

Conflicts of interest

Institute and Faculty of Actuaries Annual Convention - June 2006

Roderick Morton



Trustee conflicts

| Example 1 | Example 2 |
|---|---|
| Return of capital to shareholders | Scheme in deficit |
| CEO, FD and HR director are trustees | Funding discussion |
| Independent trustee chairman | Company in poor health |
| Not Type A | Funding deal is the "best it can afford" |
| Discussing additional funding with the trustees | But one trustee is aware of significant potential financial improvement |

2



Resolution of trustee conflicts



- Resign as trustee
- Disclose interest and abstain from decisions
- Delegate trustee role
- Improve information flow to trustees
- Amend trust deed

3



Sample amendment


“Where a Trustee is also a director or employee of any of the Employers, he shall not, solely by reason of his being a Trustee, be required to disclose to the Trustees information obtained from the Employers where he reasonably believes that such information is confidential.”

4

Trustee conflicts - conclusion

1. Duty of disclosure vs duty of confidentiality
2. Manage potential conflicts to avoid actual conflicts
3. Company issue

Amendment to the trust deed
Documented information flow



95% of trustee conflicts

5

Actuary conflicts

“There is an absolute bar on the same firm acting simultaneously for two clients with opposing interests”

Re A firm of Solicitors (1992)

1. Are your clients' interests actually opposing?
2. Are you actually advising on these interests?

6

Resolution of actuary conflicts



- Resign as adviser to one party
- Contractual waiver of duties
- Information flow
- Timing
- Separate advice within the same firm
- Actuary as expert

7

Professional guidance

“Best advice”

PCS 5.1

“the actuary must consider the nature and extent of the conflict and whether it impairs the actuary’s ability to act fairly and without inhibition so as to make it improper to act for one or more clients involved in the conflict”

PCS 5.2

“the actuary must bring the conflict to the attention of the client at the earliest possible opportunity and if advice is restricted []”

PCS 5.3

“former clients”

PCS 5.4

8

Actuary conflicts - conclusion

1. Interests of employer and trustees are aligned in the majority of situations
2. Manage potential conflicts to avoid actual conflicts
 1. Avoid generating opposing interests
 2. Avoid advising on the opposing interests
3. Manage conflicts contractually
4. Consider your reputation

9

Herb: 15min

Conflicts of interest

Institute and Faculty of Actuaries Annual Convention - June 2006

Roderick Morton