



Conflicts of Interest

Interactive sessions

Autumn/Winter 2012/2013

Why Conflicts of Interest Matter

- Professionals occupy a privileged position of trust
- This brings obligations to act impartially and in the public interest
- Recognised in Principle 3 of the Actuaries' Code

“Members will not allow bias, conflict of interest or the undue influence of others to override their professional judgement.”

A Long History

- Long history of previous uncompleted attempts to tackle the matter
- Morris Report 2005
- Successive Professional Oversight Board reports
- Led to establishment of Working Party in July 2010

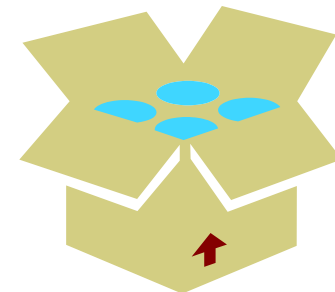


Timeline

- Discussion Paper, end 2010
- Targeted consultation with users and other regulators
- Consultation Paper, October 2011
- Consultation closed, December 2011
- Broad endorsement of all proposals, except for proposed firm rule barring Scheme Actuary from advising both employer and trustees on funding and factors
- Feedback document and final provisions, 29 June 2012

The New Package: a reminder

- The package should be viewed as a whole
- It builds on the conflict provisions in the Actuaries' Code
- It combines targeted additional regulation in the Life (APS L1) and Pensions (APS P1) areas
- With guidance for all actuaries and a note for pension trustees
- New guide for employers on conflicts
- Underpinned by new CPD and professional skills training provision
- New conflicts “toolkit” for firms to use



Different Areas, Different Approaches

- The considerations as regards conflicts can differ between one field of work and another
- They can also vary between consulting and employed practice
- However, there are common principles which the Working Party believes are applicable across all areas of actuarial practice

The Actuaries' Code

- The Actuaries' Code sets the overarching principles
- A “light touch” review of the Code and a full consultation regarding that review is now underway
- The conflict provisions are unlikely to change significantly



Additional regulatory provision: Life

- Given that the existing conflicts of interest provisions in APS L1 were tightened with effect from October 2011, the WP did not believe further regulation in this area was justified
- The reason for not introducing further specific regulation was twofold:
 - the Life area is subject to FSA regulation; and
 - this sector has moved on greatly since Equitable Life's failure
- This area has also been subject to considerable regulatory change
- Further, the "Appointed Actuary" regime has been replaced by a more rigorous regulatory structure around the roles of the "With-Profits Actuary" and the "Actuarial Function Holder"

Additional Regulatory Provision: Life

- While conflicts of interest may still arise for actuaries involved in life insurance work, such conflicts may be likely to have their focus at a more general level.
- These are issues of more general application and are, therefore, properly addressed by the Code without more specific guidance necessarily being helpful.
- It will, however, be important to keep the treatment of conflicts in this field under review, not least in light of the changes envisaged under 'Solvency II'

APS L1 conflicts provisions

- Paragraph 7.1: Actuarial Function Holders, With-Profits Actuaries and Appropriate Actuaries are reminded of their obligations under SUP 4.5 and the Actuaries' Code in relation to objectivity and conflicts of interest.
- Paragraph 7.2: Members cannot perform conflicting roles in contravention of SUP 4.3.12AR
- Paragraph 7.3: Provided a Member is not a director of the Firm, then he/she may be both an Actuarial Function Holder and a With-Profits Actuary of the Firm.
- Paragraph 7.4: But, if that is the case, there could be a risk of a conflict situation arising. If, in these circumstances, a With-Profits Actuary has any doubt about being free from unacceptable conflicts of interest, whether real or apparent, he/she should consult an independent Member.

APS L1 Conflicts Provisions

- Paragraph 7.5: However, it would not normally be necessary to consult where the:
 - matter is neutral for With-Profits Policyholders in aggregate; or
 - sums involved are not significant in the context of the size of the With-Profits Fund.
- Paragraph 7.6: There may be occasions when the Governing Body requests advice from the With-Profits Actuary which might conflict with that role. If this occurs, the Actuaries' Code applies.

APS P1 Conflicts Provisions

- Definitions: new definitions relating to conflicts
- Paragraph 5.1: actuaries must comply with Principle 3 of the Code, including the requirement to disqualify themselves in the event of an irreconcilable conflict of interest.
- Paragraph 5.2: provides for the *disclosure* by the Scheme Actuary of the potential for conflicts arising from the fact that he/she or other persons in (or on behalf of) his/her firm are involved in advising the sponsoring employer.
- Paragraph 5.3: “rebuttable presumption” that an *irreconcilable conflict* of interest arises if a Scheme Actuary provides advice to the employer and the trustees of that scheme, where the advice relates to the funding of the scheme or has a direct bearing on benefits payable under that scheme.

APS P1 Conflicts

- Paragraph 5.4: criteria on which very limited exceptions to the presumption (5.3) are to be assessed, e.g. in circumstances where the scheme rules require the Scheme Actuary to act for both the employer and the trustees.
- Paragraph 5.5: Scheme Actuaries must (a) record the reasons for any decision to depart from the presumption, including reasons for concluding that there is no irreconcilable conflict and (b) be able to justify such a departure.
- Paragraph 5.6: Scheme Actuaries must ensure that an appropriate written conflicts management plan is agreed.
- Paragraph 5.6.5 : The Scheme Actuary must be reasonably satisfied that the trustees, in agreeing to the plan, are appropriately informed as to its implications.

APS P1 Conflicts Provisions

- Paragraph 6.4: extends the principles in 5.1, 5.2 and 5.6 to members who, although not acting on behalf of the Scheme Actuary's firm, are directly responsible for the provision or review of client advice to the trustees.
- Paragraphs 6.5 to 6.7: extend to certain other members, a provision similar to the 'irreconcilable conflict' presumption
- Paragraph 6.8: extends the principles applicable to members advising Scheme Actuary schemes under sections 5 and 6, to those directly responsible for the provision or review of advice on other sorts of scheme (including public sector and overseas schemes).

CPD and Professional Skills

- More guidance and CPD provision asked for by actuaries in all practice areas
- This will be provided, e.g. through increased professional skills CPD events from July 2013
- Intention is for those events to deal with difficult, practice area specific conflicts issues



Guide for Actuaries

- Guide for Actuaries welcomed in consultation responses
- Non-mandatory in nature
- Designed to stimulate thought, rather than setting out rules
- It has been revised to include:
 - more material on identifying conflicts
 - improved case studies to ensure more “balanced” approach following consultation feedback
 - more detail on the use (and limitations) of peer review
 - more detailed section on the use of the “Y model”
 - additional material on information barriers

The Conflicts “Care” Package or Toolkit

- The toolkit will include:
 - copies of the guide for actuaries
 - copies of the guide for pension scheme trustees
 - (in due course) copies of the guide for employers
 - Powerpoint presentations covering different practice areas and joint practice area sessions
 - worked up case studies with questions and discussion points



Final remarks on the package

- The WP believes its package is targeted and proportionate
- It will also put the Profession in a strong and coherent position in responding to continued external interest in this issue
- We are now a world-leader in terms of guidance for actuaries on conflicts – but will welcome feedback so we can improve further!
- We will be monitoring implementation



Case Studies

- And now for the fun bit....
- You will already have had the opportunity to read two pensions case studies, along with some accompanying questions
- You will now have the chance to discuss your proposed answers to the case studies with your group for 20 minutes
- Each table should elect a chair who will speak on their behalf
- The Panel will circulate amongst the tables, asking questions and facilitating a discussion regarding the case studies
- There will then be a plenary session to discuss the answers

Any further questions?

- Do any of you have any further questions about anything in our conflicts package or about the Professional Skills CPD opportunities available later this year?

Thank you

- The Working Party thanks members and stakeholders for all their support and feedback over the past 3 years
- Further comments to: conflicts@actuaries.org.uk

