

GN48: Compliance Review: Pensions

MEMBERS ARE REMINDED THAT THEY MUST ALWAYS COMPLY WITH THE ACTUARIES' CODE, AND THAT GUIDANCE NOTES IMPOSE ADDITIONAL REQUIREMENTS UNDER SPECIFIC CIRCUMSTANCES.

Classification

Practice Standard

Application

Scheme Actuaries and Reviewers

Legislation or Authority

Council of the Faculty of Actuaries and Council of the Institute of Actuaries

Definitions

Reference

Definitions

The Scheme Actuary	The holder of a Scheme Actuary Certificate.
The Type 1 Reviewer	A Fellow of the Faculty of Actuaries or the Institute of Actuaries responsible for Type 1 review provided in relation to advice covered by this guidance.
The Type 2 Reviewer	A Fellow of the Faculty of Actuaries or the Institute of Actuaries responsible for Type 2 review provided in relation to advice covered by this guidance.
The Reviewer	Either the Type 1 Reviewer or the Type 2 Reviewer.

Purpose and Application

This Guidance Note sets out the circumstances in which a Scheme Actuary is required to seek a review of his or her written advice given in relation to certain Practice Standard Guidance Notes. It also sets out requirements governing the conduct of such reviews.

Author

Pensions Board

Status

Approved under Due Process

<i>Version</i>	<i>Effective from</i>
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1.0	31.12.04
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2.0	01.01.07
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2.1	01.02.10
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Withdrawn 31.03.2011

1 Introduction

1.1 A *Scheme Actuary* must ensure that all written advice that he or she provides in his or her capacity as a *Scheme Actuary* appointed under section 47(1)(b) of the Pensions Act 1995 that is subject to any of the Practice Standard Guidance Notes is listed in Appendix 1 is subject to either Type 1 review or Type 2 review. A non-exhaustive list of the types of written advice (as at the date of this Guidance Note) that are subject to review is specified in Appendix 3.

1.2 A *Scheme Actuary* must provide an annual attestation in the form set out in Appendix 2. An actuary who ceases to hold a *Scheme Actuary Certificate* remains subject to this Guidance Note in the year in which cessation occurs, but is not required to provide an attestation at the end of that year.

1.3 A *Scheme Actuary* must not disclose the identity of the *Reviewer* to the client unless agreed by the *Reviewer*.

2 Review Principles

- 2.1 The principles described in this section apply to both Type 1 review and Type 2 review.
- 2.2 The *Scheme Actuary* must endeavour to use a number of different *Reviewers*.
- 2.3 The principal purpose of review is to determine whether the *Reviewer* considers that the written advice delivered to the client complies with the relevant practice standard guidance note and the Actuaries' Code.
- 2.4 Members are reminded of the action to be taken on discovering a breach of guidance by another member set out in the Actuaries' Code.
- 2.5 The *Reviewer* must also comment on:
 - 2.5.1 material inaccuracies or inconsistencies in the advice delivered to the client that are identified in the course of the review; and
 - 2.5.2 aspects of the advice that in his or her opinion might be unclear to the recipient.
- 2.6 The *Reviewer* is not required to:
 - 2.6.1 test the accuracy or completeness of the analysis that supports the advice;
 - 2.6.2 review the process followed by the *Scheme Actuary* in arriving at the final advice;
 - 2.6.3 review the quality of the documentation and files maintained by the *Scheme Actuary*;
 - 2.6.4 complete an editorial and stylistic review of the advice delivered to the client; or
 - 2.6.5 test the accuracy or completeness of the factual information contained in the document subject to any obvious inconsistency or error.

- 2.7 The *Scheme Actuary* must provide the *Reviewer* with any information regarding the context of the advice that, in the opinion of the *Scheme Actuary*, is necessary in order to assess whether the advice complies with the relevant Practice Standard Guidance Note. The *Reviewer* may request information from the *Scheme Actuary* which he or she feels is necessary to carry out the review but he or she does not have a right of access to that information or the *Scheme Actuary's* files. The *Reviewer* must terminate the review if the *Scheme Actuary* will not supply the information which, in the opinion of the *Reviewer*, is necessary to complete the review.
- 2.8 The *Reviewer* must be satisfied that he or she has the experience necessary to provide advice of the nature covered by the review.
- 2.9 If the *Reviewer* concludes that the advice is not compliant within the meaning of paragraph 2.3 above and, after consultation, the *Scheme Actuary* and the *Reviewer* disagree, the *Scheme Actuary* must seek guidance from another appropriately experienced actuary notifying him or her of the details of the disagreement. Where the firm that either employs the *Scheme Actuary*, or in which the *Scheme Actuary* is a partner or member, has designated a senior actuary, the *Scheme Actuary* should seek guidance from the senior actuary or such other actuaries as the firm may have nominated for this purpose.
- 2.10 The *Reviewer* may be an employee or member of, or partner in, the same or a different firm as the *Scheme Actuary*.

3 Type 1 Review

- 3.1 Where Type 1 review is undertaken, it must be carried out at a time that enables the outcome of the review to influence the decisions that flow from the advice.
- 3.2 The *Scheme Actuary* or *Type 1 Reviewer* may terminate the review at any time prior to its conclusion. The *Scheme Actuary* must notify the subsequent *Type 1 Reviewer* that there had been an earlier terminated review. The subsequent *Type 1 Reviewer* must satisfy him or herself that there are no professional reasons to refuse to undertake the review.
- 3.3 The *Type 1 Reviewer* must communicate the findings to the *Scheme Actuary* and must provide evidence for the *Scheme Actuary* recording that he or she has performed the role of a *Type 1 Reviewer* in accordance with this Guidance Note. The evidence need not include the review findings but must identify the documents delivered, or intended for delivery, to the client

which contain the advice covered by the review. Evidence of Type 1 review must be retained by the *Scheme Actuary*.

4 Type 2 Review

- 4.1 If a *Scheme Actuary* decides that certain or all of his or her advice is to be subject to Type 2 review, the Type 2 review must cover written advice delivered over a single period not exceeding six months. A *Type 2 Reviewer* must be appointed and a list of all advice to be covered by the Type 2 review (the ‘list of Type 2 advice’) provided to the *Type 2 Reviewer*, within one month of the end of the period being covered by the Type 2 review. The list of Type 2 advice must identify, for each piece of advice, the Guidance Note to which the advice was subject, the client name and the date that the advice was delivered to the client.
- 4.2 Type 2 review may involve a group of *Scheme Actuaries* collectively submitting advice for review to an individual *Type 2 Reviewer* or a team of *Type 2 Reviewers*. For the purpose of this guidance, references to *Type 2 Reviewer* apply to an individual or a group.
- 4.3 The *Type 2 Reviewer* must select a sample of the *Scheme Actuary’s* advice, ensuring that it includes advice subject to the Guidance Notes set out in the list of Type 2 advice. The sample must be large enough for the *Type 2 Reviewer* to be of the opinion that the Type 2 findings can be regarded as a reliable indication of the findings had all the advice been reviewed. Responsibility for sample selection is the *Type 2 Reviewer’s* alone, although the sample may be determined after consultation with the *Scheme Actuary*.
- 4.4 At the outset of the review the *Type 2 Reviewer* may resign an appointment having received the list of Type 2 advice and must notify the *Scheme Actuary*, in writing, as soon as possible. In these circumstances, the *Scheme Actuary* must appoint another *Type 2 Reviewer* within one month of the date of resignation.
- 4.5 Once the review is under way the *Scheme Actuary* or *Type 2 Reviewer* may terminate the Type 2 review. In this circumstance the *Type 2 Reviewer* must notify the *Scheme Actuary* in writing as soon as possible. The *Scheme Actuary* must appoint another *Type 2 Reviewer* within one month of the date of resignation and disclose the fact of a previously terminated Type 2 review to the new *Type 2 Reviewer*.

- 4.6 If under 4.5, a *Scheme Actuary* appoints a new *Type 2 Reviewer*, that *Type 2 Reviewer* must obtain a written statement from any immediately preceding *Type 2 Reviewer* confirming that there are no professional reasons why the appointment should not be accepted.
- 4.7 Within three months of the date the *Type 2 Reviewer* receives the list of Type 2 advice, the *Type 2 Reviewer* must provide a statement confirming that the sample has been selected from the list of Type 2 advice and recording that Type 2 review has been undertaken. This statement is evidence of review and must be retained by the *Scheme Actuary*. The *Type 2 Reviewer* must also provide a written report of findings, addressed to the *Scheme Actuary*, within two weeks of the date the *Type 2 Reviewer* provides the statement that Type 2 review has been undertaken.
- 4.8 The written report of findings should be discussed with the *Scheme Actuary* to identify if any findings are disputed and determine whether agreement can be reached. Within one month of receiving the written report of findings, the *Scheme Actuary* must write to the *Type 2 Reviewer* stating either that the results are accepted or listing those aspects of non-compliance that are still disputed in which case the provisions of paragraph 2.9 would apply.

Appendix 1

Pensions Practice Standard Guidance Notes

The following Practice Standard Guidance Notes are covered by this Guidance Note: GN9, GN16, GN19, GN28, GN49 and GN51.

Appendix 2

Attestation by the Scheme Actuary

To the Secretary of the Practising Certificates Committee of the Actuarial Profession:

I certify (delete A or B as appropriate):

- A. that for all written advice (subject to review in accordance with Guidance Note 48) given by me during the last 12 months in my capacity as a *Scheme Actuary* either a review has been completed or a review has been initiated or a review is not yet due and that any reviews outstanding at the date of the immediately preceding attestation have now been completed.

- B. that I have provided no written advice during the last 12 months in the capacity of *Scheme Actuary* that is subject to the requirements of Guidance Note 48.

Signature:

Name:

(In capitals)

Name of employer:

(If applicable)

Address:

Date:

Appendix 3

A Non-exhaustive List of Written Advice that must be subject to Review

A GN9: Funding Defined Benefits – Presentation of Actuarial Advice (version 8.1)

- A1 Any advice on the matters covered in section 2.
- A2 The report described in section 3.
- A3 Any advice provided in connection with a recovery plan or schedule of contributions as described in section 4.
- A4 A preliminary report as referred to in paragraph 3.1.4.
- A5 Advice supplied in connection with the updating of funding advice as referred to in paragraph 1.4.
- A6 Advice in relation to the funding of defined benefits where an explanation of departures from GN9 is provided as described in paragraph 1.6.

B GN16: Retirement Benefit Schemes –Transfers without consent (version 3.1)

- B1 The advice provided in accordance with section 3.
- B2 The provision of the certificate.
- B3 Information provided in connection with the circumstances described in paragraph 5.2.

C GN19: Retirement Benefit Schemes - Winding-up and Scheme Asset Deficiency (refer to version 4.8)

This Guidance Note is concerned with priorities on winding up and deficiency calculations. Version 4.9 does not contain any professional requirements, but instead limits the scope of version 4.8 as follows:

- C1 The main test remains applicable to:
 - C1.1 Priorities on winding up – any scheme that between 6th April 2005 and 30th November 2008 started to wind-up and to which The Occupational Pension Schemes (Winding up etc) Regulations 2005 (SI 2005/706) apply;
 - C1.2 Deficiency calculations –
 - (i) any scheme that has an employer which, between 6th April and 5th April 2008, became insolvent or ceased to participate in the scheme and to which The Occupational Pension Schemes (Employer Debt) Regulations 2005 (SI 2005/678) apply prior to being amended on 6th April 2008, and
 - (ii) to any schemes under these Regulations that started to wind up between 6th April 2005 and 5th April 2008 and for which the applicable time for the calculations is prior to 6th April 2008.
- C2 Appendix B (other than Appendix 2) remains applicable as follows:
 - C2.1 Priorities on winding up – any scheme that started to wind up before 6th April 2005 to which The Occupational Pension Schemes (Winding Up) Regulations 1996 (SI 1996/3126) apply prior to being amended on 6th April 2005.
 - C2.2 Deficiency calculations – any scheme where the deficiency is being calculated as at a date before 6th April 2005 to which The Occupational Pension Schemes (Deficiency on Winding Up etc) Regulations 1996 (SI 1996/3128) apply.
- C3 Appendix 2 of Appendix B remains applicable in respect of:
 - C3.1 Deficiency calculations for schemes that started to wind up before 19th December 1996 or where the deficiency is being calculated as at a date before 6th April 1997.
- C4 Written advice subject to Compliance Review includes:
 - C4.1 Any advice relating to the determination of the liabilities and their apportionment between priority classes referred to in paragraph 2.1.
 - C4.2 Advice related to the allocation of liabilities between employers referred to in paragraph 6.2.
 - C4.3 Provision of the certificate referred to in paragraph 3.3 and any associated advice.
 - C4.4 Provision of the certificate referred to in paragraph 4.2 and any associated advice.
 - C4.5 Provision of the certificate referred to in section 5.2 and any associated advice.

- C4.6 Provision of calculations, certification and any other advice covered by section 6.
- C4.7 Any advice related to the determination of the liabilities and their apportionment between priority classes referred to in section 3 of Appendix B.
- C4.8 Provision of the certificate referred to in paragraph 4.3 of Appendix B and any advice related to the allocation of liabilities between employers referred to in paragraph 4.5.2.
- D GN28: Retirement Benefit Schemes -Adequacy of Benefits for Contracting-out (version 2.1)**
- D1 Provision of the certificate referred to in paragraph 1.1 and any associated advice.
- D2 Advice provided as a consequence of a review of the validity of a certificate as described in section 5.
- E GN49: Occupational Pension Schemes – Scheme funding matters on which advice of an actuary must be obtained (version 1.0)**
- E1 Any of the advice referred to in paragraph 2.1.
- F GN51: Retirement Benefit Schemes – Modification of Subsisting Rights without consent (version 1.2)**
- F1 The information to be sent to *trustees* as required in paragraph 2.3.
- F2 The information to be sent to *trustees* as required in paragraph 3.3.