



Institute  
and Faculty  
of Actuaries

# Independent Review of the Financial Reporting Council

Response to Call for Evidence

by Institute and Faculty of Actuaries

6 August 2018



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### **Independent review of the FRC: IFoA response to call for evidence**

1. The Institute and Faculty of Actuaries (**IFoA**) welcomes the opportunity to respond to the Call for Evidence in relation to the independent review of the Financial Reporting Council (**FRC**).
2. The IFoA's regulatory role is set out in its Royal Charter Objects, which provide that:  
*"The objects of the Institute and Faculty of Actuaries shall be, in the public interest, to advance all matters relevant to actuarial science and its application and to regulate and promote the actuarial profession."*
3. The actuarial profession in the UK and the IFoA have developed significantly since the Morris Review in 2005.
4. In particular, the IFoA has introduced significant changes to create a robust and transparent regulatory framework. Those changes are set out in more detail in **Appendix 1**. The IFoA continues to develop and strengthen that regulatory role and to look for opportunities to improve its effectiveness.
5. In terms of actuarial practice itself, more members now work in wider fields, beyond traditional areas such as pensions and life insurance and into diverse areas such as resource and environment, Enterprise Risk Management, banking and IT.
6. The actuarial profession has also become an increasingly global profession over the last 15 years, with our members<sup>1</sup> and the work they undertake increasingly operating across geographic borders.
7. The regulatory landscape in the UK in key sectors in which actuaries work has also seen significant change, including the extensive development of regulation of the insurance industry, now overseen by the Prudential Regulation Authority (**PRA**) and

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<sup>1</sup> As at end of June 2018 the IFoA had 15,462 members based outside the UK (representing 48% of the total membership); at the end of September 2007 (the furthest back current online records go) there were only 7,302 members (across both of the then separate Institute of Actuaries and Faculty of Actuaries) based outside the UK (representing 39% of the total membership).

Financial Conduct Authority (**FCA**), and more recent specific developments such as regulatory requirements arising out of implementation of the Solvency II Directive.

8. This response focuses on the questions that the IFoA has identified as being of relevance to the regulatory arrangements for actuaries in the UK. However, where appropriate and, we hope, helpful, the IFoA has also included comments on the wider review.

### **Background: arrangements for the regulation of actuaries in the UK**

9. Since the 2005 [Morris Review](#), the FRC has, by agreement with the IFoA set out in a [Memorandum of Understanding \(the MoU\)](#), been responsible for three functions relating to the regulation of actuaries in the UK:
  - Independent oversight of IFoA regulation in the UK (including the IFoA qualifications system);
  - Setting of Technical Actuarial Standards (**TASs**) in relation to UK actuarial work (the IFoA is responsible for all ethical/conduct standards, including the Actuaries' Code); and
  - Disciplinary enforcement in relation to cases involving IFoA members that potentially give rise to "important issues affecting the public interest in the UK" (the IFoA deals with other disciplinary cases through its Disciplinary Scheme).
10. The IFoA is responsible for all other aspects of the regulation of its members, including all non-UK work/members, CPD requirements, and Practising Certificates, as well as the regulation of the different qualification standards and admissions. The IFoA also retains responsibility for enforcing the TASs in relation to members carrying out UK work.
11. This division of responsibility has been the subject of review and some evolution in recent years, including the introduction of a power for the FRC to 'step in' and set ethical/conduct standards if the IFoA's standards were to fail adequately to address the public interest, as well as some 'flexibility' for the IFoA to produce, with the agreement of the FRC, technical guidance and for the FRC to include, with the agreement of the IFoA, ethical content in their technical standards.
  - a. The power to 'step in' has not been used to date by the FRC nor has it sought to use the 'flexibility principle' to include, with the IFoA's agreement, ethical material in its technical standards.
  - b. The IFoA has, however, used the agreed flexibility, producing in 2017, with the agreement of the FRC, [technical guidance](#) to support the FRC's new UK technical standard TAS 100.
12. There are not, as far as the IFoA is aware, any similar such arrangements in place in relation to the regulation of actuaries in other parts of the world, either in terms of independent oversight or of division of standards setting responsibilities.
13. The IFoA is, we believe, seen as a leader in terms of actuarial regulation and qualifications by other actuarial associations around the world and has one of the most sophisticated regulatory and qualification frameworks of any actuarial professional body.

14. The IFoA is a Full Member Association of the International Actuarial Association (**IAA**)<sup>2</sup> and Actuarial Association of Europe (**AAE**)<sup>3</sup> with voting rights and a significant degree of influence in each organisation. Since 2012 the IAA and AAE have been developing international model actuarial standards with the objective of achieving consistency in actuarial standards around the globe. The IAA and AAE have also established core curricula, with a view to promoting qualification consistency.
15. There is no general restriction in UK legislation on use of the term ‘actuary’, so it may be used by anyone, including those without any actuarial qualifications and those who are outside the remit of the IFoA’s (and FRC’s) standards framework and its disciplinary scheme.
16. There are exceptions for certain ‘reserved’ roles under legislation or regulation (described further below) and there is also a restriction on individuals holding themselves out as being a member of the IFoA when they are not (including use of the designations FIA and FFA).

## Summary

17. In general, we believe that the regulatory, qualification and oversight arrangements in relation to actuaries put in place following the Morris Review remain appropriate.
18. The Morris Review involved a thorough ‘deep dive’ into evidence around the actuarial profession and the work that actuaries do, and the breadth of the work of that review was reflected in its conclusions and recommendations around the appropriate structure for regulation and qualification of actuaries in the UK.
19. That was largely confirmed in the conclusion of the further substantive review of those arrangements carried out by the FRC in 2013<sup>4</sup>.
20. We do consider, however, that there is scope to refine and improve the way in which those arrangements work in practice, reflecting changes relevant to the actuarial profession, and the markets in which it operates, since the Morris Review.
21. In particular, the IFoA considers that the current arrangements could be sensibly improved by:
  - i) clearer distinction between regulatory/ qualification (IFoA) and independent oversight (FRC) roles; and
  - ii) simplified arrangements in relation to the setting of professional standards.
22. These objectives can be achieved by (a) more clearly defining the purpose/scope of the independent oversight (as compared to regulator) role; and (b) conferring the entire standard setting responsibility upon the IFoA (subject to independent oversight), removing the current split of standard setting responsibility between the IFoA and FRC.

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<sup>2</sup> More information about the IAA can be found on its [website](#)

<sup>3</sup> More information about the AAE can be found on its [website](#)

<sup>4</sup> More description of that review and its outcomes can be found in the [Statement on Actuarial Standards](#) published by the FRC and IFoA in July 2014

**Q3: Are the functions and structure of the FRC still relevant and appropriate or is there a case for structural change? Should any of the FRC's functions move to other regulators?**

23. The IFoA is hesitant to comment on the FRC's wider functions given the natural limitations of our experience of its work in this regard; however, there are clearly areas of inter-dependency.
24. We suggest that the wider public benefit could be served by an FRC with narrower, more focused areas of responsibility and authority and therefore greater clarity of its function and powers<sup>5</sup>.
25. The IFoA would be content for some degree of oversight to continue to be provided by the FRC, but would equally be open to the possibility of this being provided through a different body or structure. To reflect that possibility, this response will refer to the "Actuarial Oversight Body", which could be the FRC or could be another body.
26. It is important, however, that whichever oversight framework is put in place recognises the unique challenges of the actuarial profession, as distinct from other financial services professions such as auditors and accountants, and that the Actuarial Oversight Body is a good fit for and has a good understanding of the actuarial profession.
27. If changes are proposed there will also, naturally, be an impact for the IFoA, its members and potentially for users of actuarial services in terms of resource, time and disruption so it is important that this is taken into account when developing recommendations about changes to the existing framework.

**Q26: Have the arrangements put in place following the 2005 Morris Review stood the test of time, or is there a need for change?**

28. The IFoA believes that the model of professional self-regulation subject to effective independent oversight remains the most appropriate arrangement for the regulation of actuaries in the UK.
29. It means that the professional body for actuaries in the UK can provide insight and knowledge, as well as resource, to ensure that the regulatory and qualification framework for actuaries is relevant and effective while ensuring, through independent oversight, that this activity is carried out, and can be seen to be carried out, in a way that serves the public interest.
30. The IFoA has, however, identified some specific aspects of the arrangements where there may be an opportunity to make changes to improve effectiveness as well as to reflect developments in the actuarial profession since the time of the Morris review.

Oversight arrangements: clarification of scope and objectives of oversight

31. As explained above, the IFoA sees value in retaining some form of effective public oversight (although that need not be a role carried out by the FRC).

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<sup>5</sup> Explained further in answer to Question 26 below

32. While the IFoA believes that it would be appropriate for some degree of independent oversight to continue, there would also be merit in seeking to clarify the scope and objectives of that oversight.
33. In order to be effective, independent oversight needs to provide robust, objective challenge without adding delay or replicating the activities of the regulatory body.
34. The IFoA believes that, while the oversight framework put in place following the Morris Review is largely the right model, the current arrangements have led to some blurring of the regulatory and oversight roles. This has sometimes led to unnecessary confusion, complexity and inefficiency.
35. The IFoA believes that oversight, and its implementation in practice, should have a function clearly distinct from the primary regulatory function. This avoids the risk of replication of regulatory processes. The purpose of oversight should, the IFoA believes, be to monitor and report on whether, taking a holistic view of all of its regulatory activities, the IFoA is meeting the overall objective of effective regulation of the actuarial profession, including a qualifications framework.
36. The IFoA considers that some of these issues might be addressed, in the interests of all stakeholders, by (a) more clearly defining the purpose of oversight (as set out above) and (b) separating the oversight and standard setting roles, with the IFoA becoming solely responsible for the setting of standards.

#### Technical Standards Setting

37. The IFoA considers that the current arrangements could be improved by removing the current split between UK 'technical' and 'ethical' standard setting responsibility, and conferring all standards setting responsibility on the IFoA, subject to independent oversight by an Actuarial Oversight Body.
38. As matters stand, the distinction between "technical" and "ethical/conduct" has become increasingly unclear, not least as each of the respective standards frameworks moves to a higher level of principle. There is overlap between the two sets of standards and the fact that there are two sets of standards, using different terminology and applicable to "technical actuarial work", on the one hand, and "members", on the other, adds to that complexity.
39. Given the increasingly international nature of the IFoA's membership (particularly since the time of the Morris Review), and, more significantly, the increasingly trans-national nature of actuarial work (including work carried out by members located in the UK), it has also become unhelpful for the application of standards to be determined by the FRC's geographic scope.
40. The IFoA is a global body and therefore not restricted by geography. It can, and does, regulate its members wherever they are located and in relation to work relevant to different geographies and jurisdictions. It already works with relevant industry regulators around the world to ensure that appropriately consistent and rigorous standards apply to all of its global members.
41. The IFoA has access to input and insight from practising actuaries across all actuarial practice areas. In terms of technical standards setting, it is essential that this is

informed by up to date, specialist experience and knowledge in order to make them effective and appropriate. The IFoA is uniquely placed to harness that input.

42. The concerns about independence, which originally informed the recommendations of the Morris Review in relation to separate technical standards setting, have to a significant extent been superseded by material changes in the governance of the IFoA.
43. In effect, both the FRC and the IFoA now operate similar models, involving a combination of actuarial and lay input to their standards setting, transparent governance and public consultation.
44. The IFoA has also, since Morris, put in place a professional executive team to operate the regulatory functions of the IFoA and to ensure that they are appropriately run in a way that would be expected of a public interest regulator.
45. The IFoA would make appropriate enhancements to the existing regime if necessary to facilitate the extension of its standards setting responsibility.

#### Public Interest Disciplinary Process

46. The IFoA is broadly content with the current division of responsibility in relation to disciplinary enforcement. There have not, however, been many cases subject to this process since the FRC took on this responsibility<sup>6</sup> so there is limited experience to draw upon.
47. There may be merit in seeking to define more clearly which types of cases are susceptible to being “called in” by the FRC. As matters stand the test applied is very loosely described as relating to “important matters affecting the UK public interest”.
48. The IFoA would equally be content to resume full responsibility for all actuarial disciplinary cases. In general, it has the resource and capacity to be able to deal with disciplinary cases of comparable size and complexity with greater process speed and less cost than the FRC. Moreover, the geographic limitation in the FRC’s jurisdiction could be disadvantageous when cases increasingly have a trans- or inter- national character.
49. Concerns around independence originally raised by Morris did not relate to the discipline system as the IFoA had already made changes to its governance so that there is a lay chaired Disciplinary Board, separate to the Council and appointed through an independent Disciplinary Appointments Committee (chaired by a senior member of the UK legal profession).
50. That said, the independence of the IFoA’s disciplinary system has been strengthened even further since Morris through the IFoA’s own independently appointed and advised tribunal system, including significant and substantive involvement by lay people.

#### **Q26 (Part 2): Should actuarial regulation be a focus for the Review’s work?**

51. We understand that the remit of the Review is to look specifically at the role and structure of the FRC. Therefore, we do not anticipate the fundamental structure of UK actuarial regulation (including the principle of profession-led but independently accountable/overseen regulation) to be a specific focus for the review.

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<sup>6</sup> There have been 5 cases to date considered under the FRC’s Actuarial Scheme (4 concluded, one ongoing)

52. Moreover, at a time of substantial change and uncertainty for UK financial services we see little justification, given the absence of evidence of failure (in actuarial terms), for actuarial work to be a focus.
53. However, it is clear that any proposed changes to the FRC arising from this review will impact upon the arrangements in place for the regulation of actuaries in the UK and the IFoA believes that this should be considered and reflected in the Review's work.
54. There may also be opportunities, as explained above, for some adjustments to the arrangements to make them clearer and more effective for the modern actuarial profession, and the public which it serves.

**Q31: Are there gaps in the FRC's powers? Would its effectiveness be improved with further (or different) powers?**

55. The IFoA has not identified gaps in terms of the FRC's powers in relation to its role in actuarial regulation that would impede its effectiveness.
56. The FRC already has a number of powers agreed voluntarily by the IFoA in terms of the MoU.
57. The IFoA has also, since Morris, agreed to extend those powers under the MoU voluntarily. For example, the FRC has had, since 2014, powers to 'step in' to set ethical/conduct standards if it reasonably concludes that the IFoA's existing or proposed ethical standards will not adequately address the public interest in the UK.
58. Those powers have not been used to date.
59. The IFoA also agreed in 2016 to the FRC being able to carry out on site monitoring visits as part of its oversight role, reviewing, for example, disciplinary case files and the Practising Certificates process. Such visits began in 2016 and have happened annually since.
60. The FRC's current responsibilities under the arrangements for the regulation and qualification of actuaries are, naturally, restricted to UK activities as a result of it being a UK Non Departmental Public Body and the IFoA therefore currently plugs the 'gap' for the non-UK work of its members.

**Q34: Should the Government legislate to put the FRC on a more conventional consolidated statutory footing?**

61. The IFoA does not see a basis or public interest need for overarching legislation in relation to actuarial regulation.
62. There is no evidence to suggest that the current arrangements are not serving to protect the public interest and the introduction of a system of statutory regulation, where there is not an identifiable need to do so, seems disproportionate.
63. The IFoA also envisages significant challenges in designing such a system, given the difficulty in defining what one would be seeking to regulate.
64. Unless this is done by reference to specific roles (which would cover only a small proportion of work carried out by IFoA members) or to membership of the IFoA, attempting to define the scope of actuarial regulation is likely to prove difficult, as borne

out by various attempts to introduce definitions in the context of technical actuarial standards setting.

65. The approach of providing statutory protection for particular actuarial roles identified as having public interest importance therefore seems to be a more balanced and proportionate approach than the introduction of wide overarching legislation for actuarial regulation.
66. There are currently a limited number of UK roles for which IFoA membership (and therefore IFoA/FRC regulation) is a formal requirement, reflecting a small proportion of those IFoA members working in significant roles in insurance and pensions (for example a Scheme Actuary under UK pensions legislation).
67. There may be some public interest benefit in looking at the further reserving of specific actuarial roles to those holding suitable qualifications and being subject to a professional regulatory framework.
68. There is currently no requirement in law, for example, for the Chief Actuary to a Solvency II insurance company to be a qualified actuary, subject to actuarial professional standards.

**Q43: What skills are needed for the FRC to be most effective? Does the FRC have the people, skills and resources it needs, of the quality it needs?**

69. A possible approach, should the Review conclude that it is appropriate for the FRC to continue with its UK oversight of the IFoA, would be for the FRC to re-focus the resource currently allocated to actuarial standards setting onto oversight.
70. Just as the IFoA is now better set up (post Morris) to deliver appropriate professional regulation (including, for example the strengthening of governance around its Regulation Board and disciplinary framework) so the FRC should focus the finite resource it has available for actuarial activities on the important function of appropriate independent oversight.

Thank you again for the opportunity to respond to the Call for Evidence. We would be very happy to discuss any aspects of our response further. Please contact Emma Gilpin, Head of Regulatory Policy ([emma.gilpin@actuaries.org.uk](mailto:emma.gilpin@actuaries.org.uk)) in the first instance.

Yours sincerely,



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## APPENDIX 1

The following sets out some examples of steps taken by the IFoA since Morris (or in anticipation of its findings) to improve its regulatory functions and to address identified risks.

### 1) General approach to regulation (including governance)

Risk identified	Action taken	Approximate timing
Lack of independence from membership in regulatory activities (including standards setting)	Established a Lay (non-actuary) chaired Board (now known as the Regulation Board) with additional lay members given a specific public interest remit to oversee its regulatory activities including standards setting	2007
Need for more expertise and resource within the executive to ensure effective regulation	Enhancing and increasing the executive resource dedicated to regulatory matters including the recruitment of experienced legal and other (non-actuarial) professionals	2011
Need for improved IFoA governance	Reviewing and improving the IFoA governance arrangements including enhancing the Governance Manual and rolling out a programme of governance training to all Boards and Committees (including disciplinary and regulatory boards/committees)	2014
Need to improve regulatory relationships and information sharing arrangements with other regulators	Improved engagement with key stakeholders including statutory regulators such as the Prudential Regulation Authority (PRA), Financial Conduct Authority (FCA) and the Pensions Regulator (tPR), and relevant UK Government departments (for example, the Department for Work and Pensions and HM Treasury), including setting up a dedicated policy and public affairs team  Joint Forum on Actuarial Regulation (JFAR) established	2013
Need to consider regulatory risks and improve horizon scanning	Regulation Board developed Risk Outlook document to capture and monitor emerging risks  Regulation Board introduced 'Risk Alerts' as a tool for communicating information about areas of risk quickly to its members	2015

## 2) Standards and Guidance

Risk identified	Action taken	Approximate timing
Need to codify core ethical principles for actuaries	Introduction of the Actuaries' Code	2009 Revised 2013 and 2018
Particular ethical/conduct risks around actuarial work that required more specific standards	Introducing a range of new mandatory ethical standards, including: <ul style="list-style-type: none"> <li>• Specific requirements for pensions Scheme Actuaries in relation to conflicts of interest</li> <li>• Specific requirements for Scheme Actuaries to carry out compliance reviews</li> <li>• Specific requirements for actuaries instructed as Expert Witnesses in legal proceedings</li> <li>• Requirements for all members around application of work review and independent peer review</li> </ul>	Various 2013 2014 2016 2017
Need to widen the scope of the Practising Certificates Regime to recognise new regulatory roles for actuaries	Introducing new categories of Practising Certificate for General Insurance and Life Insurance as a result of the UK's implementation of Solvency II	2015
Identified a need to check impact of new standards and their effectiveness	Introducing a system of regular review of standards and guidance and their effectiveness	2016

### 3) Lifelong Learning

Risk identified	Action taken	Approximate timing
Need to find effective way of helping members to engage with ethical issues from a practical perspective	Development of Professional Skills video materials – produced and updated annually and supported by a suite of materials to allow members and their employers to carry out in-house training sessions	2013
Need to engage with organisations employing our members to have a key person to coordinate the organisations' CPD activity and to keep up to date with developments	Development of the <u>CPD Coordinators scheme</u> involving appointment of a coordinator from employers over a certain size to engage with the IFoA in terms of CPD activities	2013
Need to ensure the Qualification Syllabus equips actuaries for the future	Substantial review of syllabus	2018/19
Need to ensure a flexible but appropriate suite of qualifications which will continue to serve UK and global markets	Introduction of Certified Actuarial Analyst (CAA) qualification and establishment of CAA Global Ltd as international qualification body for CAA.  Consultation on proposals to introduce Chartered Actuary qualification	2014-2018

#### 4) Monitoring

Risk identified	Action taken	Approximate timing
Need to create relationships with organisations employing our members to secure support for professional regulation and to promote quality assurance	Launching an innovative <a href="#">Quality Assurance Scheme</a> accreditation for employers of IFoA members, requiring organisations to demonstrate, through assessment by independent, external team, that they meet a range of outcomes designed to promote compliance and to produce good quality actuarial work	2015
Need to improve information available to the IFoA in terms of the quality of the actuarial work and compliance with professional standards	<a href="#">Consulting</a> on proposals to introduce a system of direct monitoring of actuarial work.	2018

#### 5) Enforcement and Discipline

Risk identified	Action taken	Approximate timing
Need for more independence from membership in Disciplinary Board	Increased lay membership and lay Chair of the Disciplinary Board	2004
Need for more accountability and rigour around disciplinary appointments	Established a separate Disciplinary Appointments Committee which is responsible for all appointments to roles under the Disciplinary Scheme and Chaired by lay member	2004
Need for more independence from membership in disciplinary tribunals	Lay (non actuary) member as Disciplinary Tribunal Convener	2013
Need for more independence from membership in adjudication panels	Lay (non actuary) Convener of Adjudication Panel	2017



# Institute and Faculty of Actuaries

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