



APS P1: DUTIES AND RESPONSIBILITIES OF MEMBERS UNDERTAKING WORK IN RELATION TO PENSION SCHEMES

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Purpose: This APS sets out specific ethical requirements that apply to certain **Members** of the Institute and Faculty of Actuaries operating in the pensions area of practice.

1. Practising Certificate requirement – Scheme Actuaries

1.1 A **Scheme Actuary** must have a current **Practising Certificate**.

2. Obligations relating to appointment, replacement and absence – Scheme Actuaries and Equivalent Scheme Actuaries

2.1 This section applies to **Members** who are a **Scheme Actuary** and/or an **Equivalent Scheme Actuary**.

2.2 A **Scheme Actuary**, or **Equivalent Scheme Actuary**, must have a written agreement with the **Trustees** covering the information that they require the **Trustees** to provide them with, or allow them access to, to do their job properly, and allowing them to share information with other advisers as appropriate.

2.3 The matters covered by the agreement in 2.2 may vary from scheme to scheme but the **Scheme Actuary**, or **Equivalent Scheme Actuary**, must have a justifiable reason for the exclusion of any of the matters described in Appendix 1.

2.4 The agreement in 2.2 must be reviewed periodically and updated to ensure that it continues to be fit for purpose. In drawing up the list of events to be notified under paragraph 3 of Appendix 1, the **Scheme Actuary**, or **Equivalent Scheme Actuary**, should be satisfied that the **Trustees** understand what the **Scheme Actuary** or **Equivalent Scheme Actuary** would consider to be material, and, if used, how words such as “unexpected”, “significant” or “major” should be interpreted. In specifying timescales, phrases such as “as soon as possible” or “as soon as reasonably practicable” might be used.

- 2.5 If an existing **Scheme Actuary** or **Equivalent Scheme Actuary** is to be replaced:
- 2.5.1 the existing actuary must provide the new actuary with the information that the existing actuary considers to be relevant for the new actuary to fulfil their responsibilities;
 - 2.5.2 the information in 2.5.1 must include any information considered to be relevant relating to reports made to the **Regulator** under Section 70 of the UK Pensions Act 2004, where applicable, or similar reports to other regulatory authorities;
 - 2.5.3 if necessary, the existing actuary and new actuary must discuss the information to be provided, if they are reasonably able to do so; and
 - 2.5.4 where the new actuary considers that they require more information for this purpose than the existing actuary originally provided, the new actuary must, if reasonably possible, ask the existing actuary for this additional information. Provided that the new actuary agrees to any reasonable conditions imposed by the existing actuary for the release of information, the existing actuary must comply with any such reasonable request or explain why it is not possible or appropriate to comply.
- 2.6 A **Scheme Actuary** or **Equivalent Scheme Actuary** who resigns or is removed, must ensure that the **Trustees** have been notified of:
- 2.6.1 the need to appoint a replacement within any prescribed timescales; and
 - 2.6.2 any deadlines relevant to responsibilities of the **Scheme Actuary** or **Equivalent Scheme Actuary** that might pass before a new actuary has had time to address them.
- 2.7 A **Scheme Actuary** or **Equivalent Scheme Actuary** must have appropriate arrangements to cover any period during which they are unable to fulfil their duties, taking account of the anticipated length of such a period. Depending on the circumstances, it might be appropriate or necessary to resign the appointment.
3. **Other Professional Responsibilities, including Speaking Up – Scheme Actuaries, Equivalent Scheme Actuaries and Other Actuarial Advisers**
- 3.1 Subject to paragraph 3.3 below, **Scheme Actuaries, Equivalent Scheme Actuaries and Other Actuarial Advisers** should inform the **Trustees** and, if appropriate, any third party adviser or service provider to the **Trustees**, and take appropriate action:

- 3.1.1 on becoming aware of any significant matter that relates to their regulatory, contractual or other professional responsibilities which could have an impact on the security of members' benefits and/or financing of the **Scheme**, or which might lead to the **Trustees** needing to request advice or further advice from an actuarial or other adviser; or
 - 3.1.2 if they have any material concerns about the way the **Trustees** are fulfilling their duties and responsibilities, or about actions being taken by any of the **Trustees'** third party advisers or service providers.
- 3.2 One specific application of paragraph 3.1 is that, where a **Scheme Actuary, Equivalent Scheme Actuary** or **Other Actuarial Adviser** is giving a legally-required certification, the **Scheme Actuary, Equivalent Scheme Actuary** or **Other Actuarial Adviser** must draw the **Trustees'** attention to any matters which he/she believes the **Trustees** should bear in mind before taking any action associated with that certification.
- 3.3 Paragraph 3.1 above does not apply to **Other Actuarial Advisers** where they have reasonable cause to believe that a **Scheme Actuary** or **Equivalent Scheme Actuary** is fulfilling these requirements.
- 4. **Conflicts of Interest – Scheme Actuaries, Equivalent Scheme Actuaries and Other Actuarial Advisers**
 - 4.1 This section applies to **Scheme Actuaries, Equivalent Scheme Actuaries** and **Other Actuarial Advisers**, as provided for in the individual paragraphs below.
 - 4.2 Where the **Scheme Actuary or Equivalent Scheme Actuary** for a **Scheme**, or an **Other Actuarial Adviser** working for a **Scheme** on behalf of a different **Firm** from the **Scheme Actuary or Equivalent Scheme Actuary**, is undertaking any work for the **Employer** to that **Scheme**, or they are aware, to the best of their reasonably held knowledge, that another person is undertaking work on behalf of their **Firm** for the **Employer** to that **Scheme**, they must notify the **Trustees** of this fact and of the potential for conflict(s) of interest to arise as a result.
 - 4.3 A **Scheme Actuary, Equivalent Scheme Actuary** or **Other Actuarial Adviser** should presume that the provision or review by them of **Advice** to the **Employer** of a **Scheme** (for which they are acting for the **Trustees**), in relation to the funding of that **Scheme** or to any matter which has a direct bearing on the benefits payable under that **Scheme**, would give rise to an irreconcilable conflict of interest.
 - 4.4 In considering whether, exceptionally, it is appropriate to depart from the presumption set out in paragraph 4.3, the **Scheme Actuary, Equivalent Scheme Actuary** or **Other Actuarial Adviser** should have regard to all of the relevant circumstances, including, as applicable:

- 4.4.1 the public interest, including the public interest in safeguarding the interests of **Scheme** members;
 - 4.4.2 the extent of the **Trustees'** independence and expertise;
 - 4.4.3 relevant legislation;
 - 4.4.4 where the **Scheme** rules require the provision of such **Advice** by the **Scheme Actuary, Equivalent Scheme Actuary** or **Other Actuarial Adviser** to the **Employer**, whether it is reasonably possible and appropriate to amend the **Scheme** rules;
 - 4.4.5 for an **Other Actuarial Adviser**, the type of work they have been involved with on behalf of the **Trustees**;
 - 4.4.6 whether it is appropriate to resign one or more appointment(s), rather than depart from the presumption.
- 4.5 Where the work to which paragraph 4.2 refers constitutes **Advice** in relation to the **Scheme** in question, the **Scheme Actuary, Equivalent Scheme Actuary** or **Other Actuarial Adviser** must ensure that a **Conflict Management Plan** is agreed with the **Trustees** and **Employer** for whom the work is undertaken.
- 4.5.1 The plan must set out any limitations on the extent of any **Advice** which may be provided to the **Employer** and who may provide that advice;
 - 4.5.2 The plan must provide for the waiver of any duty of confidentiality by the **Scheme Actuary, Equivalent Scheme Actuary** or **Other Actuarial Adviser** which would otherwise be owed to the **Employer**, to the extent necessary to safeguard the interests of the **Trustees**;
 - 4.5.3 The plan must provide for the **Trustees** to have the option to continue with the appointment of the **Scheme Actuary, Equivalent Scheme Actuary** or **Other Actuarial Adviser** if it becomes inappropriate for them or their **Firm** to continue to provide **Advice** to both the **Trustees** and the **Employer**;
 - 4.5.4 The plan must be shared with the **Employer Adviser**, who is given an opportunity to comment, before it is provided to the **Trustees** and **Employer**;
 - 4.5.5 The **Scheme Actuary, Equivalent Scheme Actuary** or **Other Actuarial Adviser** must be reasonably satisfied that the **Trustees**, in agreeing to the plan, have been appropriately advised as to its implications;

4.5.6 The plan must be reviewed and revised at appropriate intervals.

5. Conflict Management Plan - Employer Adviser

5.1 Where a **Conflict Management Plan** is agreed at paragraph 4.5 and imposes any requirements on an **Employer Adviser**, then the **Employer Adviser** must comply with those requirements.

5.2 Where a **Member** who is approached to be an **Employer Adviser** to a **Scheme** is aware, to the best of their reasonably held knowledge, that another **Member** from the same **Firm** is a **Scheme Actuary**, **Equivalent Scheme Actuary** or **Other Actuarial Adviser** to that **Scheme**, the potential **Employer Adviser** must first ensure either that there is already a suitable **Conflict Management Plan** in place or that the **Scheme Actuary**, **Equivalent Scheme Actuary** or **Other Actuarial Adviser** has the opportunity to put a **Conflict Management Plan** in place, before the **Employer Adviser** provides advice in relation to the **Scheme**.

6. Interpretation and application

6.1 A failure to comply with this **APS** may result in a finding of misconduct in terms of the **IFoA's Disciplinary and Capacity for Membership Scheme**.

6.2 This **APS** uses the word "must" to mean a specific mandatory requirement. It uses the word "should" to indicate that, while the presumption is that **Members** will comply with the provision in question, there may be some circumstances in which **Members** are able to justify non-compliance.

6.3 In the event of any inconsistency between this **APS** and the **Actuaries' Code**, the **Actuaries' Code** prevails.

6.4 **Members** advising pension schemes that are not **Relevant Schemes** will often have some duties and responsibilities that are very similar to those of a **Scheme Actuary**, meaning that they are subject to this **APS** as **Equivalent Scheme Actuaries**. The **Schemes** they are advising on may in some (or many) respects differ materially in form and/or structure from a **Relevant Scheme**; for example, they might be unfunded and/or have a governance structure with roles that differ from those of the **Trustees** and **Employer** of a **Relevant Scheme**. **Equivalent Scheme Actuaries** therefore need to judge the extent to which the provisions of this **APS** apply to them in that role, while bearing in mind that they may also have duties and responsibilities (that are not part of an **Equivalent Scheme Actuary** role) which bring them into scope as an **Other Actuarial Adviser**.

6.5 **Members** applying **APS P1** outwith the United Kingdom are reminded of the requirements set out in APS X1 on the application of relevant **APSs** and the circumstances under which to apply other similar recognised standards.

7. Definitions

Term	Definition
Actuaries' Code	The ethical professional code for Members issued by the Institute and Faculty of Actuaries.
APS	Actuarial Profession Standard.
Advice	Information or recommendation provided by a Member to a user, which includes a material element of judgement or analysis, upon which that user is entitled to rely.
Conflict Management Plan	A written plan that is agreed between the Trustees, Employer and Scheme Actuary, Equivalent Scheme Actuary or Other Actuarial Adviser, which describes all identifiable conflicts of interest relating to work on behalf of that Member's Firm and sets out how they are to be addressed.
Employer	Any entity which participates in a pension scheme or is associated with such an entity.
Employer Adviser	A Member of the IFoA who is providing actuarial Advice to the Employer of a Scheme, and is doing so on behalf of the same Firm as the Scheme Actuary, the Equivalent Scheme Actuary or an Other Actuarial Adviser to that Scheme. Where there is more than one such Member, references to the Employer Adviser are to be read as applicable to each Employer Adviser in the Firm.
Equivalent Scheme Actuary	A Member who is carrying out a role similar to that of a Scheme Actuary appointed under the UK Pensions Act 1995 (but for a Scheme that is not a Relevant Scheme), including a Member who is working for a governing body other than Trustees or is working for a decision-making body in relation to a public sector or public service pension scheme.
Firm	A sole practitioner, partnership, limited liability partnership or other corporate entity engaged in

the provision of actuarial services. It includes related or connected entities which are:

- (i) controlled by the Firm; or
- (ii) under common control, ownership or management; or
- (iii) part of a larger structure that is clearly aimed at profit or cost sharing.

IFoA's Disciplinary and Capacity for Membership Scheme	The currently in force Disciplinary and Capacity for Membership Schemes of the Institute and Faculty of Actuaries, as may be amended from time to time.
Member	Member of any category of the Institute and Faculty of Actuaries, including Students, Affiliates, Associates and Fellows, in any location.
Other Actuarial Adviser	A Member who provides Advice to the Trustees of a Scheme, but is not a Scheme Actuary or Equivalent Scheme Actuary. This would include a Member who provides Advice to the Trustees on behalf of a different Firm from that of the Scheme Actuary or Equivalent Scheme Actuary or as an in-house pensions actuary.
Practising Certificate	Practising certificate issued by the Institute and Faculty of Actuaries to act as a Scheme Actuary to pension schemes.
Regulator	The Pensions Regulator as defined in Section 1 of the Pensions Act 2004.
Relevant Scheme	A pension scheme in relation to which a Scheme Actuary is, or requires to be, appointed.
Scheme	A pension scheme of any sort.
Scheme Actuary	An actuary appointed to advise the Trustees of a defined benefit pension scheme in accordance with section 47(1)(b) of the Pensions Act 1995.
Trustees	The Trustees of a pension scheme, or, for pension schemes not established by a trust, the managers as defined in section 318(1) of the Pensions Act 2004 or other governing body of the scheme.

Appendix 1: Matters to be covered in written agreement with Trustees (References below to a **Scheme Actuary** should be taken to apply similarly to an **Equivalent Scheme Actuary**, except where they have no relevance.)

1. Liaison with other advisers

1.1 The agreement with the **Trustees** should allow the **Scheme Actuary**:

1.1.1 to liaise with other advisers to the **Trustees** in relation to matters which might be relevant either to the **Scheme Actuary's** statutory responsibilities or to other legislative or regulatory responsibilities which are placed on the other advisers in relation to the scheme;

1.1.2 to ask any existing actuary for information in accordance with paragraph 2.5 of this **APS**; and

1.1.3 in the event of their resignation or removal, to provide the new actuary with the information referred to in paragraph 2.5 of this **APS**.

2. Information to be provided by Trustees

2.1 The **Scheme Actuary** should obtain the **Trustees'** written agreement that the **Trustees** will advise the **Scheme Actuary** of specified events which could, in the **Scheme Actuary's** opinion, be of material significance to the financing or solvency of the **Scheme**. Appropriate timescales for notifying events should be included and the list reviewed by the **Scheme Actuary** as frequently as they consider necessary or appropriate.

2.2 Paragraph 3 below illustrates the types of events which, if material, a **Scheme Actuary** would normally require the **Trustees** to notify them. However, a **Scheme Actuary** should consider:

2.2.1 whether all the categories listed are relevant to a particular **Scheme**;

2.2.2 whether additional categories should be included; and

2.2.3 the actual events within each category which should be specified.

2.3 The **Scheme Actuary** should obtain the **Trustees'** written agreement that the **Trustees** will:

2.3.1 provide the **Scheme Actuary** with copies of any future reports to the **Regulator** under Section 70 of the Pensions Act 2004 which are either made by, or sent to, the **Trustees**;

2.3.2 advise the **Scheme Actuary** if any communication which is relevant to the financing or solvency of the **Relevant Scheme** is issued by the **Regulator** (or has been issued and is still relevant at the date of the **Scheme Actuary's** appointment) of which the **Trustees** are aware, including (but not limited to) the following:

- an order issued under section 231(2) of the Pensions Act 2004;
- a contribution notice under sections 38, 47 or 55 of the Pensions Act 2004;
- a financial support direction under section 43 of the Pensions Act 2004;
- a clearance statement under sections 42 or 46 of the Pensions Act 2004;
- a restoration order under section 52 of the Pensions Act 2004; or
- an approval notice in relation to an approved withdrawal arrangement under the Occupational Pension Schemes (Employer Debt) Regulations 2005;

2.3.3 allow the **Scheme Actuary** on request, access at all reasonable times to such information as may be required to carry out their duties, including:

2.3.3.1 the **Scheme's** books, accounts and supporting documentation;

2.3.3.2 copies of the minutes of the **Trustees** and sub-committees of the **Trustees'** meetings;

2.3.3.3 copies of the **Trustees'** resolutions;

2.3.3.4 copies of any other documents recording decisions taken by the **Trustees** following actuarial advice from them or from a person advising the **Trustees**; and/or

2.3.3.5 copies of all **Scheme** constitution documentation.

2.4 The **Scheme Actuary** does not need to require the **Trustees** to provide them immediately with the information referred to in paragraph 2.3.3 of this appendix. However, there may be occasions when the **Scheme Actuary** will need to insist that specific information of the types listed is provided (or access to such information is allowed) without delay in order to assist them in assessing whether a report needs to be made to the **Regulator** under **Section 70**.

3. **Events which could affect the financing or solvency of a Scheme** (This list is not exhaustive)

3.1 **Changes affecting the status of the Scheme**

For example:

- cessation of future accruals
- closure to new members

- a decision to wind up or otherwise discontinue the **Scheme**
- a determination to defer winding up.

3.2 **Changes to (or legal opinions on the interpretation of) the trust deed and rules or the benefits provided under them**

For example, in relation to:

- the definition of pensionable pay
- contribution or benefit levels
- normal retirement date
- the degree of priority accorded to benefits in the event of the **Scheme** winding up
- an exercise under which members may change the form of their benefits.

3.3 **Significant changes to the membership**

For example, in relation to:

- the general remuneration levels of members of the **Scheme**
- the numbers of active members, deferred pensioners or pensioners
- an exercise which could involve many members taking transfer values from the **Scheme**.

3.4 **Events in relation to participating employers**

For example:

- a change in the **Trustees'** view of the strength of a participating employer's covenant
- a relevant event (as defined in section 75(6A) of the Pensions Act 1995) in relation to a participating employer
- an employment-cessation event (as defined in Regulation 6ZA of SI 2005/678) in relation to a participating employer
- sales and purchases affecting the membership of the **Scheme**.

3.5 **Events in relation to investment matters**

For example:

- a change in investment policy or investment management arrangements
- adverse investment performance relative to agreed objectives.

3.6 **The exercise of a discretionary power**

For example, the augmentation of a benefit, or the granting of a discretionary pension increase, where the cost is not met by additional contributions at the time on a basis agreed with the **Scheme Actuary**.

3.7 **Events connected with the Regulator**

For example:

- any event notified to the **Regulator** under section 69 of the Pensions Act 2004 by the **Trustees** (or any event of which the **Trustees** are aware has been notified to the **Regulator** under such section by a participating employer)
- an application for a refund of surplus to a participating employer.

3.8 **Events in relation to financing**

For example:

- non-payment of the employer's and/or employees' contributions stated in the most recent Schedule of Contributions
- a change of policy in relation to the payment of expenses
- a change in the arrangements for insuring death in service benefits or a change from insured to self-administered or vice versa
- a change to the **Scheme** year for accounting purposes.