most significant influences on the industry structure in the future? (Part 2)

The industry currently faces a number of major challenges. We believe the most significant are likely to be:

- outcome and recommendations of this review and other legislative or regulatory developments
- development of the litigation culture and threat in terms of access to PI cover
- increasing pressure to split compliance and added-value consulting work and to charge for them on differential bases
- developments in technology
- globalisation and offshoring
- increased entry of new players and enhancement of competition.

Q1.27

What determines whether actuarial advice is provided by in-house employees or external advisers or consultants? (Part 1)

This is obviously a question into which our clients will have greater insight but we would identify the following factors.

A key factor is whether actuarial advice is needed for the core business. For example a life assurance company is likely to have an in-house actuarial department. Other factors are:

- size of organisation and staff skills

- size of project – factors include time, scope and scale
- access to more specialist knowledge that is up to date with legislation, market information and benchmarking
- cost
- perceived conflict and desire for an independent review.

Q1.27

Does it reflect a clear difference in the actuarial role and function? Do firms employing in-house actuaries ever experience recruitment difficulties? (Part 2)

It is rare (but not unknown) for a pension client to employ an actuary. Also, the pensions manager role will not only cover actuarial matters.

In the financial services sector, however, there are a large number of in-house actuaries.

Q1.28

What is your overall assessment of the degree of competition in the market for actuarial services? (Part 1)

For the reasons already described we believe that the overall degree of competition at the moment is high. We have already pointed to the number of participants and the entry of new competitors. In addition we would point to:

- innovation and development
- fee pressure
- market awareness.

The actuarial market is one in which we would say that there is significant innovation and development. The challenges posed by the last few years have led many companies to consider their strategy in relation to defined benefit pension schemes and to look for benefit solutions provided by other routes.

In common with many of our competitors, we have been investing in the research and development to develop new products and services to bring to our clients to meet their needs. We have invested in a

dedicated research and development team within our firm that solely looks at meeting the future needs of clients.

The market is also subject to increasing pressure on fees. We are asked more and more for global fee discounts and to provide fixed fee quotes for doing particular projects and have seen a significant entry of procurement departments in the marketplace running tenders and seeking up-front discounts on fees. Major new appointments are invariably subject to competitive tender with some clients requiring periodical re-tendering. We currently spend considerable amounts in competitive pitches for new business or for retaining existing clients. As well as pressure on fees, we are finding that clients are seeking to become more self-sufficient and to commoditise certain parts of the work that we do. They are pushing for further demonstration of added-value advice.

Finally, clients do have a good awareness of the alternative providers in the marketplace and of their various strengths and weaknesses. All of the significant actuarial firms have websites that can easily be accessed through

the internet and are mentioned regularly in the pensions press. As much as the market in terms of service provider is small, the market in terms of client contacts is also relatively small.

Q1.28

Is competition in any way constrained by existing professional rules or conventions? If so, which ones and to what extent could they be modified? (Part 2)

The need for professional training and quality could be a perceived barrier to entry into the Profession

and hence limit competition, but we would argue that this is necessary to maintain standards.

Q1.29

Do you think that the Government Actuary's Department competes with private sector suppliers of actuarial services in the market? What impact do you think GAD has on competition in the market?

On the whole, GAD does not compete with the private sector. One area where it does is in the supply of advice to public sector (and ex-public sector) pension

schemes. They also monopolise the market in relation to TUPE transfers from certain former public sector arrangements.

International comparisons

Q1.30

How are the skills and professionalism of UK actuaries and the UK Actuarial Profession regarded internationally?

The UK Actuarial Profession is very international in both outlook and membership, and its qualification standards have always been regarded as high. It has led the international debate on education syllabus in recent years. Other countries have been anxious to

obtain mutual recognition of their own qualifications with the UK, and the development of this concept is another area where the UK has been in the vanguard. The North Americans and Australians have also, in recent years, been active internationally.

Q1.31

How easy is it for actuaries to work across international boundaries?

It is easy for actuaries to work across borders if they have the necessary language skills and relevant local knowledge. The mutual recognition agreements require the completion of a supervised adaptation period and prudent employers of course monitor the competence of their

employees closely. Subject to this it is easy for a UK-qualified actuary to work overseas, as the qualification is recognised as of the highest standard. The same is true for US, Canadian, Australian and South African actuaries but probably less so for other jurisdictions.

Q1.32

Do you agree that there are lessons to be drawn from a consideration of the work of actuaries in Canada, Australia and the US? If so, on which aspects of the work of actuaries in these countries do you think the review should focus?

The activities of the International Actuarial Association ensure that these countries are highly coordinated with each other and with the UK. There are various ways in which ideas are shared and pooled. Nevertheless there are differences in emphasis, reflecting national business culture. It would be instructive for the Review to

compare and contrast the highly fragmented North American Profession with the highly integrated Profession in the UK. The Australian Profession is interesting as an example of how actuarial skills can be applied across a wide spectrum of business issues, well beyond pensions and insurance.

Q1.33

Are there any EU or other countries that the review should be considering in seeking to identify best practice?

We would suggest that the Review focuses on the Groupe Consultatif, as this body has collectively set best

practice amongst the 26 or so European associations which are represented.

Other professions

Q1.34

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

Both the accountancy and actuarial professions have significant involvement in financial matters. They both operate within similar arenas and utilise the skills of professional individuals within the context of professional standards and guidance. However, the purpose of their role, the size and nature of their professions and the issues

that they, and their regulators, face are different. Accordingly, whilst the review should have regard to recent developments in the UK accountancy profession, it should be careful to ensure that any lessons that it seeks to transfer are justified and appropriate in the much smaller actuarial profession.

Q1.35

Are there any forthcoming EU directives or international accounting standards that are likely to impact on the actuarial role?

EU directives on insurance solvency and pensions recognise the importance of the actuarial role. International Accounting Standards similarly recognise the specialist expertise of the actuary.

The International Actuarial Association is preparing international actuarial standards for actuaries who are implementing the proposed International Accounting Standard for insurance.

Q1.36

Are there lessons for the Actuarial Profession from comparison with the professional and regulatory framework of the legal profession?

There are some important differences between the actuarial and legal professions that must be borne in mind when comparing their professional and regulatory frameworks.

Solicitors have significant contact with the end consumers of their advice and those end consumers are often their clients. Actuaries do not have a similar level of contact with the end consumer and the end consumer is often not

their client. As such, the proposals in relation to the legal profession are in relation to a profession which operates under a different model both as to the nature and purpose of the advice that it provides and the way in which it interacts with the consumer interest generally. Particular care is therefore needed in assessing whether any lessons can be transferred from the legal to the actuarial profession.

Q1.37

Which other professions' regulatory models, and what aspects of them in particular, do you think the review should consider?

We have no comments to make here.

The regulatory role of the Profession

Q2.1

What should the objective of a regulatory framework for the Actuarial Profession be?

The main components of the regulatory framework for the Profession should be:

- professional standards
- technical standards
- a disciplinary process.

The objective should be to set and enforce standards that ensure quality of advice for the benefit of those who rely on it and promote and enhance the reputation of the Profession as a whole.

Q2.2

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

The current regulatory approach is self-regulatory, in that it is the Profession that sets professional standards and operates the disciplinary process. However, many of the technical standards are set by or in conjunction with government and/or regulatory authorities. In particular, many aspects of the funding of life assurance companies and pension funds are subject to standards that are incorporated in or made mandatory by law and this trend seems certain to continue and increase.

The Profession undoubtedly has a contribution to make in any debate about the protection of consumers in areas in which the Profession is active, in particular in relation to life assurance and pensions. There is the genuine desire on the part of most actuaries for the Profession to serve the public interest but a lack of clarity around what that obligation can sensibly entail can militate against that desire being fully achieved. It also has to be recognised that the Profession cannot legislate for the protection of consumers

and its members will often have legal obligations to their clients or employers that will sometimes be inconsistent with seeking to promote the best interests of consumers. With the rise of consumerism, the demise of paternalism, and the increasing readiness of clients and others to sue if they believe their interests have been damaged, a public interest role is becoming increasingly untenable without either statutory backing or the explicit agreement of the relevant parties.

It should also be appreciated that consumers are not a homogenous group with common interests. For example, different policyholders of a life assurance company may have widely different and possibly directly conflicting interests in terms of the company's bonus policy. Similar conflicts may apply to different categories of members of pension schemes.

Our conclusion is that there needs to be a better understanding both within and outside the Profession of what the Profession and its members can, and what they cannot, reasonably be held

accountable for in relation to consumers' interests. Greater clarity around what those interests are and how they are to be safeguarded is also needed. This may well reveal the need to change the regulatory framework to further clarify the role of the actuary and legitimate consumer expectation in certain situations, and possibly the need for further legislation.

On the specific question of reserved roles for individual actuaries, our view is that these have not been emphasised too much. Indeed, such statutory roles have helped to clarify actuarial responsibilities.

In our view, the main weaknesses of the current regulatory approach stem from the lack of clarity about the extent of an actuary's responsibilities and the tendency to assume that actuaries can represent and protect multiple interests without either statutory backing or the explicit agreement of all the parties. The size of the Profession, which makes it difficult to resource such matters as the setting and updating of guidance, is also a problem.

Q2.3

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

It is a characteristic of all professions that they seek to set and enforce standards of behaviour and of technical excellence and thereby to enhance the reputation of their profession. In our view the Profession's desire to maintain and enhance its reputation overwhelms any temptation that may exist to pander to the self-interest of members and that any conflicts are manageable.

We would accept, however, that a perception of conflict might arise were the Profession not sufficiently transparent and open to public scrutiny.

It should be recognised that the Profession has a proper role in seeking to avoid impractical obligations falling on its members. In our view, the Profession has, in the past, erred on the side of seeking to promote the public interest without sufficient regard to the practicality of the Profession and its members fulfilling the resulting obligations.

Q2.4

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

Actuaries work in an environment of increasing complexity. Much of this complexity results from legislation. However, this is not directly to do with the regulation of the Profession. We do not regard the current burden of regulation of the Profession as being disproportionate.

We believe that the Profession must continue to have a system of self-regulation; that self-regulation should be open and transparent. As regards technical standards, there needs to be continuing dialogue with government and the regulatory authorities.

Scope of actuaries, statutory or reserved roles.

The role of the Appointed Actuary

Q2.5

Do you think that the FSA's proposals to change the appointed actuary regime address the concerns that Lord Penrose raised in this regard? Is there a need to do anything further to address Lord Penrose's concerns?

The proposal that the head of actuarial function cannot be chairman or chief executive addresses the concern over too much power being vested in one individual. The proposal that the with-profits actuary cannot be a member of the governing body addresses concerns over conflicts of interest when representing the interests of with-profits policyholders (although there are no comparable safeguards for other policyholders). We believe that the FSA proposals address Lord Penrose's concerns in these areas.

With respect to Lord Penrose's view that there should be an effective independent actuarial 'audit', it is less clear that this will be achieved by the FSA proposals. The FSA requirement for an audit opinion should help in this respect, but it is not clear that the proposed new arrangements will

provide the level of comfort that Lord Penrose sought. Doubts remain about the strength of the audit opinion required by the FSA, the interaction between the directors, head of actuarial function, with-profits actuary, auditor and reviewing actuary (if there is one), and the removal of any personal responsibility for the basis of the actuarial reserves, which is part of the current regime.

The Profession's proposals surrounding peer review, and the trend towards Boards of Directors seeking external review of their internal advice, are arguably more likely to improve the position than the FSA changes. The inclusion, once again, in the returns to the FSA of an actuarial certificate by a named actuary would strengthen confidence over the present proposals.

Q2.6

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

We have no specific concerns about the role of actuaries but note that there is an increasing tendency, partly led by the FSA statements, to lose sight of the particular attributes of life assurance, such as pooling of risk and smoothing of investment

returns recognised in all developed and most developing nations. The UK would be considerably damaged if this trend continued and the specialist skills of actuaries were no longer found at the top of life assurance firms.

Q2.7

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

As regards the underlying actuarial calculations, non-executive directors do not, in general, have the necessary expertise, but this is not unusual for non-executives in a company working in a specialised field. What they do have, however, is an ability to understand the results presented to them, to discuss the assumptions used in making the calculations, to satisfy themselves as to the appropriateness and integrity of any data used in the calculations and to seek any other specific advice that they see as relevant to the calculations being carried out.

With respect to challenging whether policyholders are being treated fairly, this is perhaps an easier role for non-executive directors to carry

out, and, provided that they are of the right calibre, they should have sufficient expertise, though they are heavily reliant on the advice and information presented to them.

Fairness to policyholders was never the duty of actuaries, as Penrose pointed out, but rather an area where the Profession filled a void. The issues are the same as when the expression 'reasonable expectations of policyholders' first entered legislation in 1973. Non-executives will need support, such as is provided within the FSA regime from the with-profits actuary, and by the Profession's peer review proposals, but remain well placed to form the judgements.

Q2.8

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

Definitely not. The level of sophistication is greater and the complexity of interactions more opaque. While the objective is laudable, the underlying flexibility inherent in with-profits contracts results in a realistic assessment requiring a large number of assumptions, some of which are rather subjective, such as what

actions the organisation will take in adverse circumstances. This may lead to lack of comparability between companies and greater difficulty for non-actuaries to understand the key drivers. Communication of the key assumptions and results is at least as difficult as under the previous regime.

The role of the Scheme Actuary

Q2.9

Should the Scheme Actuary's role be reserved exclusively for actuaries? Could other professionals provide similar advice?

If one starts from a position of identifying the need for a reserved role using actuarial skills then the answer is yes. Actuaries have been a part of pension fund operation long before the creation of the Scheme Actuary role and were often clearly identified as professionals whose advice must be sought in pension fund documentation.

While there are professions such as economists which can provide aspects of the advice required to compute valuations, the training and experience is quite different on aspects of long-term risks. Those skills would need to be enhanced with additional training. It would also be important to ensure there was appropriate regulation of technical skill, professional guidance and discipline.

Q2.10

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

In our experience, trustee boards generally have the expertise, information and training to enable them to question and challenge the advice of Scheme Actuaries.

In most pension fund documentation the power to determine contribution rates, and hence funding strategy, is given explicitly to either the employer or the trustee, in each case acting on actuarial advice. Whilst power will be reserved to one or other party there are a series of checks and balances which should operate to prevent abuse of that power and foster constructive dialogue aimed at achieving a measure of consensus. Actuaries

provide thoughts and input into that dialogue with the aim of better informing both sides as to the position and the options available to them. As such they do have an influence on funding strategy but do not make policy decisions by default.

There are some schemes where the governing documentation requires the actuary to take decisions about funding strategy. This is not an entirely appropriate arrangement, but represents an historic anomaly which is difficult to remove. It is possible that the Pensions Bill will do that.

Q2.11

Is there sufficient audit or peer review of the Scheme Actuary's advice to provide checks and balances on the influence that could potentially be exerted by the Scheme Actuary?

All advice given by actuaries in our firm is subject to a requirement of peer review. The Profession is also expected shortly to announce a professional requirement for peer review of matters covered by

mandatory professional guidance notes. Actuaries are aware of the need to exercise independent professional judgement and avoid undue influence.

Q2.12

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

Scheme Actuaries are primarily accountable to the trustees who have appointed them. This is the current position and in our view it is the appropriate one. It works to ensure that their advice is sufficiently independent and unbiased and provides appropriate comfort to the trustees and those they represent.

Removal of the Minimum Funding Requirement is unlikely to affect the potential for conflicts of interest; however, other parts of legislation will have an effect, such as the rules announced on 11 June 2003 governing employer debt on winding up.

Historically, the actuary has provided information and illumination to discussions between trustee bodies and the companies, with the aim of finding a funding strategy which is acceptable to both. Provided the actuary is not advising one side or the other on tactics or strategy, or providing advice to one that he would not to the other, and

both sides are aware of the position and agree to it, we do not see an immediate conflict of interest.

The arrangements surrounding the new scheme-specific funding requirement would have enabled the actuary to continue to play such a role, but the imbalance of power resulting from the proposed Pensions Bill will mean that the trustees and company are more likely to be in a confrontational situation. It is possible, therefore, that a separation of roles might be required more frequently, but it is too early to be certain.

The key to any conflict of interest issue, however, is the extent to which those who are involved are alive to it, have discussed it and agreed how it is to be managed. There are benefits in long-standing advisers providing input and information even when there is a real conflict but that can only appropriately happen against a backdrop of informed consent from all of those involved.

Q2.13

To what extent has actuarial advice contributed to the way occupational pension schemes are funded in the UK? How will the Pensions Bill's proposals affect the role and power of actuaries advising pension schemes sponsors and trustees?

Actuarial advice has long been utilised in the funding and management of occupational pension schemes. The aim of that advice has been to assist in the meeting of the benefit promises over the long-term and to assess the contributions required from the employer over the short term. In that sense, actuarial advice has contributed to the funding of occupational pension schemes in the UK.

Other factors that have contributed to the level of funding of occupational pension schemes are tax regimes, employment and benefit trends, volatility in investment returns, regulatory burden, increased longevity and medical improvements.

We have commented on the Pensions Bill at 2.12 above.

Q2.14

Are there any other issues relating to actuaries' statutory or non-statutory roles in advising pension fund trustees and pension fund sponsors that you would like to bring to the attention of the review?

The actuaries' statutory role was only conferred in 1997. It is an important, but relatively limited, role and actuaries have had significant involvement in advising on occupational pension schemes throughout their history.

In assessing an actuary's role in relation to occupational pension schemes, it will be important for the review to bear in mind that each occupational pension scheme will have been created by its own Trust Deed and Rules. Those documents will contain checks and balances

available to each of the trustees and sponsors and should clearly set out and allocate a balance of power between the two. This balance of power is an important mechanism in understanding how pension funds operate, the advice needed and how advice is provided and utilised.

Where pension fund documentation is deficient or has been overridden by legislation (often unintentionally) problems may arise because of a disturbance of the balance of power.

General insurance and the role of the Syndicate Actuary

Q2.15

What are the implications for actuaries of the FSA's moves to a realistic reporting regime in general insurance?

Actuaries are performing valuable roles assisting the directors of general insurance companies in carrying out their internal capital assessments, as required by the FSA.

This requirement is welcomed, but all those involved need to remain aware of the limitations of the modelling techniques that are being used.

Q2.16

Do you agree that a reserved role for actuaries in general insurance is unnecessary?

This is a finely-balanced issue that has been discussed at regular intervals by actuaries practising in this area. Elsewhere in the world (for example, Ireland, US, Australia and parts of Asia) there are requirements for actuaries to sign off general insurance reserves but, if they were to be introduced in the UK, there would be a need to be understanding on that the uncertainties affecting non-life assurance are at least as great as those affecting life business. Accordingly, any actuarial certificates would have to be looked at in that light.

One would also need to know that there were sufficient actuaries with the relevant experience to perform the role and sufficient capacity in the professional indemnity insurance market. There is, perhaps, less a need for a regulated role in this area than in life assurance and pensions as the risks are more short term in nature, with more scope for reinsurance and other market solutions.

Q2.17

Are there any other issues specifically relating to the role, responsibilities or regulation of actuaries working in general insurance that you would like to draw to the attention of the review?

In the UK, non-life actuarial involvement has really only 10 to 15 years of significant experience. Actuaries have had to earn their position by proving their worth to underwriters, claims personnel and finance directors (amongst others). Actuaries can, and do, provide useful, well-considered analytic insights.

However there are still so many uncertainties and question marks over data that such insights need careful handling and interpretation.

We expect the role of actuaries in general insurance to grow as techniques improve and their advice is seen to add value.

Investment

Q2.18

Are there any specific issues faced by actuaries working in institutional investment that you would like to draw to the attention of the review team?

Only a minority of our consultants advising on institutional investment are actuaries. As investment consultants work alongside actuaries the capability of our investment

consulting practice is enhanced by the presence of colleagues with the benefit of differing backgrounds and qualifications who can add to each others' experience and advice.

Q2.19

Do you have any observations about the Institute's role in regulating investment business by actuarial firms as a designated professional body under the FSMA?

The FSA recognises that the small amount of regulated work done as an incidental part of traditional actuarial work is low risk. It therefore allows the Institute to act as a designated professional body to oversee that work. The Institute is able to regulate it with a lighter touch than the FSA would, balanced by the Institute's greater understanding of the nature of that work. This enables the Institute to focus on any areas of concern and is of general benefit in that:

- it allows the FSA to concentrate on areas of high risk
- it gives actuarial firms a regulator that understands them
- it provides clients of actuarial firms with as much protection as they would get under the FSMA
- it has a positive impact for clients on compliance burden and cost.

Maintenance of professional competence

Q2.20

Is there the right balance between the Profession issuing practising certificates and regulators giving their approval?

The balance seems correct. If the regulators were to take on a wider role, consideration would have to

be given to the resources and skills available to them.

Q2.21

In your view are the current CPD requirements and the provision of CPD appropriate?

Yes

Q2.22

Do you support the Profession's proposals to extend the concept of practising certificates to cover all actuaries who give advice on actuarial matters?

It seems reasonable and sensible to extend the mandatory requirement to satisfy CPD to all actuaries. At present, the requirement is that 10 of the 15 hours have to be on matters relevant to the practising certificate and thought will be

needed to determine what that means. In principle, however, extending CPD can only serve to better educate and equip actuaries to the benefit of the Profession and the public.

Q2.23

Are there any other changes to the CPD programme that you would like to see?

There is perhaps a need for greater flexibility over the subjects that count towards CPD and over the

means and accreditation of different delivery mechanisms.

Whistle-blowing

Q2.24

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

The Pensions Act 1995 contains specific protection and obligations in relation to whistle-blowing. OPRA as a regulator has been very active in seeking to promote awareness of the duties and in seeking to enforce compliance

with them. Its introduction of the traffic light system has been beneficial in reducing the number of trivial reports made, allowing focus on matters of significance.

Q2.25

Is it sufficiently clear to actuaries and others when they should report concerns to the regulators and the Profession?

There are currently some specific legislative and regulatory provisions that make it clear when concerns are to be reported. There is also, however, a sense that other, more general, concerns should have been

reported. If that expectation is there and is realistically to be fulfilled, then these expectations need to be made explicit and clear in either legislative or regulatory provision.

Q2.26

Is there an appropriate level of disclosures by actuaries to protect the public interest?

Actuarial standards do mandate a certain level of disclosure in the context of formal actuarial advice. We believe those levels of disclosure are appropriate. If more disclosures are thought necessary, there will

need to be clarity on whom the disclosure should be made to, what the disclosure should be about and what purpose or objective it will serve.

Standard-setting

Q2.27

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

The Profession's technical guidance has, in the past, suffered from a number of weaknesses, in particular:

- a lack of resource to keep it under adequate review
- the complexity of the matters that the guidance has had to cover (such complexity often deriving from statutory regulation)
- a zeal for the promotion of public interest that has potentially placed unreasonable burdens on actuaries.

In our view, the Profession has recognised the need for guidance to take a more practical line than in the recent past and this should help the Profession to concentrate on providing better and more practical guidance.

We agree with Lord Penrose that the Profession would have done well to

develop a code of 'generally accepted actuarial practice' particularly in relation to life assurance and pension scheme valuations. To what extent that could have provided better protection for policyholders' interests is debatable, but it should have had some positive effect. However, it must be recognised that the Profession does not control the legal/contractual basis of operation of life companies and pension funds. For example the phrase 'policyholders, reasonable expectations' first appeared in legislation in 1973. There has always been a lack of clarity about the phrase and the House of Lords decision regarding Equitable Life merely demonstrates the impossibility of the Profession providing any guidance on the meaning of the phrase that would have attracted sufficient support from members and would not have been vulnerable to being overturned in court.

Q.2.28

Does the technical guidance need to be updated more regularly and are fast-track processes required to provide guidance on urgent issues?

In our view, more regular updating of guidance and a fast-track process

for dealing with urgent issues are important.

Q.2.29

Who should provide the guidance: the Profession, the regulators or the government

Professional standards and the disciplinary process should be the responsibility of the Profession, albeit having regard to the views of government and the regulators. Technical guidance must remain

a joint responsibility between the Profession and the government. In particular, there is a need to coordinate legislation and technical guidance.

Q2.30

Is there a need to reduce the level of discretion permitted within the guidance to come to some generally acceptable professional practices?

If one adopts generally acceptable professional practices, a degree of discretion is bound to be inherent in the judgement of a professional applying those practices. The existence of GAAP in the accounting profession still allows a degree of discretion in its application.

Even without any generally acceptable professional practices,

an actuary's discretion is not by any means unfettered. He will have to consider the standards, views and approaches of the Profession as a whole and will be judged against that standard when appearing before any relevant tribunal. That concept, especially in today's litigious environment, provides considerable control over any exercise of discretion.

Q2.31

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

We believe that statutory underpinning will be essential to the standard-setting process. Some aspects of that standard-setting process will

involve matters of public policy and will need to be determined in accordance with requests and instructions from government and/or the regulators.

Q2.32

Does the Profession work closely enough with other professions, for example, accountancy, to ensure that its standards are widely recognised and to influence other profession's standards where appropriate, and to ensure that there are no regulatory gaps or overlaps in standards?

There is a need for close cooperation with other professions, in particular accountancy.

Openness, peer review and audit of actuarial work

Q2.33

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

We do not agree that Lord Penrose's assessment is generally applicable to the Profession as a whole. It is an assessment made within the context of Equitable Life.

Actuarial advice has to be open and transparent and intelligible to clients, both as a result of market pressures

and of the need for actuaries to properly manage their risk. Whilst the detail of how that advice may have been arrived at may not always be entirely understandable, this is always no different the work of other professionals.

Q2.34

What steps can be taken to improve communications between the Actuarial Profession and their clients or other professionals?

It is not really possible to avoid communication problems entirely by making rules or similar mechanisms. The Profession and consulting firms have all recognised the trend away from reliance on professional opinion without question to the more challenging attitude of clients in the 21st century. This, therefore, is gradually becoming yesterday's problem.

Over recent years, the pressure from clients to produce more succinct, readily understandable advice has increased. Today, clients urge their professional advisers to provide specific recommendations rather than merely present options and this is improving the clarity of the advice being provided.

Q2.35

Given the Profession's recent proposals on peer review, and the FSA's proposals for the reviewing actuary function in life assurance, will there be an appropriate level of peer review and scrutiny in the Actuarial Profession to protect consumers' or policyholders' interests in the future?

The proposals identified will provide further review and scrutiny of advice given by actuaries. Our understanding is that this level of review and scrutiny exceeds that applicable to many other professions and we are supportive of that position. In assessing the

appropriate level of peer review and scrutiny, however, one has to have regard not only to the benefits that may flow from that review and scrutiny but also the burdens, both in terms of cost and responsiveness, that can be imposed.

Q2.36

When should actuarial opinions be directly addressed or otherwise communicated to members of the public, such as policyholders or scheme members?

We do not believe it is appropriate for actuarial opinions to be addressed to people other than the clients that actuaries act for. It is, however, appropriate that consideration is given to the extent to which disclosures need to be made to members of the public, such as policyholders or scheme members, as a result of

that advice. There are already in existence legislative and regulatory requirements in relation to disclosure as well as the ability for particular groups and individuals, for example members of pension schemes, to access directly the advice given by actuaries to their clients.

Q2.37

Is there a need to further widen the scope of actuarial activities that are subject to peer review or other forms of scrutiny – for example into Lloyd’s syndicates and general insurance?

As we have mentioned above in deciding whether or not to extend peer review and scrutiny to other areas, one must balance the potential benefits against the potential costs and burden. In relation to Lloyd’s and general insurance business we would

point to some factors, such as the shorter-term nature of the consumer exposure and the existing regulatory and compensatory framework, that may already provide many of the benefits that might be delivered through any further peer review or other scrutiny.

Monitoring, complaints and disciplinary schemes

Q2.38

Do the new disciplinary processes implemented by the Profession from 1 January 2004 address the issues that Lord Penrose raised?

Both the old and new disciplinary schemes make explicit provision for Institute Council to create a complaint/initiate an investigation without any complaint from an external source having been received. It is our understanding that a significant minority of cases that have reached Tribunal were originated by or on behalf of Council.

However, there is no mechanism for the Profession to become aware of unacceptable professional work or behaviour unless or until its consequences emerge in the public arena, or it is brought to attention by means of a complaint from outside the Profession. A mechanism to address this would be beneficial. However it seems difficult to devise such a mechanism without it having significant drawbacks.

The Profession, when it does intervene to investigate situations, should be seen to be taking action once it first becomes apparent that policyholder, scheme member or other interests may have been adversely affected as a result of unacceptable/unsound professional advice or action by an actuary. There will, however, be some cases in which it would be proper for the Profession to allow associated regulatory, litigation or criminal actions to be completed before conducting the Profession’s own investigation.

- Q2.39** **Is the Profession’s past record of 17 complaints over 15 years a sign of a successful profession or an indication that monitoring and disciplinary procedures were not effective?**
- Given the small size of the Profession and the way in which it interacts with clients and end consumers of financial products, care needs to be taken not to attach much weight to such small numbers of complaints. We believe the low number of complaints is a sign of a committed profession and that actuaries conduct is shaped by the Profession’s standards.
- Q2.40** **Should the review consider whether a fully independent disciplinary process is needed?**
- The present internal scheme with its strong built-in independent features would seem appropriate.
- Q2.41** **In the accountancy profession the joint monitoring unit verifies whether firms are complying with audit standards. Given Lord Penrose’s criticisms and the long-term nature of actuarial advice, is there a need to move away from reactive complaint-driven disciplinary procedures to a more proactive regime of monitoring of compliance with professional actuarial standards? If so, who should have responsibility for overseeing the monitoring and disciplinary proceedings and who should bear the associated costs?**
- Audit standards will be more detailed and monitorable than the standards that apply to actuarial work. Some of what a pro-active regime of monitoring might achieve will be delivered by the peer-review proposals. The cost and burden of any greater monitoring would have to be carefully balanced against the perceived benefits to ensure that overall greater comfort would be delivered or acceptable cost.
- Q2.42** **Should discipline be undertaken by the Profession or by regulators?**
- Failure to comply with statutory requirement should, in the first place, be a matter for any regulator, for example OPRA, to deal with and impose whatever sanction is appropriate and within its power. Such failure and the sanction imposed may then be referred to the Profession’s disciplinary scheme for consideration as to whether the offence is sufficient to warrant investigation as alleged misconduct. Matters that relate to professional conduct should be disciplined by the Profession.
- Q2.43** **Do regulators make appropriate use of actuarial expertise to supervise the work of actuaries?**
- It is important for the FSA to have access to actuarial expertise and to make available the financial resources to employ sufficient actuaries of the appropriate calibre.

Roles and responsibilities of the Government Actuary's Department

- Q3.1** **What is your relationship with the GAD? Have you used, or do you currently use the GAD's services? If you are a client of GAD, have you put the provision of actuarial services out to competitive tender? If not, what process do you use and why is it preferable?**
- We are not a client of GAD
- Q3.2** **If you are currently, or have been in the past, a client of GAD's are you satisfied with the quality of service that you receive(d) from the GAD? How could it be improved? If you also have experience of working with private sector providers, how does GAD's service compare to that of private sector providers? Do you have any comments on the basis on which GAD charges for its services?**
- As we are not and have not been a client of GAD it is inappropriate for us to comment.
- Q3.3** **The Government Actuary plays a public interest role in reporting to Parliament on social security matters and preparing the national population projections. Are you satisfied with how this role is currently performed? Could the market or anyone else perform these functions?**
- | | |
|--|---|
| While the market could perform these functions, we see the merit in a Government Actuary, who is relatively free from commercial pressure, having this role. | It is important that the basis for the Government Actuary's recommendations is open to public scrutiny. |
|--|---|
- Q3.4** **Are there any other services which are better provided by the GAD and/or the Government Actuary than by other providers of actuarial services?**
- No.
- Q3.5** **In your view, which of the 10 reasons in para 3.20 highlighting the rationale for a separate GAD remain valid? Are there any other reasons for maintaining the GAD as an independent entity?**
- | | |
|--|--|
| 1 Offer independent actuarial advice to government departments, Ministers and the wider public sector, free of commercial pressure. | 3 Deliver advice across the public sector giving consistency of opinion – this is particularly important in relation to the public service pension schemes. |
| Yes in principle, but as much of the advice given by GAD is confidential, it is impossible to say whether this is true. | It would be possible to establish consistency, where needed, without using the GAD to provide all the advice. |
| 2 Offer confidentiality on sensitive political or commercial issues. | 4 Offer value-for-money to customers in the fee structure used. |
| The private sector is equally able to provide confidential advice. | 5 Provide a cost effective government actuarial service with a strong professional ethos. |

6 Provide advice that is not driven by a profit motive.

Reasons 4-6 appear to have some overlap with each other, but are likely still to be valid.

7 Provide advice with no conflict of interest created by the interests of private sector clients.

Yes.

8 Provide an in-house source of readily available advice.

Yes. It is of concern therefore that, for example, the Government Actuary was not consulted about the amount of the lifetime

allowance under the pensions simplification proposals.

9 Bring knowledge of the ways of government and how advice should best be formulated and presented by being civil servants.

This could be both a strength and a weakness.

10 Give advice that is not influenced by a wish to sell other services.

Conversely, as the GAD provides only a narrow range of services, public sector clients are obliged to seek advice outside pure actuarial advice from consulting firms in the private sector.

Q3.6

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

Yes.

Q3.7

If you think that GAD should not remain as a separate entity, do you think there would still be a continued need for the role of the Government Actuary?

We do think the GAD should remain as a separate entity, but if it did not, we still think there would need to be a nominated

Government Actuary (even if employed by a commercial firm) to deal with the National Insurance Fund and population projections.

Q3.8

How does the GAD compare with structures used in other countries for the effective provision of actuarial services to government?

We are not able to comment in detail but are aware that other

countries have established similar bodies to GAD.

10 September 2004

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