



**Minutes of a meeting of the Actuarial Council held on
15 January 2013 at Aldwych House, London WC2**

PRESENT

Olivia Dickson	Chair
Keith Barton	
Martin Bradley	
Ashok Gupta	
David Hindley	
Howard Jacobs	
Paul Johnson	
Joanne Livingstone	
Oonagh McDonald	
Martin Miles	

Observers

Jon-Paul Brett	DWP
Seamus Creedon	Groupe Consultatif
Anthony Brown	FSA (in place of Paolo Cadoni)
Sir Philip Mawer	Institute and Faculty of Actuaries
Nigel Peuple	The Pensions Regulator

In Attendance

Charlotte Clark	HMT (item 2 only)
Anna Colban	Codes & Standards Project Manager (items 4 and 5 only)
Peter Dingwall	Council Secretary
Robert Inglis	Project Director, Actuarial Policy Team
John Instance	Project Director, Actuarial Policy Team
Paul Kennedy	Director, Actuarial Policy
Maria Meyer	DWP (item 2 only)
Melanie McLaren	Executive Director, Codes & Standards (except items 7.5/6)
David Zentler-Munro	HMT (item 2 only)

1 APOLOGIES

Apologies were noted from Angela Darlington (member), Paolo Cadoni and Amit Kamal (observers) and Mridul Hegde (Executive). The Chair welcomed Anthony Brown, Charlotte Clark, Maria Meyer and David Zentler-Munro to the meeting.

2 SCHEME FUNDING AND DISCOUNT RATES FOR PENSIONS

2.1 The Council noted that:

- a. In the Autumn Statement, the Chancellor had announced that the DWP would consult on whether to allow pension schemes to smooth the value of assets and liabilities in actuarial valuations. The consultation would focus on scheme funding and it would appear that there would be no direct implications for accounting standards. The consultation will also consider whether the Pensions Regulator should have a new objective to take account of affordability and broader economic circumstances;
- b. The NAPF and the Society of Pension Consultants had published papers arguing for more flexibility in the scheme funding regime to cope with exceptional financial circumstances. The CBI had put forward similar arguments that there should be adjustments to funding calculations in the current economic environment in which gilt yields were historically low and as a result large deficits were being calculated. It had been argued that the additional contributions required to meet higher pension scheme deficits could have a significant impact on business – reducing investment and possibly leading to more insolvencies;
- c. In April 2012 the Pensions Regulator had issued a statement in which it had said that it considered that the current funding regime had sufficient flexibility to cope with prevailing market conditions;
- d. The matter had been considered by the Actuarial User Group at its meeting on 7 January. There had been general support for a review of the Scheme Funding regime with two members supportive of any changes which might encourage employers to maintain defined benefit pension schemes;
- e. Informal discussions at staff level had taken place between the DWP and the FRC;
- f. The rules for Scheme Funding are set out in the Pensions Act 2004 and cover the valuation of assets and liabilities. The legislation does not prevent the discount rate used in the measure of liabilities being smoothed subject to the assumptions being chosen prudently. Account needs to be taken of the yield on assets held by the scheme to fund future benefits and the anticipated future investment returns, and the market redemption yields on government or other high-quality bonds.
- g. There were several possible approaches to smoothing, although many trustees might not wish to use smoothing if they considered that to do so would not be in the interests of the pension scheme members;
- h. The TASs do not prescribe or prohibit specific approaches for setting assumptions or for calculating liabilities but impose disciplines which promote the FRC's Reliability Objective. This means that a number of approaches could comply with the TASs. If the proposed consultation resulted in a different approach to scheme funding being permitted then there might be some implications for advice which was within the scope of the TASs; in particular:
 - the rationale for the assumptions used would need to be explained.

- if the actuary considered that the assumptions used were not appropriate then this would have to be explained to the trustees;
- if smoothing was adopted then the associated risks would need to be explained to the trustees; and
- if smoothing was adopted the requirement to disclose an estimate of Technical Provisions with margins for prudence removed (E.2.10 of the Pensions TAS) might be subject to a range of interpretations.
- the Actuaries' Code required actuaries to speak up to their clients or to their employers, or both, if they believe, or reasonably ought to believe, that a course of action is unlawful, unethical or improper, and there were obligations to report material regulatory breaches to the Pensions Regulator. The Actuaries' Code also required actuaries to take steps to ensure that any communication with which they were associated was accurate and not misleading, and contained sufficient information to enable its subject-matter to be put in proper context.

2.2 Points made in discussion included:

- a. It is expected that the initial consultation will be published towards the end of January and that there will be a very short consultation period.
- b. Changes to the Pensions Regulator's objectives would require primary legislation, whereas smoothing could be introduced by secondary legislation, thus allowing the DWP flexibility on timescale;
- c. The initial consultation will cover both smoothing - including whether any smoothing should be mandatory or permissive - and the Pensions Regulator's objectives; thereafter, there might be separate consultations on specific proposals, including possible primary legislation for the Regulator's objectives and secondary legislation for smoothing;
- d. HMT is interested because of the Government's growth agenda. If smoothing is not thought to be appropriate, feedback on other ways of helping employers would be welcome;
- e. The Pensions Regulator has said "Whilst many schemes undertaking their valuations from September 2011 will be faced with challenges, there is sufficient flexibility within the funding framework to address these, and achieve an appropriate and balanced outcome" - for example, through the permitted use of smoothing of contributions;
- f. The Pensions Regulator's code of practice requires trustees to take account of employer affordability. If a new objective were to be given to the Regulator, consideration would have to be given to how it would fit with the existing five objectives including those relating to the protection of members' benefits and the PPF;
- g. This is a matter for Government, and the Pensions Regulator would implement any policy changes;
- h. The FRC's remit goes beyond actuarial matters and includes corporate governance, corporate reporting and audit, and the Executive Director intended to seek the Board's guidance on the relevance of this issue to the FRC's wider mission to promote high quality corporate governance and reporting to foster investment;

- i. Many pensions actuaries are concerned about arbitrary mandated smoothing of valuations and support the Pensions Regulator's position. It is likely that, in the interests of transparency, and in order to evidence compliance with the TASs, most actuaries would consider that there was a need to show their client the unsmoothed result as well as a smoothed one;
- j. The objectives of the Pensions Regulator are currently skewed toward protecting members' benefits. The Regulator considers the matter in terms of the affordability of employer contributions, whereas what is important for the sponsoring employer is whether contributing to the pension fund is preferable to allocating the same capital elsewhere in the company;
- k. There is already significant scope in the current regime for dealing with the volatility of markets. To the extent that further flexibility is required, smoothing of valuations would be problematic; it would seem to be an artificial device that would produce an unrealistic answer. The prospect that actuaries might be required to apply a mechanistic formula, instead of exercising expert judgement, is worrying;
- l. The Pensions Regulator has an objective to protect the PPF, and this might not permit enough flexibility;
- m. Smoothing is an actuarial issue which the FRC should consider. However, the Pensions Regulator's statutory objectives, including any ordering of objectives, are largely a political issue;
- n. There is a timing issue; the issue surfaced in the summer of 2012 and trustees have already started to work out solutions; so the consultation will be too late;
- o. Notwithstanding the flexibility in the current regime, actuaries might not feel able to support smoothing more widely without there being some new structure / regime / framework / guidance to require them to do so;
- p. The relationship between scheme funding and accounting results needs to be considered, although the IASB is unlikely to be minded to address the accounting issue, which, in any event, is linked to corporate bonds and not gilts;
- q. The primary issues for the Council to address will be the impact that any changes would have for the FRC's regulatory approach and whether they might conflict, either with the TASs or with the IFoA's ethical standards. The IFoA is still working up its thinking on the matter, but the implications for actuarial regulation and the scope of actuarial judgement will undoubtedly be important issues. Experience indicates that the signals given to a profession by the Government through regulation are hugely significant in terms of the profession's culture, perceptions and understanding, and it will be important to understand the potential impact on the actuarial profession of any Government proposals.

2.3 The Chair concluded the discussion by commenting that:

- a. Notwithstanding the actuarial issues detailed above, it would also be necessary to consider the consultation in the context of the investor focus of the FRC's mission statement;
- b. The FRC would wish to consider carefully how it should respond to the planned consultation, given the breadth of its responsibilities. Although individual members of the Actuarial Council would have views on the matter, and the Council might wish, collectively, to express wider views informally to the FRC, the formal role of the Actuarial Council was to advise the FRC on proposals put forward by the Executive on actuarial issues; and
- c. An Actuarial Council sub-group would work with the Executive to consider the actuarial element of the overall FRC response, which would be for review by and if appropriate agreement of the Council. The sub-group would be led by Paul Johnson, with Keith Barton, Joanne Livingstone, Martin Miles and Janice Turner (Actuarial User Group) as members. The sub-group would need to consider how it should keep the Council informed of progress with the group's deliberations with the Executive, since the Council's agreement or otherwise to the FRC Executive's proposed position on this matter would come from the Council as a whole.

3 FEEDBACK FROM 13 DECEMBER FRC BOARD MEETING

AS TM1

- 3.1 The Chair advised that responses to the FRC's final consultation had been received up to the day before the Board meeting. Responses had been generally supportive, although the ABI had advised that nine out of ten of its members would have considerable difficulty implementing the proposed changes in the proposed timescale; the ABI had called for a one-year transition, consistent with the FSA's approach for the changes to its point-of-sale rules. The Board, having taken advice from the Executive and the Council Chair, agreed to a one year transition. Providers may adopt the revised standard from 1 April 2013 but are not required to do so until 1 April 2014.

Conduct Matters

- 3.2 The Chair advised that the Board had been updated on the exchange of correspondence between the FRC and the IFoA in respect of the FRC's actuarial oversight priorities, an exchange which the Council had noted following its previous meeting.

4 PLANNING

Review of the FRC's actuarial agenda

- 4.1 The Council noted that:
 - a. A project had been initiated with the following objectives:
 - To propose and establish a shared understanding of a new agenda for the development of actuarial regulation over the next three years, to be taken forward in consultation with the relevant Government Departments and regulatory authorities, practitioners and users where appropriate; and

- To recommend for approval by the FRC Board a report on that agenda as part of the FRC's annual report to the Secretary of State in summer 2013.
- b. The project would be run in close partnership with the IFoA, for the first six months of 2013, and would report to the FRC Board through a Steering Group, having first sought guidance and direction from the Actuarial Council and the Conduct Committee;
- c. The project would be delivered through a number of workstreams. Each workstream had been assigned a sponsor and a leader and would adopt a similar methodology and approach;
- d. The following workstreams and preliminary descriptions had been agreed:
 - *Mission*: To clarify and articulate (i) the contribution of actuaries and actuarial work to the public interest and to what the FRC seeks to achieve; and (ii) the contribution of actuarial regulation to the FRC's mission;
 - *Research*: To map out a research programme to underpin the forward agenda for actuarial regulation; to agree funding and a process for commissioning and managing the research programme;
 - *Role of actuaries*: To assess the implications for actuarial regulation of changes in the roles of actuaries exploring in particular (i) the areas of work in which users place reliance on actuaries' professional qualifications and on standards ; and (ii) opportunities for greater impact of regulation in support of the FRC's mission;
 - *Actuarial Methods*: To identify the key actuarial methods which influence judgment and/or which may be a source of risk to the public interest and assess the scope for addressing the risks and opportunities to actuarial regulation posed by these methods;
 - *Ethics*: To establish the most effective way of building public trust in the ethical standards of the actuarial profession;
 - *Scope of regulation*: To review the scope of FRC regulation at a high, in principle, level and plan the work necessary for the later more detailed review; this will cover the extent to which we should revisit the existing definitions of actuarial work, the distinction between technical and conduct requirements, the definition of 'users', and the circumstances in which actuaries and non-actuaries are required or encouraged to comply with standards;
 - *Quality, monitoring and firms*: To establish the most effective way of meeting the FRC's concerns and objectives in relation to quality, monitoring and engagement with actuarial firms; and
 - *International Framework*: To establish what work needs to be done to ensure that domestic actuarial regulation retains integrity and coherence in a framework of European and international regulation;
- e. Workstream sponsors and leaders were working to define the key deliverables and milestones, and early drafts were provided for consideration by the Council.

4.2 The Council was invited to consider the project outline and the workstream descriptions and to comment on the objectives, the relevance of the workstreams and the proposals overall.

4.3 Points made in discussion included:

Overarching project

- a. The project is ambitious and working to a tight timetable;
- b. The project will entail a great deal of work and place a heavy burden on the FRC and IFoA resources;
- c. Managing workstream interdependencies is a key challenge;
- d. Deliverables are likely to include maps of current positions, analyses, discussion papers, research reports, recommendations and engagement strategies, which will inform a forward work programme for the FRC's actuarial regulation;
- e. It would be useful to explain what is meant by 'actuarial work in the public interest'. It should not be assumed that there is a common understanding of the term 'in the public interest';
- f. The 'mission' workstream will help the FRC analyse and understand better the relationship between actuarial work and the FRC's public interest objectives;
- g. Identifying, at the earliest possible opportunity, the risks to the project posed by resource constraints will be a critical part of the overall project management;
- h. The project is not designed to deliver implementation of 'the answer' by May but to set the FRC's actuarial regulation agenda for the next three years; and
- i. In order to give the Actuarial Council an opportunity to review the outputs, an extra meeting will need to be scheduled in early May.

Mission workstream

- j. This workstream provides the context for the project. It should reconcile the contribution of actuaries and actuarial work to the public interest and the FRC's wider mission, and, therefore, the objectives of actuarial regulation; and
- k. The FRC, and by extension the Actuarial Council, is concerned with more than simply the reliability objective for the TASs or actuarial quality. The work on influencing international actuarial standards is an example of the FRC's broader agenda.

Scope of regulation workstream

- l. The workstream should seek to answer fundamental questions such as whether TASs should relate to the work of actuaries or to actuarial work, and whether there are any major gaps in the regulatory framework;
- m. The Council considered that the workstream description should clarify the first order questions that should be answered by June and the second order questions that will be addressed subsequently; and

- n. The Council noted that there are two elements to the scope issue. First, the fundamental question of what the FRC is trying to cover, including what is meant by 'actuarial work'; and second, whether there is a coherent relationship with the IFoA in relation to ethics, technical standards, and actuarial methods. The plan in the longer term is to consult on the scope of regulation, and although it is unlikely that the FRC will be in a position to do so by June, some high level preliminary conclusions may have been reached by then.

Actuarial methods workstream

- o. The first task will be to identify the key actuarial methodologies and the second task will be to consider how the FRC should deal with them;
- p. Principles-based standards require that actuaries should be responsible for choosing appropriate methods and be prepared to justify them;
- q. The analysis of methods in place will be a highly technical task, requiring a deep understanding of practices within firms;
- r. Actuaries continually seek to improve their methodologies; it is difficult to see what problem needs to be addressed;
- s. Consideration will not be restricted to extending the scope of the standards; other options will be actively considered, such as actively working with the IFoA on some of its research projects;
- t. The workstream brief needs to make the link between judgement and actuarial methods as the risks to the IFoA and to the FRC almost certainly lie within the area of how judgement is exercised or not;
- u. Undertaking a comprehensive stock-take of all actuarial methods was not appropriate, or at least was a second order issue and not necessarily one for the FRC; the first order issue was the policy and principle interest of the FRC in the development and maintenance of actuarial methods;

Ethics workstream

- v. The scope of regulation workstream would seek to ensure that there was a coherent overall picture of what and how the FRC and IFoA should regulate, whereas the ethics workstream would consider the detail;
- w. The workstream would support the IFoA's response to the challenge of the FRC's Conduct Committee: what is the ethical model for actuaries and how are issues of independence, objectivity etc to be dealt with? It was about developing a core and shared understanding around those key questions which would inform how the ethical model should be developed in terms of codes, standards, and plugging gaps in the framework;

International workstream

- x. A background understanding of the actuarial work undertaken and the actuarial methods used in other EU member states is needed. It is unlikely that the FRC will be able to persuade the rest of Europe to move away from detailed rules towards the FRC's principles-based approach to standard-setting;
- y. In the context of trying to achieve harmonisation, some of the detailed prescription tends to collapse under its own weight, and there is a role for

the UK and the FRC to play in the area in demonstrating the effectiveness of a higher level outcomes-based approach;

- z. On European actuarial aspects there has been a significant amount of joining up and development of a shared understanding in the last five years; and
 - aa. The FRC can bring its broader experience in the world of international accounting standards to bear on the development of international actuarial standards, working its way through the labyrinth of EU negotiation. Therefore, it would be important to ensure that the output from the workstream was consistent with the overall FRC approach and methodology.
- 4.4 The Chair concluded the discussion by inviting Council members to engage freely with workstream leaders, except in the case of workstreams being led by the IFoA, for which the Director should be the point of contact.

FRC Plan 2013-16

- 4.5 The Council noted an extract (table) from the draft FRC Plan related to actuarial oversight and standards. The table detailed the planned projects, their objectives and expected outcomes, the main project activities for gathering evidence and influencing outcomes, and the expected duration of the projects. The Council noted that the majority of the projects formed part of the planned review of actuarial regulation discussed above. The Chair commented on the dynamic nature of the document, which had already been amended since its inclusion in the meeting papers. In its final form, the table would essentially relate directly to the review workstreams.

5 INTERNATIONAL

Consistency of UK standards with ISAP 1

- 5.1 The Council noted that:
- a. There was a strategic move by international organisations such as the Financial Stability Board, the OECD, the International Association of Insurance Supervisors, the International Organisation of Pensions Supervisors, as well as European counterparts such as EIOPA to encourage the development and application of consistent international standards including standards applying to actuarial work. In this vein, the International Actuarial Association (IAA) and the Groupe Consultatif Actuariel Européen (GC) were developing model actuarial standards which they would encourage their member associations to follow;
 - b. The IAA had approved *International Standard of Actuarial Practice 1 – General Actuarial Practice* (ISAP 1) and was consulting on an exposure draft of a model standard applying to work on Social Security Plans. It was developing model standards for actuarial work concerning financial reporting for pension schemes and insurers;
 - c. The GC was developing model standards for actuarial work required by Solvency II. It was consulting on an exposure draft of a model standard for work concerning the Actuarial Function Report. The exposure draft assumed that actuaries would also comply with ISAP 1 or equivalent national standards;

- d. Having approved ISAP 1, the IAA had invited its member associations and national standard-setters to consider:
- adopting ISAP 1 as a standard with appropriate modification, where items covered in the ISAP are not currently contained in existing actuarial standards, or where such portions of existing actuarial standards are to be withdrawn;
 - endorsing ISAP 1 as a standard as an alternative to existing standards;
 - modifying existing standards to obtain substantial consistency with ISAP 1; or
 - confirming that existing standards are already substantially consistent with ISAP 1.
- e. At its meeting in November, the Council had considered the procedure which should be adopted for responding to invitations such as that of the IAA described above. Having taken account of the Council's views, the Executive had refined the proposed procedure, and the Council was invited to consider the revised proposals, including that:
- In the case of hybrid model standards, such as ISAP 1, ethical and conduct or other matters may be covered by the standards or regulation of the IFoA or another body. In such cases, the FRC Executive would share its analysis with the IFoA (or other regulatory body) and invite it to consider whether its existing standards or requirements were substantially consistent. In the light of that response, the Council would then consider whether the TASs in conjunction with the IFoA's ethical and conduct standards or other regulatory requirements were consistent with the requirements in the model standard;
 - Before reaching its view, the Council should consider feedback from stakeholders including the IFoA and the UK Forum on International Actuarial Standards, and whether wider consultation was required in a particular case;
 - The Council's advice on substantial consistency and its advice on amendments would normally be published. Depending on the nature and materiality of the Council's advice, it would be directed to the relevant decision-making level in the FRC. For example:
 - If the Council advised that the FRC should amend its standards (or the FRC otherwise proposes to do so), its advice would be considered by the Board;
 - If the Council advised that no amendment was required to FRC standards, its advice would be considered by the FRC Executive and reported to the Codes & Standards Committee and/or the Board depending on the degree of materiality/sensitivity;
 - If the Council advised that the IFoA's standards were not substantially consistent with the ethical and conduct elements of a hybrid model standard, its advice would be considered by the FRC Executive in consultation with the IFoA, and if appropriate

referred to the Conduct Committee (and if appropriate the Board) to consider whether to recommend any amendments to existing IFoA standards; and

- If the Council's advice related to an exposure draft, this would be considered by the FRC Executive for incorporation into its response, and, if appropriate, the advice would also be reported to the Codes & Standards Committee (or the Conduct Committee) and/or the Board.
- The FRC will not normally consider adopting or endorsing a model standard, unless it is satisfied that one or more of the following apply:
 - The process adopted in developing and approving the model standard had been sufficiently independent of the actuarial profession and other vested interests;
 - The model standard was compatible with the existing UK regulatory framework and the objectives for FRC standards (or could be readily modified or clarified to be so);
 - The subject-matter of the model standard could not be covered through FRC standards or the standards of other UK bodies in a more satisfactory way.
- f. The Executive proposed to invite the Codes & Standards Committee to endorse the proposed approach. In particular, specific authority would be sought for the Council to provide confirmation on the question of substantial consistency without the need for endorsement by the Board or the Codes & Standards Committee. Any proposed changes to FRC standards would, under current governance arrangements, be a matter for consideration by the FRC Board;
- g. At its meeting in December, the Conduct Committee had specifically considered and endorsed the proposal that the Actuarial Council's advice could include consideration of ethical and conduct aspects, provided that the Conduct Committee was given an opportunity to provide input before the advice was finalised; and
- h. It was proposed that feedback on the proposed actions in respect of ISAP 1 would be sought from stakeholders in the first quarter of 2013.

5.2 The Council further noted that:

IAA's authority

- a. The IAA has no authority to require compliance with its model standards, although it requires that full member associations have codes of professional conduct that meet certain minimum requirements. Under the principle of subsidiarity, technical actuarial standards are the responsibility of member associations. However, it is recognised that in the increasingly global environment for actuarial work there is merit in some consistency of approach. Hence the IAA has agreed to develop model standards that can be considered by its members. The Groupe Consultatif may in turn adopt IAA model standards, and seek endorsement for these at European level. The IAA is also expected to ask member associations to report on their response to the model

standard. The IFoA will be expected to report on its response to ISAP 1 before the IAA meeting in Singapore later in 2013.

Adoption or endorsement

- b. There are considerable benefits in maintaining existing national actuarial standards. It is less costly as there is no need to incur the cost of making changes; these costs, for users, practitioners and the FRC arise from the process required to make changes to ensure that the FRC develops actuarial standards in an accountable, consistent and transparent way. There is a benefit to practitioners in that there is no need to incur costs in getting comfortable with a new standard even though there might be no material change. Consistency of actuarial work is also of benefit to users.

Substantially consistent

- c. The IAA recognises that national actuarial standard-setters may wish to maintain their existing standards and confirm that they are substantially consistent or otherwise with the model. ISAP1 does not specifically state that a practitioner would be able to assert compliance with ISAP1 by virtue of compliance with substantially consistent local standards. However, this is being pursued with the IAA.
- d. The IAA has made clear that what is substantially consistent will be a matter for judgement for the local standard-setter concerned, in accordance with its principle of subsidiarity, although the IAA may be prepared to give advice in response to a particularly difficult aspect. Substantial consistency can include the case in which UK standards go beyond the requirements of the model standard.
- e. There is a question of whether substantial consistency should be judged at an aggregate level or at more granular level. For example, existing standards might include all the principles defined by a model international actuarial standard except for one. Considering consistency at an aggregate level, one might conclude that existing standards are substantially consistent. On the other hand, while not identical, existing standards might materially cover all the principles and rules defined in the model international actuarial standard. On this basis, at a granular level, one might conclude that existing standards are substantially consistent.
- f. A possible basis might be to consider whether application of the model international standard rather than relevant existing standards would make a material difference to the user.

Scope

- g. In the case of ISAP 1, the most significant judgement concerning substantial consistency is the definition of scope, although the distinction is irrelevant in cases where compliance with standards is being asserted. The scope of ISAP 1 is 'actuarial services performed by an actuary'. This is consistent with the scope of the IFoA's code of professional conduct, the Actuaries' Code, which regulates members conduct in their work as actuaries. However, the scope of the TASs is more specific being certain actuarial work defined in the Specific TASs, Reserved Work, and work which is presented as complying with TASs.

- h. In making decisions on whether work was included in the scope of TASs, the Board for Actuarial Standards considered whether work carried out by actuaries was considered to be actuarial work by users. If it was considered to be actuarial work, the BAS then considered that the work should comply with technical standards only if it was proportionate to require it to do so.

Standards covering both professional conduct and technical matters

- i. In the UK, the responsibility for setting professional conduct standards for actuaries and technical actuarial standards is split between the IFoA and the FRC. This split of responsibility is unique.
- j. This causes a potential difficulty for the UK standard-setters. Even allowing for the practical issues, making adoption or endorsement expensive and complex, this split of responsibility raises an additional challenge.
- k. There might be issues when considering whether existing standards are substantially consistent. Some provisions may be hybrid in nature covering both technical and ethical and conduct matters. Any statement concerning consistency will therefore need to be carefully considered.
- l. The FRC Executive proposal was that the Council should give an opinion on whether the FRC's technical actuarial standards, together with other UK provisions including the IFoA's standards and regulatory requirements, are substantially consistent with all the requirements of an international standard. This option reflected the FRC's responsibility for issuing technical actuarial standards and overseeing the IFoA's ethical and conduct standards.

Modifications

- m. In the case of ISAP 1, the FRC Executive did not consider that there was a need to modify the TASs, although there would be regard to ISAP 1 as part of the review of scope planned for 2013/14. On conduct matters, ISAP 1 had a requirement that actuaries should consider the need for peer review of actuarial work; it was understood that the IFoA was considering modifying its standards to reflect this requirement.

5.3 Having been asked to note the general background to the development of international actuarial standards, the Council was invited to consider a first draft of the advice that it might give to the FRC on ISAP 1.

5.4 The Chair commented that the paper dealt with three issues:

- The FRC's approach to responding to the IAA and others when being asked to either adopt, endorse, amend or confirm substantial consistency with a model standard;
- The decision-making process in such matters and the Actuarial Council's role within the process; and
- A technical analysis of ISAP1 to assist the Council in agreeing, or otherwise, substantial consistency of the TASs with the ISAP.

5.5 Points made in discussion included:

The FRC's approach to responding to the IAA etc

- a. This is critical work for the international workstream, building on the work-in-progress of the FRC Executive (minute 5.1e); and
- b. With regard to external review, the matter of ISAP 1 will next be discussed informally at the Standard Setters Round Table at the end of May 2013. More formally, the IAA's Accreditation Committee is likely to ask IAA member associations, including the IFoA, to advise what action they have taken in respect of ISAP 1;

Decision-making process and the Actuarial Council's role

- c. The Chair noted that it was proposed that the Council's role would be to advise on any proposed change to the TASs consequent upon the publication of a model international actuarial standard; if the Council agreed that no change was necessary, it would be the role of the Council to take a view on substantial consistency. It has been suggested (minute 5.1e) that the Council's advice on substantial consistency and its advice on amendments would normally be published; the Chair was not convinced about this but suggested that consideration of the matter could in any event be deferred until, amongst other matters, there was further clarity on the implications of a declaration of substantial consistency (see 5.5d below); and
- d. It was agreed that the Codes & Standards Committee should not be asked to consider adopting this approach until the outcome of the international framework workstream (see 5.5c above) is clear.

Technical analysis of ISAP1 to assist the Council in agreeing substantial consistency of the TASs

- e. The argument that the FRC could confirm substantial consistency of UK actuarial standards with the ethical elements of an ISAP, on the basis that the FRC was responsible for oversight of the IFoA's ethical standards, needed further confirmation; in any case, before addressing the issue of substantial consistency, it would be better to await the outcome of the scope of regulation and international framework workstream;
- f. The Council needed to understand better what was meant by substantial consistency and the implications of agreeing substantial consistency of the TASs with a particular ISAP, ie whether the work of an actuary that was compliant with the TASs would automatically be compliant with the ISAP (minute 5.2c);
- g. The matter of automatic compliance with an ISAP could be relevant to actuaries undertaking cross-border work or working for multinationals; and
- h. The key substantial consistency issue for ISAP1 was scope, and the scope of the TASs was under review; until the high level review had been completed, it was premature to take a definitive view on substantial consistency.

ISAP nn - Valuation of Social Security Programs

- 5.6 The Council noted that:

- a. The IAA had issued an exposure draft of a model standard applying to actuarial work concerning the valuation of Social Security Programs, and it had asked for responses by 28 February 2013;
 - b. Actuarial work on the UK National Insurance Fund was carried out by the Government Actuary's Department (GAD). The Government Actuary (GA) had a statutory duty to provide a quinquennial review of the Fund to Parliament. The GAD was currently working on the review as at 5 April 2010. The key outputs were a long term (60 year) cash flow projection of benefits payable and contributions receivable and the resulting notional fund balance. The review included sensitivities to the key assumptions;
 - c. The GA also reports to Parliament annually on the financial implications of changes to National Insurance contribution and benefit rates. These reports include short-term projections of the financial position of the National Insurance Fund;
 - d. This work is not in scope of the TASs because Reserved Work excludes work assigned by regulations to the holder of a unique post such as the Government Actuary and the work is not within the scope of the Specific TASs;
 - e. The GAD also carries out work for overseas social security schemes including the Isle of Man, Guernsey and Jersey. This work is outside the geographic scope of the TASs; and
 - f. The GAD work is subject to the GAD Principles of Actuarial Quality but not to the GAD Statement of Understanding which includes material designed to ensure that the applicable provisions of the Technical Actuarial Standards (TASs) are followed.
- 5.7 The Council was invited to consider a draft response from the FRC to the IAA and to agree its substance. The GAD had seen the draft response and further consultation was planned. The IFoA would also be consulted before the response was finalised.
- 5.8 The Council was content with the substance of the proposed response.

Groupe Consultatif Actuarial Standard of Practice 2: Actuarial Function Report under Solvency II

- 5.9 The Council noted that:
- a. The Groupe Consultatif Actuariel Européen (GC) has agreed to develop model actuarial standards focusing on the work of the Actuarial Function required by the Solvency II Directive, which would normally be undertaken by an actuary but could be undertaken by a non-actuary with equivalent experience and skills. The model standards are for its member associations, such as the IFoA, and other standard-setting bodies, such as the FRC, to consider adopting;
 - b. The GC had issued an exposure draft of a model standard applying to actuaries preparing the Actuarial Function Report required by draft Level 2 regulations. It had asked for responses by 1 March 2013;
 - c. The work to be covered by the model standard would be in the scope of the TASs by virtue of paragraph C.1.7 of the Insurance TAS. This paragraph brings within the scope of the TASs actuarial work concerning

insurance business performed to enable an insurer or its parent undertakings to fulfil their obligations to their regulators. Insurers are required to have an actuarial function that is required to produce an annual report documenting the tasks it has undertaken and their results. The tasks required to be performed are also laid out in the Solvency II regulations;

- d. The Council had considered a review of the TASs against the requirements of Solvency II in October 2012. It had concluded that there was no need to consider significant changes to TASs purely because of Solvency II as the TASs are broadly compatible with the requirements of Solvency II. The Council had also agreed that the FRC should engage with the GC to influence its development of model actuarial standards for Solvency II work; and
- e. The FRC was co-sponsoring with the IFoA two roundtable discussions on the exposure draft to collect feedback from practitioners on the exposure draft.

5.10 The Council was invited to consider a draft response from the FRC to the GC and to agree its substance. The IFoA and the UK Forum on International Standards would also be consulted before the response was finalised.

5.11 Points made in discussion included:

- a. The FRC was unlikely to adopt a one-off standard from Europe when it already has a complete set of standards;
- b. The model standard still has some way to go before it is finalised, including obtaining feedback from other GC stakeholders, for example from the industry. It would be wise to omit the reference to the timing of Solvency II, which was subject to active debate within Europe. There was a suggestion that EIOPA would publish guidance to national supervisors which would require the establishment of an actuarial function and actuarial function reporting earlier than 2016;
- c. Some reference to the timing of Solvency II should be made, if only to indicate that the FRC was aware of the current debate;
- d. It was important to explain that there were certain key criteria that would need to be met in a model standard before the FRC would be able to either adopt, endorse or confirm substantial consistency; this was an issue that the international workstream would address; and
- e. The FRC's response needed to be cautious in describing the FRC's approach since the FRC was still reviewing its approach to the scope of regulation and the international framework.

6 TAS IMPACT ASSESSMENT (PENSIONS)

6.1 The Council was invited to:

- a. Consider a report summarising the FRC Executive's preliminary findings of the TAS impact assessment exercise in respect of pensions work;
- b. Note that there might be further findings as more feedback was obtained;
- c. Note that feedback from the insurance impact assessment was expected to raise some different issues; and

- d. Comment on the approach taken and the interim findings which might have implications for what the FRC publishes in its impact assessment and the approach to the assessment of the impact of the TASs on insurance work.

6.2 The Council noted that:

- a. Impact assessment work was being conducted in two stages – the first stage covers pensions work and the second will cover insurance work. This separation is appropriate because the majority of pensions work had been subject to the TASs longer than insurance work;
- b. Feedback was being collected through:
 - structured meetings with practitioners, users and other stakeholders using questionnaires;
 - round table events with practitioners, users and other stakeholders; and
 - other engagement including meetings, seminars, general queries and feedback from the IFoA.
- c. The programme of structured meetings was well advanced. Meetings had been held with most medium and larger firms of pensions consultants and there were plans to meet smaller firms in the coming months. Meetings had been held with several users and there were plans to meet more in the coming months. The users included firms of independent trustees who deal with several firms of actuaries. Other stakeholders with whom meetings were planned included pension lawyers, the Pensions Regulator, the PPF, the Pensions Advisory Service and the Pensions Ombudsman.

Impact assessment – feedback to date

- d. Some key points arising from the feedback to date were:
 - the TASs have resulted in a better focus on users' needs and decisions, and the purpose of work;
 - the TASs have led to improved internal processes – particularly on the use and documentation of models;
 - Scheme Funding reports are now shorter with the requirements of the Pensions TAS replacing those of GN9 but reports for smaller pieces of work are generally longer;
 - The TASs have discouraged actuaries from providing advice in very short emails or orally without confirming it in writing;
 - there is little user awareness of the TASs;
 - implementation costs varied and were as much as 3% of annual actuarial costs; however ongoing costs are low except for some smaller pieces of work;
 - there is considerable opposition to the “neutral estimates” requirement of the Pensions TAS with many practitioners saying it is unhelpful, that it generates unnecessary debate and occasionally results in lower

contributions being paid to pension schemes – however the opposition is less intense than when the Pensions TAS was published;

- practitioners do not like the Transformations TAS and consider that its principles should be in the Pensions and Insurance TASs;
- there are some areas where clarification would be welcomed eg the detailed application of scope and how to apply materiality and proportionality;
- the answers to FAQs are considered very helpful although practitioners would welcome faster handling of issues;
- there were concerns that one FAQ answer – which followed amendments to AS TM1 to emphasise the need for judgement in setting the investment rate assumption for statutory money purchase illustrations – had been seen as a backdoor way of contradicting practitioners' previous understanding that this work was not covered by the Pensions TAS because it did not involve judgement;
- most practitioners consider that the scope of the TASs is about right although a small number consider that the TASs should cover all actuarial work; and
- some practitioners consider that the TASs could be simplified with fewer principles and less repetition – however many practitioners said that they do not want the TASs to be revised unless absolutely necessary as they would then incur additional costs from retraining and reviewing materials and processes.

6.3 Points made in discussion included:

- a. Once the review is complete, the FRC should publish a summary of the feedback and review it in the light of the findings of the FRC's broader review work. This would inform the full review of the TASs;
- b. From a practitioner's perspective, the feedback comments ring true;
- c. There had been some user feedback but possibly not from the full spectrum of users; users are generally self-selecting, ie those that want to talk to the FRC, and not those responsible for some of the smaller pensions schemes which are sometimes less well governed; it is very difficult to access such users; and users cannot be expected to answer the questions in the same detail;
- d. There is a risk that the feedback to date will be seen as skewed towards practitioners, suggesting that the feedback is not really identifying the broad impact of the TASs; is there a benchmark, eg produced by Morris, against which changed behaviours could be measured?
- e. The Morris Review had started its analysis with a review of the market for actuarial services. However, Morris found this area difficult because there are many different markets depending on the subject matter, and Morris struggled to get much comparable quantitative data;
- f. The Project Director commented that the main change in practitioner behaviour was greater consideration of risk and uncertainty in reporting.

- g. It is difficult to state with certainty whether perceived improvements in practitioner behaviour have been caused by the TAS or other factors; when published, the findings should be caveated to reflect this point;
- h. There is a fundamental challenge to the FRC in this area; users generally are not interested in the detail of the TASs ; the FRC needed to be realistic in its expectations of users, perhaps inviting users to comment on the overall picture painted by practitioner feedback; and
- i. When publishing the findings, the FRC should say in broad terms what it might do next, without making unrealistic promises.

7 DIRECTOR'S REPORT

Introduction

7.1 The Director presented his report. Council's input was being sought on two issues:

- a. Comments on the IAA paper *The Role of the Actuary*, and
- b. Actuary as expert witness – preliminary views on whether this role should be included within the scope of the TASs and/or that the FRC should publish its informal advice to the IFoA.

7.2 The Council noted that the remaining items in the Director's report were for information only.

IAA's The Role of the Actuary

7.3 The Council considered a paper on the role of the actuary produced by the IAA. The IAA was seeking feedback by 31 January 2013. The FRC Executive considered the paper to be relevant to the review workstream on the role of actuaries (minute 4.1d). The Council was invited to make comments that would be fed back to the IAA and/or to the role of actuaries workstream.

7.4 Comments made in discussion included:

- a. The paper would be very useful to the role of actuaries workstream, in particular the section of the paper listing the roles that actuaries do not currently undertake that they might undertake in future. It would be interesting to see whether a UK analysis would come up with a similar list. However, it was odd that there was only one reference in the paper to modelling;
- b. Enterprise risk management does not have much prominence in the paper;
- c. There are other notable omissions in the paper, such as the independent expert role. Generally, the paper seems rather thin;
- d. The paper reads like marketing material for the actuarial profession; and
- e. The role of actuaries workstream will need to be more objective in its analysis and focus more on the public interest.

The actuary as expert witness

7.5 The Council noted that:

- a. Following a small number of reported disciplinary cases in 2010, the FRC had raised a concern to the IFoA about actuaries acting as expert

witnesses in areas outside their competence. The IFoA had recently reviewed its Information and Assistance Note (IAN) on The Actuary as an Expert Witness, and had concluded that:

- the IAN should be updated to take account of changes to relevant legislation and recent case-law and to make the format more user-friendly; and
 - the IAN should be promoted to an Actuarial Profession Standard (APS) given the mandatory nature of the requirements contained in the IAN, particularly in relation to the references to the Civil Procedure Rules (CPR) which set out what is required of an expert witness in proceedings before civil courts in England and Wales.
- b. The Actuarial User Group (AUG) had discussed the draft revised IAN at its meeting on 7 January and its comments would be reported to the IFoA and the Conduct Committee;
- c. The IFoA working party had sought informal confirmation from the FRC Executive about the application of the TASs to expert witness work, and the Executive had provided the following informal response (based on an earlier reply in 2011):
- There is currently no general obligation on actuaries acting as expert witnesses to comply with the TASs. However, wider adoption is encouraged and there may be specific circumstances in which it is required, for example where a private agreement, settlement or court order creates a reserved role or other obligation to comply with the TASs;
 - Actuarial work - for example in relation to divorce proceedings - may also be required to comply with the TASs if it is covered by specific provisions of the Pensions TAS, such as paragraphs C1.18 (calculations for individual members) and C1.22 (projections of benefits from defined contributions);
 - Actuarial work must follow the TASs if it is presented as complying with them, whether expressly or by implication eg “this work complies with applicable professional standards”. Such an implication may arise from the way it is presented, from the instructions, from the guidelines, and from responses which may be required or given in correspondence or under cross-examination;
 - Expert evidence which complies with the TASs is likely to carry more weight than expert evidence which does not;
 - If actuarial work is not intended to comply with the TASs, it would be prudent to say so explicitly so as to avoid creating the impression that it does by implication, or having to make admissions under cross-examination.
- d. The FRC’s planned review of the scope of the TASs in 2013-14, which was also the subject of a specific workstream within the FRC’s review work, might also consider whether expert witness work by actuaries should be brought more fully within the scope of the TASs.

7.6 Points made in discussion included:

- a. Actuaries involved in expert witness work should be encouraged to comply with the TASs, if only to avoid difficult cross-examination;
- b. It is surprising that the BAS decided not to include such work within the scope of the TASs; such work is undertaken in a judicial or quasi-judicial context and issues are therefore in dispute;
- c. It was noted that part of the reason for the BAS's decision was that expert witnesses subject to cross-examination in court are already subject to a significant measure of scrutiny;
- d. It is not easy to have a meaningful discussion without knowledge of the detail of the relevant disciplinary cases;
- e. The IFoA observer commented that the IFoA was dealing with the matter from its perspective in a logical way, taking account of practitioner failings evident from relevant disciplinary cases. Consideration should in due course be given to whether to apply the TASs to actuarial expert witness work. However, to include such work within the scope of the TASs should be a conscious decision, implemented by a formal change to the TASs and not through an answer to an FAQ. In the meantime, it would be helpful if the FRC were to engage with the IFoA in developing its APS. A fundamental question for the FRC's review of the scope of the TASs will be the relationship between breadth and specificity – for example, it may be possible to apply general principles to all areas of actuarial work, but greater specificity will be required for particular areas of work which merit it; and
- f. The Chair concluded that the FRC should liaise with the IFoA over the development of its APSs, which might include reference to the agreed position on scope, before concluding whether there was a need to amend the TASs or produce an answer to an FAQ.

8 STAKEHOLDER ENGAGEMENT

FRC's actuarial stakeholder engagement – annual review

- 8.1 The Council considered a paper detailing the results of an Executive review of the FRC's actuarial stakeholder engagement activity in 2012. The paper:
 - a. Provided the context for the review, ie the strategy agreed in early 2012, highlighting that, going forward, actuarial stakeholder engagement needed to take place within the context of the FRC's overall stakeholder engagement framework;
 - b. Provided an assessment of the effectiveness of actuarial stakeholder engagement:
 - in support of projects and business-as-usual activities; and
 - with specific stakeholders;
 - c. Summarised proposals for future engagement with Council observers and EIOPA;
 - d. Asked Council to address particular issues around the Executive assessment and potential for improvement in 2013.
- 8.2 Points made in discussion included:

- a. The review was a frank assessment, which nevertheless supported the Executive's conclusion that the FRC's actuarial stakeholder engagement had been broadly effective in relation to its work in 2012;
- b. The lack of interest shown by some major stakeholders in the FRC's actuarial agenda is understandable given the technical complexity of the area;
- c. Post-review stakeholder engagement should focus on the FRC's new agenda;
- d. Lloyd's is in some respects a co-regulator and the FRC's engagement with its representatives should reflect its important role in setting, monitoring and enforcing standards;
- e. Many of the outer ring - mostly user and intermediary - elements of the stakeholder universe could efficiently be reflected in the composition of the AUG; and the NAPF should be contacted regarding its representation on the AUG;
- f. Consideration should be given to engaging with academic institutions e.g. LSE on broader issues;
- g. There was a need to consider resources in the context of the FRC's wider agenda; focusing efforts on key stakeholders was more important than casting the net more widely; engagement with some stakeholders such as the ABI on actuarial matters could be embraced by the FRC's wider stakeholder engagement agenda; and
- h. On the proposals for future engagement with Council observers, it was agreed that Council papers could, by agreement with the Executive, be shared with IFoA non-executives; and that observers should have some flexibility in sending alternates to meetings to address particular issues where the alternate's expertise would add value to the Council's deliberations.

Observer reports

- 8.3 Written reports from the DWP, the Groupe Consultatif, HMT, the IFoA, and the Pensions Regulator were noted. It was reported orally that:
 - a. The DWP had published a White Paper on a single tier State Pension – a draft Bill would follow;
 - b. The FSA was about to move physically, ahead of dividing legally on 1 April 2013); and
 - c. EIOPA was about to publish interim opinions on Solvency II.
- 8.4 The Council noted an Executive report of recent FRC actuarial stakeholder engagement activities.

9 MINUTES AND ACTIONS

- 9.1 The minutes of the Actuarial Council meeting held on 26 November 2012 were agreed, and progress on actions arising from the meeting was noted.
- 9.2 Draft minutes of the 7 January 2103 Actuarial User Group meeting were noted.

10 COUNCIL EFFECTIVENESS – REVIEW AND PLAN

Governance of FRC responses to external consultations

- 10.1 The Council noted that:
- a. The FRC Executive had delegated authority to respond to external consultations, subject to appropriate consultation and reporting to the FRC Board and its Committees, and the Chair had asked the Executive to clarify the role of the Actuarial Council in this area;
 - b. The FRC's general policy on responding to consultations, including on publicity, had been set out in a note from the Chief Executive and the note had been considered at the Council meeting in October 2012;
 - c. Although most operational matters, including responses to external consultations, were delegated to the FRC Executive, it would usually wish to obtain input from the Actuarial Council and where appropriate the Codes & Standards Committee and the Board;
 - d. A flexible procedure was needed which could be adapted to the sensitivity and materiality of the Executive decision, without necessarily having to develop formal advice from the Council, as would be the case for proposals to amend standards;
 - e. In September 2012, the Council and the Codes & Standards Committee had considered a similar issue in respect of interpretive and guidance material, including the approval of published answers to frequently asked questions (FAQs). It was proposed to extend the specific approach to interpretive and guidance material to other executive decisions, as follows:
 - Routine responses involve repetition of existing materials, and may be published with the approval of the Executive Director. There is no requirement to consult the Actuarial Council, although published responses would normally be reported to the Council for information.
 - Reasoned responses involve the extension of existing FRC principles to new circumstances. The FRC Executive will normally seek the agreement of the Actuarial Council to the substance of the proposed Executive response before it is issued, in order to confirm that it properly reflects existing principles.
 - Unusual responses involve the breaking of substantial new ground, including departure from existing principles. The FRC Executive will normally seek the agreement of the Actuarial Council and the Codes & Standards Committee to the substance of the proposed Executive response before it is issued.

- f. Most requests for agreement would involve the second category (reasoned responses). When asked to agree the substance of an Executive proposal, the Council would not be expected to agree the final text unless this was material to the substance of the response. However, the Council would be expected to consider whether the proposal could be regarded as a proper application of existing FRC policy, or whether it required agreement of the Codes & Standards Committee.
- g. To support Executive engagement with the Actuarial Council on FRC responses to external consultations and similar matters, a new decision category had been introduced, as follows:

(ag)	Agreement	Agreement with the substance of an executive proposal
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Forward agenda for 2013

10.2 The Council noted its forward agenda for 2013. It was noted that further work was planned to populate the document in conjunction with the forward agendas for the FRC Board, the Codes & Standards Committee and the Conduct Committee. It was agreed that further output in respect of ‘fairness’ should be deferred until the autumn.

Training: the legal framework for the FRC’s actuarial work

10.3 Council members were given a short oral briefing on the legal framework for the FRC’s actuarial work and were given a written brief to take away and study. The Chair thanked the Executive for producing the brief and Howard Jacobs for reviewing it. Council members were invited to indicate further areas for training.

Council sub-groups

10.4 The Council reviewed its sub-groups. Current sub-groups were: Funeral Plans TAS; input to FRC 2013/16 Plan; DWP Scheme Funding Consultation; and ISAP 1. Attachments had also been agreed to the FRC Review Agenda Steering Group and its International Framework workstream. It was agreed that the FRC 2013/16 Plan sub-group should be stood down and the members of the ISAP1 sub-group should also be attached to the International Framework workstream.

11 AOB

There was no other business.