

2004 Life Convention
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EICC Edinburgh Scotland

Actuarial Reforms from a Legal Standpoint

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Old System

- Single Decision Maker
- Fellow of Faculty/Institute
- Over 30
- Power of Veto

Legal View of Actuaries

- Professionals
- Advisers
- 'Experts in combining Financial and non-Financial Risks'

Courts and Actuaries

- Courts Look at Specifics
- Actuaries Look at Statistics
- Courts don't make policy decisions in theory
- Courts do make policy in practice

Have we been here before?

- 1774 – Life Assurance Act
- 1869 – Life Assurance Companies Act – 1870 Life Assurance Companies Act
- Vehicle and General - 1968 Insurance Companies Regulations
- Equitable Life – Morris Report

New Regime

- PS04/16 – No legislation – Powers of the FSA
- Actuarial Function Holder
- With Profits Actuary
- Diminished role for Faculty & Institute

Actuaries as Advisers – Something New?

- Actuarial Function Holders (AFH's) have to Communicate
- Paperwork for Boards
- AFH's will have to translate concepts

What Types of Board?

- A – Fully Actuarially Literate Board – In Agreement
- A Rarity
- To be Treasured – Do NOT Prepare using this Model

What Types of Board?

B – Partially Actuarially Literate Board Actuarial Members up to Date

- Actuarial Directors – No need to 'translate' but prepare for some questioning
- Non-Actuarial Directors – They will need to have the system explained – simply.
 - Jargon
 - Don't use TLAs – Three Letter Acronyms
 - Brief them before – Do not assume it will be alright on the day
 - Director Training?

What Types of Board?

C – Partially Actuarially Literate board Split Between Executive and Non-Executive Directors

- Actuarial Executive Directors – Up to speed
- Actuarial Non-Executive Directors – Probably Not as Up to speed
- Non – Executive directors have a key monitoring and whistle blowing function
- They need to be well briefed and kept informed of changes when they occur

What Types of Board?

D – Largely Non-Actuarial and/or 'Not up to Speed'

- A rarity
- AFH has implicit duty to ensure they are competent to undertake the valuation of actuarial reserves.

Board of Directors

- Act collectively – BUT they have different roles
- Non – Exec's have a vital function in corporate governance.
- Their role has become more prominent over the last decade
- Make sure Board papers are:
 - Clear
 - Simply explained
 - Capable of being understood by a Court of Law

Prepare a Board Minute

- Going through the stages of the Presentation by the AFH and Setting out, in Board Terms, the basis of the valuation and the fact that everyone has understood the process, and

MAKE SURE THEY *DO* UNDERSTAND THE PROCESS

A minute is helpful evidence – but it does not prove the Directors understood the process

The Man on the Clapham Omnibus

- Directors should be 'Ordinary Prudent Men/Women of Business'
- Court will make findings based on this standard
- Its not enough to say 'they should have known'.

Morris Review

- Competition Identified as a driver
- Conflicts of Interest for Actuary
Company/Policyholder's reasonable expectations

Competition

- Good in Principle – 'Battle of Ideas'
- But Beware – Gresham's Law

'Bad money drives out good'

- Could this Happen in Insurance Services?

Scenario – Four Advisers

- Actuary
- Accountant
- MBA – Quantitative analysis
- Chartered financial Analyst

Company most likely to choose adviser which
advocates lowest quantum of reserves

Appointed Actuaries were not easy to remove once
appointed – Lack of market liquidity in advice – will this
be replaced?

Conflicts of Interest

- Fair point – Where do actuaries interests lie? Who are their clients?
- Not Fault of Actuaries 1968/1982 Acts concentrated on solvency of Companies
- Extract from Walter Merricks given prominence
- Actuaries must look at Private interests of Policyholder's – Not Public Interest

Financial Regulation

- Responds to Individual cases – Legislation is a retrospective attempt to address problem
- Prudential Regulation – AFH and reserving
- Product/Price Regulation
- Process Regulation – Sales Forces and IFA's

Need to be considered together
Opportunity for Actuaries to Make early Contribution

ACTUARIES
PIONEERS OF CHANGE?
