

**The Actuarial Profession**

making financial sense of the future



**Discussion paper**  
Conflicts of interest

**Professional Regulation  
Executive Committee**

Response by 1 September 2010

June 2010

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## 1 Introduction

### Sir Philip Mawer, Chairman of the Professional Regulation Executive Committee

Any professional adviser engaged to give advice to a third party must be able to identify and reconcile conflicts of interest that might arise at any point in an engagement. Conflicts of interest can be actual at the time of engagement, in which case the professional adviser must consider from the outset whether it is appropriate or not to accept the engagement, and, if so, deal with it at the time of appointment (for example by disclosing the nature of the conflict and seeking the client's consent). Conflicts of interest may also be potential, in that there is a possibility that a conflict might arise at some point in the future. In such circumstances, a professional adviser must continually be looking for any events that might crystallise the potential into an actual conflict and have plans in place for dealing with them.

Actuaries have long recognised the possibility of such conflicts arising in the course of their work, particularly in the area of pensions, and have taken action to try to deal with them. The Professional Conduct Standards which preceded the Actuaries' Code required that advice to an actuary's client must be unaffected by any interests other than those of the client, taking account of any identifiable professional or legal duty of care of the client in respect of a third party. The Actuaries' Code, which came into effect in October 2009, includes a number of relevant high-level provisions which are set out later in this document. Many, if not all, actuarial firms have their own internal rules for avoiding or handling potential conflicts. Actuaries are also subject to requirements imposed by various external regulators which bear on the issue.

The Profession is therefore well aware that conflicts of interest can and do exist, either in reality or in perception. It believes that the majority of conflicts are managed and resolved successfully. However, concern both within and outside the Profession about the extent and nature of unreconciled conflicts, and how best to handle them, continues. In its May 2009 report on the Profession's progress and priorities in regulating its members, the Professional Oversight Board (POB), an operating body of the Financial Reporting Council, identified the production of guidance on conflicts of interest, particularly in the area of pensions, as a continuing priority for the Profession. It is a priority which the Profession fully accepts.

Moreover, the Profession recognises that in the current economic climate, actuaries can face conflicts of interest which are new both to them and the financial services industry. We have seen the effects the credit crunch can have on the finances of organisations, including life and general insurers, and it is possible that these will result in greater pressures on actuaries. 'Traditional' conflicts, such as those between pension scheme sponsors and trustees, or between policyholder and shareholder expectations, may become more pronounced, and other conflicts, perhaps arising out of the new field of enterprise risk management, may arise. As we face new challenges in the 21<sup>st</sup> century, it is only proper that the Actuarial Profession has a 21<sup>st</sup> century approach to how we deal with conflicts, one which is based firmly on sound evidence and rooted in best practice in regulation.

In this paper, we seek the views of interested parties, including users of actuarial advice and regulators as well as actuaries themselves, to assist us in understanding the extent of the problems conflicts of interest can cause and in determining what would be the most effective method of delivering further regulation, guidance or support on the subject to supplement the relevant provisions of the Actuaries' Code. We believe that the Actuaries' Code offers a solid foundation upon which to build and that any further regulation, guidance or support must be transparent, proportionate and targeted. We recognise that no one solution is likely to fit all. In this paper we have identified a number of examples of situations where conflicts may arise and suggested a range of options, consistent with the Actuaries' Code and also the relevant indicators in the Financial Reporting Council's 'Actuarial Quality Framework' document issued in 2009, (<http://www.frc.org.uk/publications/pub1854.html>) that might be applied to handle them. We look at the work the Profession has done over the years in this area and at what other regulators, actuarial bodies and professions are doing.

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We shall welcome the help of the public, other regulators and members of the Profession in creating a sound and informed base on which we can develop future policy. We stand ready to engage in discussion with all our stakeholders to find the best way forward.



April 2010

## 2 How will this consultation work?

This discussion paper is the first step since the publication of the Actuaries' Code in the Profession's plan to gather evidence and introduce, as appropriate, further proportionate and targeted measures in respect of the management of conflicts of interest. Once we have received and analysed the responses to this paper, we will develop whatever guidance or other action we believe will be of benefit to the public interest, actuaries, their employers and the users of actuarial advice. We then propose to issue a formal consultation paper detailing these measures in the latter part of 2010, with a view to them becoming effective, after final consideration of any responses to the consultation paper, in 2011.

Please address any comments you have on this discussion paper, particularly in respect of the questions in section 7, by completing the relevant questionnaire at **Appendix 4** (Questionnaire 1 is for actuaries and their employers and Questionnaire 2 is for all other respondents).

The questionnaires at **Appendix 4** should in preference be completed online by following the link on the Profession's home page ([www.actuaries.org.uk](http://www.actuaries.org.uk)) or going directly to:

- [http://www.surveymonkey.com/s/actuaries\\_conflicts1](http://www.surveymonkey.com/s/actuaries_conflicts1) - Questionnaire for actuaries and their employers
- [http://www.surveymonkey.com/s/actuaries\\_conflicts2](http://www.surveymonkey.com/s/actuaries_conflicts2) - Questionnaire for other respondents

You can also return the questionnaires to:

[Conflicts@actuaries.org.uk](mailto:Conflicts@actuaries.org.uk)

Or send them by post to:

**Conflicts of Interest Project  
The Actuarial Profession  
Maclaurin House  
18 Dublin Street  
EDINBURGH  
EH1 3PP**

We would appreciate it if you could complete the surveys by 1 September 2010.

### 3 What are conflicts of interest?

Situations in which interests conflict are probably inevitable. They arise in all walks of life. Many are minor, not all are potentially damaging in their effects. How might they express themselves in the work of actuaries?

Conflicts of interest are defined in the Actuaries' Code as follows:

"A conflict of interests arises if a member's obligation to act in the best interests of any client conflicts with:

- the member's own interests, or
- an interest of the member's firm, or
- the interests of other clients."

It should be noted that conflicts may be both actual and perceived. Both types of conflict require awareness and active management.

In the context of the current consultation, we would define 'client' widely (to include, for example, not only a fee-paying client but an actuary's employer). Conflicts may also affect a range of analogous third parties whose interests may be impacted by transactions in which actuaries are engaged (such as policyholders and pension fund members). It is also important to keep in mind the responsibility of the Profession to manage the activities of its members in such a way that the wider public interest (for example, in sustaining confidence in the financial services industry and in the contribution actuaries make to its wellbeing) is protected.

It may be helpful to earth these general points in some practical examples of the sort of conflicts that may arise in the course of actuaries' work. Conflicts of interest, potential or actual, are wide ranging and may occur in all areas in which actuaries operate. Listed below are a few examples for illustrative purposes. As noted earlier, new and unforeseen conflicts may develop as financial products become more sophisticated or greater economic pressures are exerted.

Area	Example	Example of Source of Conflict
<b>Applicable to all actuaries</b>	Client versus client or client versus former client	<ul style="list-style-type: none"> <li>• Duty owed to one client may impact on duty to another.</li> <li>• Confidential information gained from one client may be of benefit to another client.</li> <li>• Knowledge gained from former, or existing, client may be of advantage to another client.</li> </ul>
	Personal or professional values conflict with client objectives	<ul style="list-style-type: none"> <li>• The course of action proposed by the client is at odds with the values of the actuary or his obligations to the Profession, employer or public interest.</li> </ul>
	Personal or family interest versus the client's interest	<ul style="list-style-type: none"> <li>• Where the best interests of the client will personally affect the actuary or his family, in a financial or other context. For example where the with-profits actuary is also a policyholder.</li> </ul>
	Conflict between the best interests of a client and the interest of the actuary's firm	<ul style="list-style-type: none"> <li>• Advice given by an actuary to a client may be sound but unpalatable to the client and risk jeopardising the relationship between the client and the firm in other areas.</li> <li>• Actuary's advice may bring in more fee</li> </ul>

Area	Example	Example of Source of Conflict
		income for the actuary's firm but is of questionable use or value to the client
<b>Life</b>	Conflict between interests of policyholders and commercial interests of life office employing the actuary	<ul style="list-style-type: none"> <li>Most acute in advising on management of with-profits business, for example the level of investment risk taken in the With Profits fund and the use of the fund's assets to support business development.</li> </ul>
	Conflict between solvency of life office and immediate management objectives	<ul style="list-style-type: none"> <li>An actuary's duty to advise on risks to the long term solvency of a firm may conflict with shorter term commercial objectives, for example to maintain dividends or to write new business.</li> </ul>
<b>Pensions</b>	Direct conflicts as adviser to trustees and adviser to company	<ul style="list-style-type: none"> <li>Trustee interests are likely to be in increasing prudence/increasing funding. Company interests often lie in reducing prudence/reducing funding.</li> <li>When advising on whether or not to call an actuarial valuation in response to a material change in circumstances.</li> <li>When advising on appropriate actuarial factors, eg commutation factors/early retirement factors.</li> </ul>
	Conflicts arising due to client being conflicted	<ul style="list-style-type: none"> <li>The finance director who is also a trustee (or a chair of trustees who reports in to the finance director) can ask for the scheme actuary's advice to the trustees to be favourable to the company.</li> <li>The trustees don't want to be 'difficult' and upset the Company.</li> </ul>
	Direct conflicts between two connected or unconnected clients	<ul style="list-style-type: none"> <li>The actuary is acting for two entirely separate clients who (possibly confidentially) become involved in a corporate transaction (either between each other or in connection with a third party).</li> <li>The actuary is a scheme actuary for more than one pension scheme of the same employer and there is a proposal to merge the pension schemes or the pension schemes are "competing" for limited funds from the employer (particularly difficult if the employer covenant becomes very weak).</li> </ul>
	Conflicts of interest with own employer	<ul style="list-style-type: none"> <li>Scheme actuary is directly employed by the Company responsible for the pension scheme.</li> <li>Actuary advising own employer (can also apply to other employees, eg group pension directors who are actuaries) gives advice requested by management.</li> </ul>

<b>General Insurance</b>	Conflict of differing regulators	<ul style="list-style-type: none"> <li>Lloyd's Signing Actuary being required to comply with Lloyd's Valuation of Liabilities Rules, FSA Handbook regulations and FRC/BAS guidance.</li> </ul>
	Conflict between commercial and professional interests	<ul style="list-style-type: none"> <li>General Insurance actuary involved in, and with knowledge of, latent claims, coming under pressure from management to restricting the margins within reserves for latest claims (eg asbestosis).</li> </ul>
	Conflict arising from being a policyholder	<ul style="list-style-type: none"> <li>Pricing actuary (eg, motor or household) is directly employed by the Company of which he is a policyholder.</li> </ul>
	Conflict between providing accurate reserve calculations and personal gains	<ul style="list-style-type: none"> <li>Methodology and assumptions on reserve calculations will impact profit and business value, which may then drive increased bonuses and long term incentives.</li> </ul>

One way in which actuaries within the same firm seek to manage or reconcile conflicts may be through the erection of barriers to the sharing of information (eg, where two partners in the same firm act for separate clients in a single transaction). Such arrangements are known as information barriers (also known as "Chinese walls"). One question we wish to explore in the course of our review is how effective such devices are in practice.

#### 4 Current requirements

With regards to impartiality, the provisions of section three of the Actuaries' Code require that "members will not allow bias, conflict of interest, or the undue influence of others to override their professional judgement" and that:

- "Members will ensure that their ability to provide objective advice to their clients is not, and cannot reasonably be seen to be, compromised.
- A conflict of interests arises if a member's duty to act in the best interests of any client conflicts with:
  - the member's own interests; or
  - an interest of the member's firm; or
  - the interests of other clients.
- Members will take reasonable steps to ensure that they are aware of any relevant interest including income, of their firm.
- Members will disqualify themselves from acting where there is a conflict of interest that cannot be reconciled.
- Members will document the steps they have taken to reconcile a conflict and will agree those steps with their clients if they would be ineffective without agreement.
- Before accepting any assignment, members will consider carefully whether they should consult with any member who previously held such a position with the client, to establish whether there might be any professional reason why the assignment should be declined."

In **Appendix 1** we have provided a history of the development of these requirements.

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In addition, actuaries working in particular areas are affected by requirements imposed or guidance given by a number of external regulators. We provide some examples in **Appendix 2**. They include:

- The FSA's requirements which, under their Senior Management Arrangements Systems and Controls Sourcebook, are to take reasonable steps to identify conflicts of interest, keep records of all services which may lead to a conflict and operate effective arrangements to prevent them developing.
- The Financial Reporting Council's Combined Code on Corporate Governance (which has recently been revised and will be known as the UK Corporate Governance Code when it comes into force for financial years beginning on or after 29 June 2010), which states that directors must avoid conflicts of interest when deciding their own remuneration.
- The Financial Reporting Council's Actuarial Quality Framework published in 2009, which highlights the existence of effective procedures for managing and resolving conflicts as an indicator of a good working environment for actuaries (<http://www.frc.org.uk/publications/pub1854.html>). The Actuarial Profession uses the Framework as a tool in checking and developing its regulatory policies and procedures.
- The Pensions Regulator, who provides detailed guidance regarding conflicts of interest for Scheme Trustees.

In addition there are other legal obligations and requirements that may impact upon actuaries.

## 5 What do other actuarial bodies and professional regulators do?

In considering what further action in respect of conflicts of interest it would be sensible for the Profession to take, we are looking carefully at what other actuarial bodies and professions do. Details of the approaches taken by the regulators of other professions are given in **Appendix 3** of this paper. Most regulators operate from a principles-based stance, in that high level guidance on managing conflicts of interest is given. Some regulators, such as The Law Society, give specific guidance in respect of particular areas of legal work, while the Accountancy bodies give examples of safeguards that can be put in place to manage conflicts. The Pensions Regulator, in accordance with the Morris report, gives guidance to Scheme Trustees and adopts the principles of "identifying, monitoring and managing" conflicts.

One theme, common to a number of regulators, is the need to have a plan or protocol for dealing with actual or potential conflicts.

## 6 Possible options for future action by the Actuarial Profession

The question the Profession now faces is whether and, if so, how the provisions on conflicts in the Actuaries' Code should be supplemented by further professional regulation, guidance or support. We appreciate that there is not likely to be a "one size fits all" solution and the action judged appropriate may well be dependent on circumstances. One factor to be borne in mind is that the situation of large actuarial consultancies differs from that of sole practitioners. Hence we seek the help both of members of the Profession and of interested parties outside the Profession in identifying the best way forward.

We have identified a range of possible ways in which we could proceed. Options available, which are not mutually exclusive, include:

- No change or addition to the existing principles-based guidance given in the Actuaries' Code.
- Changes to professional regulation: additional principles-based guidelines and/or mandatory standards, either through the Actuaries' Code or the development of a separate professional standard, eg, in relation to the disclosure to clients of potential conflicts; bans on specific situations, eg, specific dual appointments; requirements for external peer review in actual or perceived conflict situations; requirements for practising certificate holders and others to confirm, or obtain confirmation that, their employer operates adequate arrangements for

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identifying and addressing conflicts of interest; introducing prescriptive rules for handling conflicts, eg, a mandatory conflict management plan.

- Additional member support: additional guidance materials for actuaries and/or employers; more assistance on the processes that may be employed to help actuaries determine appropriate actions to reconcile conflicts (eg, checklists, algorithms, decision trees, case studies, templates for conflict management plans).
- Changes to education and CPD: additional assessed requirements as part of the educational system, eg, CT9 business awareness or the practice modules, and/or embedding more consideration of conflicts into applied and specialist examinations; providing more training for actuaries on managing and reconciling conflicts as part of ongoing professionalism training and/or additional CPD events, particularly in specialist fields.

Again, we emphasise that these categories of possible activity are not mutually exclusive: the way forward may lie in a combination of a number of them.

## **7 Summary and questions for users of actuarial advice, actuaries and their employers**

The Actuaries' Code permits an actuary to continue to act in a situation in which there is a conflict of interest, provided that the conflict can be reconciled. The Profession recognises that many conflicts of interest that arise can be reconciled satisfactorily. However to help us assess where conflicts of interest, particularly those that have not been reconciled, are causing users of actuarial advice, actuaries, and/or their firms, difficulty or potential difficulty, the Profession would like to hear about them.

To assist the Profession in deciding what further action may be needed to help actuaries deal with conflicts of interest, we invite interested organisations and members of the public, actuaries, and their employers, to consider and answer the following questions, which are set out more fully in the two questionnaires at **Appendix 4**.

### **Questions for all respondents**

- In what particular fields of actuarial work are you interested?
- To what extent do conflicts of interest feature in your experience of the work of actuaries?
- As a recipient of actuarial advice, how have any conflicts that have arisen been reconciled and were you satisfied with the outcome?
- If not resolved, what prevented these conflicts from being reconciled satisfactorily?
- Are there any particular situations in which you believe that the options which would otherwise be available to the actuary to reconcile a conflict should be specifically restricted, for example on the grounds that it is in the public interest to ensure that there can be no perceived threat to the independence of the advice of the actuary? If so, please state the circumstances and give your rationale.
- From the options for further regulatory action given above, which, in the light of your experience, would work best among the examples given, which wouldn't work and why?
- Are there any other options for action you would like to suggest?

### **Questions particularly for actuaries and their employers**

- What conflicts do you face as an individual? We have already indicated some areas where individuals may have to deal with conflicts of interest. What other situations bring such conflicts and are there any new areas or situations in your experience where conflicts are developing?
- In your experience, how are conflicts managed and reconciled within the working environment? We are interested to learn where firms/organisations for which actuaries work face conflicts of interest, from what situations they arise and what policies they have for

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dealing with them. We are aware that most organisations will have conflicts of interest policies in place. If you are able to share these policies, or to comment on your own firm's policy, that would be helpful. From this we will be able to incorporate best practice into any further guidance to the Profession.

- What role is there for training and other means of support? We would also like to hear about other media, such as attending training events, case studies etc, which actuaries have found useful in understanding the issues surrounding potential conflicts and how to handle them and to have your thoughts on what further support either firms or the Profession might offer actuaries in this area.

Details of how to respond are given in section two on page two and at **Appendix 4** (where you will find two questionnaires based on the above questions which you can complete and return. Questionnaire 1 is for actuaries and their employers and Questionnaire 2 is for all other respondents. The questionnaires are also available online).

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## Appendix 1      Recent history

### The Professional Conduct Standards (PCS)

The PCS became effective in 1999 and required that “*Advice to the client must be unaffected by interests other than those of the client, taking account of any identifiable professional or legal duty of care of the client in respect of a third party.*”

The PCS also required that actuaries protected the interests of their clients and that they did not give advice until the conflict had been disclosed to the client.

### The Morris Report

The Morris Report expressed concern about potential conflicts of interest when a scheme actuary advises both the trustees and scheme sponsor. The report made two recommendations with regard to conflicts of interest.

1. The Profession, or another appropriate body, should develop guidance for actuaries on the issues that they should take into account when considering the materiality of potential conflicts.
2. The Pensions Regulator should, with input from the actuarial profession...provide trustees with guidance on potential conflicts of interest.

As can be seen in **Appendix 2**, the Pensions Regulator has provided guidance on conflicts for scheme trustees. Material has also been issued by the Pensions Board of the Profession with regard to dual appointments (see below).

### The Financial Reporting Council (FRC) and the Professional Oversight Board (POB)

Whilst responsibility for ethical regulation of actuaries remained with the Profession following the Morris Report, that responsibility is now discharged under the oversight of the Professional Oversight Board (POB), an arm of the Financial Reporting Council (FRC). In their paper ‘Promoting Actuarial Quality’ published in 2009, the FRC commented that conflicts are one of a number of threats to the ethics and professionalism of actuaries.

The POB have encouraged the Profession to review its approach to conflicts of interest, both as part of the preparation of the Actuaries’ Code and in the development of a specific Actuarial Profession Standard (APS) on the subject. As mentioned in the introduction to this paper, the POB have highlighted the need for the Profession to develop guidance in this area as a continuing priority. In particular, the POB noted in their 2009 paper that there is no effective substitute for separation of advisory roles, even though external review may be used in mitigating the impact of conflicts. Nevertheless, it is important for the Profession to establish effective professional safeguards to ensure that the quality and reliability of actuaries’ work for one party eg pension scheme trustees is not undermined by actual or perceived conflicts of interest. The POB are also encouraging the Profession to consider the risks to actuaries’ professionalism and how they might be addressed in the Actuaries’ Code and in its regulation more generally, including the particular feature in actuarial work that pressures can come from direct clients, or for in-house actuaries, from their employers, as well as from other interests.<sup>1</sup>

### Recent Action Taken by the Actuarial Profession

The Profession has moved its regulatory style to a principles-based regime; this has resulted in the development of the Actuaries’ Code, which addresses conflicts under the high level principle of Impartiality. Specifically the Actuaries’ Code requires members to ensure that their ability to provide objective advice is not, and cannot reasonably be seen to be, compromised.

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<sup>1</sup> See the POB’s May 2009 paper “Promoting Actuarial Quality” (<http://www.frc.org.uk/images/uploaded/documents/Report%20on%20AP%20progress%20in%20regulating%20its%20members1.pdf>)

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The Profession has tended to look at conflicts of interest primarily from a pensions perspective with the Pensions Board sponsoring much of the policy development. The approach proposed by the Pensions Board in an earlier consultation document was one of permitting dual appointments so long as there are procedures in place to identify and manage conflicts of interest.

In 2007, the Pensions Board tasked its Standards and Practice Committee with developing the principles for a standard on conflicts of interest. In November 2007, shortly after the Actuaries' Code was first exposed, the Pensions Board issued a draft standard. The covering letter to the draft emphasised the link to the Actuaries' Code as drafted at that time. Although not a formal exposure document, comments were invited and some 15 responses were received, including comments from the POB. Work on the draft was, however, suspended to allow for completion of the Actuaries' Code and so that the issue of conflicts could be examined across the work of the Profession as a whole.

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## Appendix 2 UK regulators

### The Financial Services Authority (FSA)

The conflicts of interest rules and guidance provided by the FSA are derived from Principle 8 of the Principles for Business, which states “a firm must manage conflicts of interest fairly, both between itself and its customers and between a customer and another client.”

The conflicts of interest requirements for firms authorised by the FSA are dealt with in Chapter 10 of the Senior Management Arrangements, Systems and Controls sourcebook (SYSC). The main requirements in this are:

- the firm must take all reasonable steps to identify conflicts of interests between itself (including staff) and clients, or between two clients, considering the types of service it provides;
- the firm must keep a record of services carried out in which a conflict of interest arises;
- the firm must operate effective arrangements to prevent conflicts of interests;
- the firm must disclose the general nature and/or sources of conflicts of interest before undertaking business;
- the firm must have in place, and maintain, a conflicts of interest policy and procedures.

Requirements applying to Actuarial Function Holders are given in the Supervision Manual (SUP 4.5) which states “an actuary appointed under this chapter must take reasonable steps to satisfy himself that he is free from bias, or from any conflict of interest from which bias may reasonably be inferred. He must take appropriate action where this is not the case.”

The FSA have given specific guidance in relation to stockbroking and investment research. In general, however, they rely on a principles-based approach. In a speech in 2006, FSA CEO Hector Sants stated that characteristics of good practice in a well managed firm included:

- senior management being fully engaged in conflict identification and management at their firms;
- senior management taking an holistic view of conflicts risk and conflict mitigation within the full range of business activities for which they are responsible;
- senior management having some means of achieving a consistent treatment of conflicts of interest throughout their organisation;
- senior management receiving management information on the extent of, and mitigation of, conflicts of interest in their business in order to control their business effectively;
- the firm reviewing on a regular basis the types of mitigation it considers acceptable to address conflict risks;
- the culture of an organisation is a key mitigating tool for the proper management of conflicts of interest.

Source: [www.fsa.gov.uk](http://www.fsa.gov.uk)

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## Financial Reporting Council (FRC)

The Combined Code on Corporate Governance (which has recently been revised and will be known as the UK Corporate Governance Code when it comes into force for financial years beginning on or after 29 June 2010), only mentions conflicts of interest in its requirement that directors must be careful of conflicts when deciding their own remuneration. Conflicts of interest are expressly dealt with under the *Companies Act 2006*, whereby, in accordance with *Section 175*, directors have a statutory duty to avoid conflicts of interest. This provision, which came into force on 1 October 2008, states that a director must avoid a situation where he/she has, or can have a direct or indirect interest that conflicts, or may conflict with the company's interests.

The Actuarial Quality Framework, issued by the Financial Reporting Council in 2009, (<http://www.frc.org.uk/publications/pub1854.html>) is intended to be complementary to professional and other regulation affecting actuaries and to assist those who rely on their work. Two of its drivers of actuarial quality are "ethics and professionalism of actuaries" and "working environment for actuaries."

Under "ethics and professionalism of actuaries" the key indicators include:

- Actuaries aspire to the highest standards of professional conduct, and to "doing the right thing" in the public interest, and see this as enhancing their reputation and that of the organisations with which they are associated.
- Actuaries exhibit objectivity, and are robust in identifying and resisting pressures to act against their professional judgment or against the legitimate interests of users or potential users of their work.
- Actuaries have relevant training and guidance to help them address the ethical issues which are likely to arise in their work.

Under "working environment for actuaries" the key indicators include:

- There is professional leadership, and a culture of openness and learning from mistakes in which actuaries have people to turn to for professional counselling and advice.
- Commercial considerations do not encourage actions and decisions that have a negative effect on actuarial quality, and actuaries are given sufficient time and resources to deal with difficult issues as they arise.
- Procedures are in place for managing conflicts of interest and avoiding unreasonable pressures being placed on individuals.

As well as being transparent, proportionate and targeted, the Profession will seek to ensure that any further regulation, guidance or support issued by the Profession on conflicts of interest is consistent both with the principles of the Actuaries' Code and with the relevant indicators within the Actuarial Quality Framework.

The FRC, through its operating body the Board for Actuarial Standards (BAS), has adopted the Profession's GN23 and GN39, each of which deals with conflicts in particular areas. The Profession will, however, resume responsibility for the ethical aspects of these documents when the BAS issues the relevant Technical Actuarial Standards.

Source: [www.frc.org.uk](http://www.frc.org.uk)

## The Pensions Regulator (TPR)

TPR provides guidance to trustees and employers, and note that it may be of interest to scheme advisers. The guidance is comprehensive and is accompanied by a summary document and includes case studies and examples. TPR identifies three steps in dealing with conflicts: identification, monitoring and managing. These are supported by five principles:

- understanding the importance of conflicts of interest;
- identifying conflicts of interest;
- evaluation, management or avoidance of conflicts;
- managing adviser conflicts;
- Conflicts of Interest policy.

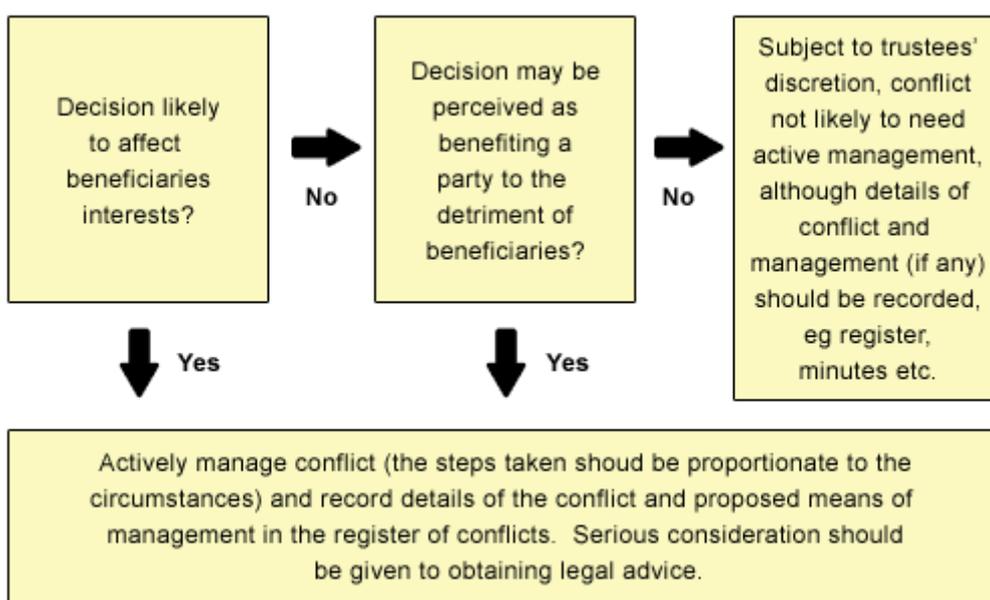
TPR provide helpful case studies and examples of policies and forms.

Key points from this guidance are that trustees should:

- have a clear understanding of how conflicts can arise;
- have a means of recording actual or potential conflicts and the steps taken to manage these;
- consider legal advice where a non trivial conflict has arisen or may arise;
- be aware that some conflicts cannot be managed;
- require advisers to declare any conflicts and manage these accordingly;
- agree and document a policy for dealing with conflicts of interest, and regularly review this.

TPR have also provided the following diagram to assist in dealing with conflicts:

### Determining whether to actively manage a conflict of interest



TPR guidance also advises Trustees that they should ensure scheme advisers have in place written statements, detailing how conflicts of interest will be avoided and/or managed.

Source: [www.thepensionsregulator.gov.uk](http://www.thepensionsregulator.gov.uk)

**ACTUARIAL BODIES**

**Institute of Actuaries of Australia (IAA)**

The IAA recently issued a revised Code of Professional Conduct. While this deals with impartiality and conflicts separately, the requirements mirror the requirements of the Actuaries' Code. Further guidance is given in the accompanying explanatory memorandum, although this does not provide details on how to identify or manage conflicts. Some specific guidance is given in relevant policy statements, such as PS 100, External Peer Review.

A review of the IAA website shows that the topic of conflicts of interest has been discussed at a number of forums and presentations, although there is no evidence of further written guidance on managing conflicts being issued.

**Society of Actuaries (SOA)**

Conflicts of interest are dealt with under the Code of Professional Conduct as follows:

PRECEPT 7. An Actuary shall not knowingly perform Actuarial Services involving an actual or potential conflict of interest unless:

1. the Actuary's ability to act fairly is unimpaired;
2. there has been disclosure of the conflict to all present and known prospective principals whose interests would be affected by the conflict; and
3. all such principals have expressly agreed to the performance of the Actuarial Services by the Actuary.

Again a review of their website does not show any amplification of how to identify, manage or record conflicts of interest.

**Society of Actuaries in Ireland**

The Society of Actuaries in Ireland has produced an Actuarial Standard of Practice entitled 'Conflicts of Interests – Pensions Actuaries', which became effective on 1 March 2010. This standard is specifically aimed at pensions actuaries and deals mainly with dual appointments. One specific requirement is for actuaries to have in place a protocol setting out what steps will be taken if a conflict arises.

The overwhelming majority of Fellows in the Society of Actuaries in Ireland are also Fellows of the Institute or Faculty. Consequently, those dual-qualified members giving pensions advice will be affected both by the standard above and the Actuarial Profession's own requirements and guidance.

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## OTHER UK PROFESSIONAL BODIES

### Solicitors Regulatory Authority (SRA)

The SRA, under Rule 3.01, requires that a Solicitor does not act where there is a conflict, except in limited circumstances. These circumstances include where the two parties have a substantially common interest and where the clients have all given their written consent for the solicitor to act.

The SRA give further guidance on receiving gifts, appointments to public office and conveyancing and is currently engaged in a consultation process with its members to determine the most appropriate regulatory model for dealing with conflicts of interest, in addition to reviewing its own Code of Conduct: (<http://www.sra.org.uk/sra/consultations/OFR-handbook-May.page#annexes>).

### Council of Licensed Conveyancers

A licensed conveyancer, under the Conduct Rules 2009, “must not accept instructions from a person nor continue to act for any client whose interests conflict directly or indirectly with his own or those of his recognised body, or with those of any other client.” Guidance Note 5 gives some exemptions to this rule when dealing with ‘arms length’ transactions.

### Royal Institute of Chartered Surveyors

The Code of Practice contains general requirements regarding conflicts of interest, along the same lines as other professional bodies. They have now established a working party to further clarify what conflicts of interest are, what are not conflicts of interest and how to deal with them. This will enable better disputes resolution. They are currently consulting with members for their thoughts on this issue.

### Institute of Chartered Accountants in England and Wales (ICAEW) and the Institute of Chartered Accountants in Scotland

These bodies require accountants to take reasonable steps to identify conflicts of interest that may give rise to a breach of the fundamental principle of objectivity. Accountants should then evaluate the significance of any conflicts before an appointment is accepted. The Guidance also provides examples of the safeguards that can be put in place to manage the conflicts of interest. These include:

- notifying clients of conflicts and obtaining their consent to act;
- using separate engagement teams;
- procedures to prevent access to information (separation of teams, different IT systems etc);
- guidelines on issues of security;
- employee confidentiality agreements;
- regular review of safeguards by senior management.

### Law Society of Scotland (LSS)

LSS Code of Practice requires that “Solicitors may not act for two or more clients in matters where there is a conflict of interest between the clients or for any client where there is a conflict between the interest on the client and that of the Solicitor or Solicitor’s practice.” This requirement is further amplified in the ‘Conflicts of Interest rules.’ These rules do not provide examples of conflicts of interest or details on how to deal with them.

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## Appendix 4 Questionnaires

There are two questionnaires within this Appendix:

- Questionnaire 1 – this is for actuaries and their employers to complete; and
- Questionnaire 2 – this is for all other respondents to complete.

The questionnaires should in preference be completed online by following the link on the Profession's home page ([www.actuaries.org.uk](http://www.actuaries.org.uk)) or going directly to:

- [http://www.surveymonkey.com/s/actuaries\\_conflicts1](http://www.surveymonkey.com/s/actuaries_conflicts1) - Questionnaire for actuaries and their employers
- [http://www.surveymonkey.com/s/actuaries\\_conflicts2](http://www.surveymonkey.com/s/actuaries_conflicts2) - Questionnaire for other respondents

