



Institute
and Faculty
of Actuaries

APS P1

Proposal to introduce a revised Actuarial Profession Standard (APS) P1: Duties and Responsibilities of Members undertaking work in relation to pension schemes

by the Regulation Board

Consultation paper

September 2020

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1. Introduction

I invite you to participate in this consultation on the Institute and Faculty of Actuaries' (IFoA's) proposal to introduce an updated version of Actuarial Profession Standard (APS) P1 ('APS P1').

APS P1 sets out specific ethical requirements, including Practising Certificate obligations, that apply in addition to the Actuaries' Code, for Members operating in the pensions area.

APS P1 was last reviewed in 2013. Since then, the regulatory framework of the IFoA has changed significantly, with a move towards simplified, principles-based standards. Following the publication of the revised Actuaries' Code ('the Code') in May 2018, the Regulation Board agreed that the Pension Standards Committee ('the Committee') would carry out a full review of APS P1 to take into account the changes to the Code and determine whether it remains fit for purpose in the context of the current regulatory framework, is in line with the other practice-specific APSs, and takes into account the IFoA's increasingly global membership. The Committee is responsible for providing expertise and preparing/maintaining pensions-related APSs for the IFoA, and reports to the Regulation Board.

This consultation paper sets out the proposals of the Committee (as approved by the Board) to introduce a revised APS P1. The rationale for the proposed approach is set out in section 2, below.

The IFoA welcomes comments on the proposals from individual Members, employers of actuaries, other regulators and anyone else with an interest in the standards which the IFoA sets for its Members.

This consultation asks a number of questions and we would encourage you to complete the survey and provide comments to support your answers. The Committee will take account of all comments and consider the extent to which the proposals ought to be implemented.

We thank you for taking the time to consider these proposals and look forward to receiving your comments.

Graham Everness
Chair of the Pension Standards Committee

2. Outline and Background

- 2.1 The IFoA is considering whether to introduce a revised APS P1 (Version 3.0) which deals with the ethical obligations for Members operating in the pensions area, including specific requirements for Scheme Actuaries in the United Kingdom (UK).
- 2.2 Following the [Standards Framework Review](#) in 2016, it was agreed that the IFoA would move towards simplifying standards and guidance, with a principles-based approach, and focusing on regulatory aims and principles. APSs impose specific mandatory requirements on Members which build on the requirements of the Actuaries' Code. APSs are also the mechanism by which the IFoA implements its requirements for practising certificates in the areas of insurance and pensions.
- 2.3 The IFoA's key objective is to ensure that standards are clear, comprehensible and enforceable. This includes expressing requirements in a clear manner, using terms such as 'must' and 'should' to denote the status of provisions.
- 2.4 APS P1 was initially issued in October 2011 and last reviewed in July 2013. The APS was due for review in July 2016, however given that a significant aspect of APS P1 is the imposition of specific requirements upon Scheme Actuaries in relation to conflicts of interest that are founded upon conflicts requirements under the Code, the Regulation Board agreed to postpone the review of this material until after publication of the revised Actuaries' Code.
- 2.5 The revised Actuaries' Code was published in May 2018 (came into force in May 2019) and following this, the Committee began to review the standard on behalf of the Regulation Board, with support from IFoA Executive.
- 2.6 The Committee was tasked with taking into account the changes to the Code and any legislation/case-law, and to ensure that the drafting is in line with other practice specific APSs.
- 2.7 The review also included a broader and general review of the standard, considering whether it was still appropriate, proportionate and fit for purpose.

3. Current APS P1

- 3.1. The [APS P1](#) (Version 2.0, effective 1 July 2013) states that its purpose is to set out the specific practice area ethical obligations, including Practising Certificate obligations, that apply in addition to the Actuaries' Code, for Members operating in the pensions area.
- 3.2. It applies to Members of all categories working for the Trustees or other governing body of a pension scheme, or for decision-making bodies in relation to public sector or public service pension schemes.
- 3.3. APS P1 sets out specific requirements for Scheme Actuaries under Sections 1-5, including:
 - Practising Certificate requirements;
 - Obligations relating to appointment, replacement and absence;
 - Requirements for Scheme Actuaries to inform trustees of relevant matters; and
 - Obligations around conflicts of interest.

- 3.4. The APS extends the application of Sections 1-5 in certain aspects, under Section 6, for:
- Members other than Scheme Actuaries, potentially including students, undertaking work for trustees in relation to pension schemes;
 - Members, although not acting on behalf of a Scheme Actuary's Firm, who are directly responsible for the provision or review of client advice to the trustees of a relevant pensions scheme; and
 - Members who are directly responsible for the provision or review of client advice to the trustees (or other governing body) of a pension scheme that does not require a Scheme Actuary.
- 3.5. In summary, the APS P1 applies certain requirements to UK Scheme Actuaries, those assisting the Scheme Actuary in giving advice to trustees of a Scheme that has a Scheme Actuary, and those in a similar role to that of a UK Scheme Actuary (or to another actuary supporting the Scheme Actuary) in another defined benefit scheme. It does not apply to Actuaries advising any other parties other than Trustees (or analogous Scheme governing bodies).
- 3.6. The full text of the current APS P1 is included as **Appendix 1**.

4. **Revised APS P1**

- 4.1. In undertaking the review of APS P1, the Committee sought to:
- review and clarify the scope of the APS;
 - consider whether to re-order it and re-present the content in a more easily followed manner; and
 - consider the extent to which the principles covered in the APS ought to apply to additional Members operating in the pensions area, in particular to corporate advisers. They consulted with members with experience working as corporate pension advisers, on what provisions of the APS might proportionately and appropriately cross-over to that line of work.
- 4.2. On the basis of the findings of its extensive review, the Committee proposes that the current version of APS P1 (Version 2.0) is withdrawn and replaced by a new version (Version 3.0).
- 4.3. The full text of the proposed revised APS P1 (Version 3.0) is included at **Appendix 2**.
- 4.4. The revised APS P1 aims to provide a more streamlined and clearer standard for Members operating in the pensions area, clarifying Members' responsibilities. In addition, there is a proposed extension in scope to those advising the employer, and clarification that 'in-house' advisers are also covered.
- 4.5. The revised APS sets out specific obligations for UK Scheme Actuaries and newly defined Equivalent Scheme Actuaries, Other Actuarial Advisers and Employer Advisers. Each paragraph clearly defines who exactly it applies to, with the definitions of each role contained in the definition Section (Section 7).

- 4.6. The requirements themselves largely mirror the current requirements in APS P1, but in a clearer, more streamlined and easy to follow manner. However, some of the previous content/requirements have been removed as the Committee felt they did not add anything of sufficient substance or were overly prescriptive.
- 4.7. The specific requirements for Scheme Actuaries in particular remain focussed on appointment, replacement and absence, speaking up/notifying the trustees of certain matters, and conflicts of interest. In order to provide absolute clarity as to who the revised APS applies to, there are three newly defined roles of (1) Equivalent Scheme Actuary, (2) Other Actuarial Adviser and (3) Employer Adviser:
- (1) The defined role of 'Equivalent Scheme Actuary' (ESA) has been created to reflect Members who are carrying out roles similar to that of a Scheme Actuary under the UK Pensions Act 1995, but are not within the statutory definition of a Scheme Actuary. As those Members generally have very similar responsibilities to UK Scheme Actuaries, the revised APS extends relevant provisions to them.
 - (2) 'Other Actuarial Adviser' (OAA) has been created for the extension of certain provisions of the APS to Members who provide advice to the trustees, but are not Scheme Actuaries. As well as any colleagues who have a clear client-facing role supporting the Scheme Actuary, this includes Members who provide advice to trustees on behalf of a different firm to that of the appointed Scheme Actuary and to 'in-house' actuaries who advise the trustees.
 - (3) Finally, the newly defined role of 'Employer Adviser' is intended to cover Members of the IFoA who provide actuarial advice to the Employer of a scheme, on behalf of the same firm as a Scheme Actuary (or Equivalent Scheme Actuary).

Sections

- 4.8. In Section 1, the revised APS repeats the current requirement that a Scheme Actuary must have a current practising certificate.
- 4.9. In Section 2, obligations relating to appointment, replacement and absence explicitly cover ESAs. Members within these roles were already covered in the current APS, which extended certain provisions to Members in a similar role to a Scheme Actuary. The new changes however extend this to the whole of Section 2 after the Committee deliberated the considerations in this area also apply to ESAs.
- 4.10. The Section 3 heading has been re-worded to reflect the central purpose of these requirements as being to 'speak up'. The principles within this apply to both ESAs and OAAs as well as SAs. Previously, the equivalent Section applied only to Scheme Actuaries but was extended via previous Section 6 to 'Members involved in the provision of advice or other services to the trustees and Members in similar roles to that of a Scheme Actuary. The Committee recognised that the ethical dilemmas and situations described in this Section also arise in situations where a Member is providing advice to the trustees of a scheme, separately and at the same time, as advice is being provided by a Scheme Actuary or ESA. However, paragraph 3.3 acknowledges that there will be instances where

it is not necessary for the OAA to speak up, as well as the appointed Scheme Actuary or ESA, who is already fulfilling the requirements of notifying the trustees.

- 4.11. The new Section 3 no longer explicitly includes the previous requirements (under the old Section 4.4) around the Scheme Actuary giving certain actuarial certifications required by legislation. The Committee has removed this as it served only as a detailed example/application of what is now covered in new paragraphs 3.1 and 3.2. Additionally, the examples previously quoted in the APS either no longer exist or are not significant enough to cover within the APS.
- 4.12. Section 4 has streamlined previous Sections 5 and 6 of the APS P1, creating one Section that contains the conflicts of interest obligations and removing duplication. This Section makes clear when each particular part applies to Scheme Actuaries, ESAs and/or OAAs.
- 4.13. Section 4.3 states that a Scheme Actuary, ESA or OAA would have a presumed irreconcilable conflict of interest, if they provided advice to an employer of a Scheme (for which they were also acting for the trustees) in relation to the funding or to a matter that had a direct bearing on the benefits payable. However, an additional ground for 'rebuttal' of the presumption, applicable only to OAAs, has been added at 4.4.5, to cater for the possibility that the OAA's role for the trustees is or has been in an area of work completely unrelated to funding or benefits, the intention being to provide more clarity as to how this provision (under 6.5 and 6.8 of the current APS) should be applied to Members in roles other than Scheme Actuaries. The previous APS also included an obligation to record any decision to depart from this presumption, however this has been removed as the Committee regarded it as superfluous. The Committee has also removed some unnecessary and prescriptive content of the previous Section 5.6, with the newly proposed Section 4.5.
- 4.14. Under the new Section 5, the APS states that if a Conflict Management Plan (CMP) is agreed, and imposes any requirements on an Employer Adviser, then the Employer Adviser must comply with those requirements, and further provides that a Member cannot accept an invitation to become an Employer Adviser without first ensuring that the Scheme Actuary has had the opportunity to put a CMP in place. There was previously no explicit requirement for a Member in this role to comply with or co-operate with the establishment of the CMP.
- 4.15. There has been some minor re-wording of the appendices, with a part of Appendix 1 being turned into a stand-alone, specific requirement in the APS at Section 2.4.
- 4.16. The IFoA invites views on the content of the revised APS P1, including its proposed change in scope to include 'Employer Advisers' and the newly defined roles.

5. Consultation Documentation

This consultation package includes the following documents:

- **Appendix 1:** APS P1: Duties and responsibilities of members undertaking work in relation to pension schemes (Version 2.0, effective as of 1 July 2013); and
- **Appendix 2:** Proposed revised APS P1 (Version 3.0)

6. Regulatory Impact Assessment

The Regulation Board has recently introduced regulatory impact assessments as a tool for the appraisal of proposed regulatory or policy options in terms of their likely risks, costs and benefits.

The Board has carried out an impact assessment on the proposal to introduce the revised APS P1. This can be found at **Appendix 3**.

7. Survey Questions

The IFoA invites your comments on the proposed revised APS P1. It would be helpful if you would offer them by responding to the following questions.

An online version of the questionnaire can be found on the IFoA's [website](#).

About you

1. Personal information

Name:	
Position:	

2. Region

UK	India	
Republic of Ireland	Asia - other	
Rest of Europe	Canada	
South Africa	USA	
Africa - other	South or Central America	
South East Asia	Australia	
Hong Kong	Oceania - other	
China		

3. Are you a Member of the IFoA?

Yes	No	
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4. If yes, which category of membership do you hold?

Affiliate	Honorary Fellow	
Associate	Retired	
Certified Actuarial Analyst	Student	
Fellow	Student Actuarial Analyst	

5. If you are an actuary, what is your main practice area? (Answer one option only)

Life Assurance	Enterprise Risk Management	
General Insurance	Health and Care	
Pensions	Resource and Environment	
Finance and Investment	Other	

If other, please specify:

6. Do you want your name to remain confidential?

Yes	No	
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7. Do you want your comments to remain confidential?

Yes	No	
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8. About your organisation (if applicable)

Name:

9. Type of organisation (Answer one option only)

Consultancy	Public body or Regulator	
Insurance company or reinsurer	Educational Establishment	
Bank or Building Society	Not applicable	
Investment Firm	Other	

If other, please comment:

10. How many IFoA Members (if any) does your organisation employ?

None	101+ Members	
2-10	Sole practitioner	
11-50	Don't know	
51-100	Not applicable	

11. Do you want the name of your organisation to remain confidential?

Yes	No	
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12. Do these comments represent your own personal views or your organisation's views?

Personal views	Organisation's views	
Both personal views and organisation's views		

APS P1

The following questions are in relation to your/your organisation's views on the proposed introduction of the revised APS P1:

13. Do you agree with the proposal to withdraw the current version of APS P1 and replace it with the revised version?

Yes	No	
Comments (please specify):		

14. Overall do you think that the requirements contained in the revised APS P1 are relevant and appropriate?

Yes	No	
Comments (please specify):		

15. Do you think that Members' obligations under the revised APS P1 are clearly set out?

Yes	No	
Comments (please specify):		

16. Do you agree that the scope of the revised APS P1 is appropriate?

Yes	No	
Comments (please specify):		

17. Do you think the key terms within the revised APS P1 are sufficiently well defined? If no, which of these terms would you amend?

Yes	No	
Comments (please specify):		

18. Overall, for provisions of the revised APS P1 that apply to work outside of the UK, do you agree that they are relevant and appropriate?

Yes	No	
Comments (please specify):		

19. Do you think that anything substantial has been lost in the revised APS P1 as compared to the current version of the APS?

Yes	No	
Comments (please specify):		

20. Do you have any other comments on the requirements and provisions of the revised APS P1?

Yes	No	
Comments (please specify):		

8. How to Respond

The deadline for responses is **7 January 2021**.

A link to an online version of the questionnaire can be found on the IFoA's website at <http://www.actuaries.org.uk/regulation/pages/consultations-and-discussion-papers>.

We would strongly encourage responses via the online questionnaire. However, if there are reasons that you cannot complete it online you can provide a response to regulation@actuaries.org.uk or by post to:

Regulation Team (Ref: APS P1 Review)
The Institute and Faculty of Actuaries
Level 2 Exchange Crescent
7 Conference Square
Edinburgh
EH3 8RA

Please mark any emails or letter with the clear reference 'APS P1 Review'. Please also try to answer the questions as set out in the online questionnaire. Please also indicate whether you wish any of the information you supply in your response to be treated confidentially. Unless you so indicate, we may make responses to this consultation paper available on our website at www.actuaries.org.uk.

Consultation Meeting

A virtual consultation meeting may be held once the consultation has closed, depending on the level and detail of responses. In order for us to gauge participant numbers, we should be grateful if you could please inform us via email to regulation@actuaries.org.uk if you would be interested in participating a meeting.

Appendices

- **Appendix 1:** APS P1: Duties and responsibilities of members undertaking work in relation to pension schemes (Version 2.0, effective as of 1 July 2013);
- **Appendix 2:** Proposed revised APS P1 (Version 3.0); and
- **Appendix 3:** Regulatory Impact Assessment



Institute
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APS P1: DUTIES AND RESPONSIBILITIES OF MEMBERS UNDERTAKING WORK IN RELATION TO PENSION SCHEMES

Author:	The Pensions Standards Committee, in conjunction with the Conflicts of Interest Working Party of the Professional Regulation Executive Committee
Status:	Approved under the Standards Approval Process
Version:	2.0, effective 1 July 2013 (early adoption by Members is strongly encouraged, wherever practicable)
To be reviewed:	No later than 1 July 2016
Purpose:	To set out the specific practice area ethical obligations, including Practising Certificate obligations, that apply in addition to the Actuaries' Code published by the Institute and Faculty of Actuaries for Members ¹ operating in the pensions area
Authority:	Institute and Faculty of Actuaries
Target Audience:	<p>Members (of all categories, including Students, Affiliates, Associates and Fellows) working for the Trustees or other governing body of a pension scheme, or for decision-making bodies in relation to public sector or public service pensions schemes.</p> <p>Sections 1-5 inclusive are primarily directed at Scheme Actuaries, being an actuary appointed to advise the Trustees of a defined benefit pension scheme in accordance with section 47(1)(b) of the Pensions Act 1995. Section 6 extends the application of sections 1-5 in certain relevant respects, to other Members undertaking work in relation to pension schemes.</p>

¹ Members of all categories, including Students, Affiliates, Associates and Fellows.

General Professional Obligations:

All **Members** are reminded of the Status and Purpose preamble to the Actuaries' Code which states that the Code will be taken into account if a **Member's** conduct is called into question for the purposes of the Institute and Faculty of Actuaries' Disciplinary Scheme. Rule 1.6 of the Disciplinary Scheme states that misconduct:

“means any conduct by a Member...in the course of carrying out professional duties or otherwise, constituting failure by that Member to comply with the standards of behaviour, integrity or professional judgement which other Members or the public might reasonably expect of a Member having regard to...any code, standards, advice, guidance, memorandum or statement on professional conduct, practice or duties which may be given and published by the Institute and Faculty of Actuaries and/or...by the Financial Reporting Council (including by the former Board for Actuarial Standards)”.

Members are required to comply with all applicable provisions of **APSs**.

In the event of any inconsistency between this **APS** and the Actuaries' Code, the Code prevails.

Use of the words “must” and “should”:

This **APS** uses the word “must” to mean a specific mandatory requirement.

In contrast, this **APS** uses the word “should” to indicate that, while the presumption is that **Members** comply with the provision in question, it is recognised that there will be some circumstances in which **Members** are able to justify non-compliance.

1. Relevant knowledge and skill

- 1.1. A **Scheme Actuary** must be familiar with any relevant legislation and regulatory guidance including **Codes of Practice**.

2. Practising certificates

- 2.1. A **Scheme Actuary** must have a current **Practising Certificate**.

3. Obligations relating to appointment, replacement and absence

- 3.1. A **Scheme Actuary** must have a written agreement with the **Trustees** covering the information that he/she requires the **Trustees** to provide him/her with, or allow him/her access to, to do his/her job properly, and allowing him/her to share information with other advisers as appropriate.
- 3.2. The matters covered by this agreement may vary from scheme to scheme but the **Scheme Actuary** must have a justifiable reason for the exclusion of any of the matters listed in Appendix 1 to this **APS**. Such a reason might include a judgement that the matter is not sufficiently significant to justify amending an already-existing agreement.
- 3.3. The agreement must be reviewed periodically and should be updated to ensure that it continues to be fit for this purpose.

- 3.4. If an **Existing Actuary** is to be replaced by a **New Actuary**:
- 3.4.1. the **Existing Actuary** must provide the **New Actuary** with the information that the **Existing Actuary** considers to be relevant for the **New Actuary** to fulfil his/her responsibilities as **Scheme Actuary**;
 - 3.4.2. the information in 3.4.1 must include any information considered to be relevant relating to reports made to the **Regulator** under **Section 70** or similar reports to other regulatory authorities;
 - 3.4.3. if necessary, the **Existing Actuary** and **New Actuary** must discuss the information to be provided; and
 - 3.4.4. where the **New Actuary** considers that he/she requires more information for this purpose than the **Existing Actuary** originally provided, the **New Actuary** must ask the **Existing Actuary** for this additional information. Provided that the **New Actuary** agrees to any reasonable conditions imposed by the **Existing Actuary** for the release of information, the **Existing Actuary** must comply with any such reasonable request or explain why it is not possible to comply with the request.
- 3.5. A **Scheme Actuary** who resigns or is removed must ensure that the **Trustees** have been made aware of:
- 3.5.1. the need to appoint a replacement within a prescribed timescale; and
 - 3.5.2. any deadlines relevant to responsibilities of the **Scheme Actuary** that might pass before a **New Actuary** has had time to address them.
- 3.6. A **Scheme Actuary** must have appropriate arrangements to cover any period during which he/she is unable to fulfil his/her duties as a **Scheme Actuary**. The arrangements must take account of the length of the absence. Depending on the circumstances, it might be appropriate or necessary to resign the appointment. A **Scheme Actuary** should consider that:
- 3.6.1. being unable to fulfil his/her duties as a **Scheme Actuary** is not the same as being away from his/her normal place of work;
 - 3.6.2. a **Scheme Actuary** can be away from his/her normal place of work but still be able to fulfil his/her duties, although because of the need on occasions for the **Scheme Actuary** to be proactive rather than simply reacting to requests from the **Trustees** it would not normally be sufficient merely to be contactable; and
 - 3.6.3. on the other hand, there could be circumstances in which the **Scheme Actuary** is at his/her place of work but unable to fulfil his/her duties, for example, because of involvement in additional time-consuming matters.
- 4. Other responsibilities**
- 4.1. A **Scheme Actuary** should inform the **Trustees** on becoming aware of any significant matter which relates to his/her regulatory, contractual or other professional responsibility and/or might have an impact on the financing of the scheme, and which he/she considers might lead to the **Trustees** needing to request advice or further advice, either from the **Scheme Actuary** or another adviser.

- 4.2. An example of where the requirement in 4.1 would not arise is where the **Scheme Actuary** has reason to believe that another person (such as the **Trustees'** legal adviser) has appropriately (for example, in relation to level of authority and timescale) informed or will inform the **Trustees**.
- 4.3. A **Scheme Actuary** who has any material concerns about the way the **Trustees** are fulfilling their duties and responsibilities should share his/her concerns with the **Trustees** and take such consequential action as is appropriate in the circumstances. This includes concerns that:
- 4.3.1. a course of action is not appropriate; and/or
 - 4.3.2. the **Trustees** have failed or are failing to carry out an appropriate action; and/or
 - 4.3.3. the **Trustees** might be unaware of a duty or responsibility, or of relevant legislation or guidance relating to a duty or responsibility.
- 4.4. When giving any form of actuarial certification required by legislation, a **Scheme Actuary** must consider whether there are any matters which he/she believes the **Trustees** should bear in mind before taking any action associated with that certification. The **Scheme Actuary** must then draw the **Trustees'** attention to any such matters. These matters need not prevent the certification from being given, although if they are not appropriately addressed by the **Trustees**, the **Scheme Actuary** must have regard to paragraph 4.3. in deciding how to proceed. The certifications covered by this principle include, but are not limited to, those provided under:
- Regulation 12 of SI 1991/167;
 - Section 67C of the Pensions Act 1995; and
 - Section 12A of the Pension Schemes Act 1993.

5. Conflicts of Interest – Scheme Actuaries

- 5.1. **Scheme Actuaries** are reminded that principle 3 of the Actuaries' Code applies to the treatment of all conflicts of interest. They are reminded in particular of their obligations under principle 3.4 (requirement to disqualify themselves in the event of an irreconcilable conflict of interest).
- 5.2. Where either the **Scheme Actuary** to a **Relevant Scheme**, or, to his/her knowledge, another person, is undertaking work on behalf of the **Scheme Actuary's Firm** for the **Employer** to that **Scheme**, the **Scheme Actuary** must ensure that the **Trustees** are aware of this fact and of the potential for conflict(s) of interest to arise as a result.
- 5.3. Having regard to principle 3 of the Actuaries' Code, the **Scheme Actuary** should presume that the provision by him/her of **Client Advice** to the **Employer** to that **Scheme**, in relation to the funding of that **Scheme**, or in relation to any matter which has a direct bearing on the benefits payable under that **Scheme**, would give rise to an irreconcilable conflict of interest.
- 5.4. In considering whether, exceptionally, it is appropriate to depart from the presumption set out in paragraph 5.3, the **Scheme Actuary** should have regard to all of the relevant circumstances, including, as applicable, the following:
- 5.4.1. the public interest, including the public interest in safeguarding the interests of **Scheme** members;
 - 5.4.2. the extent of the **Trustees'** independence and expertise;

- 5.4.3. relevant legislation;
 - 5.4.4. where the **Scheme** rules require the provision of such **Client Advice** by the **Scheme Actuary** to the **Employer**, whether it is reasonably possible and appropriate to amend the **Scheme** rules;
 - 5.4.5. whether it is appropriate to resign one or more appointment(s), rather than depart from the presumption.
- 5.5. The **Scheme Actuary** must record any decision to depart from the presumption set out in paragraph 5.3 and the reasons for that decision, including the reasons for concluding that, in the particular circumstances, there is no irreconcilable conflict. It will be for the **Scheme Actuary** to justify any such departure if reasonably called upon to do so.
- 5.6. Where the work to which paragraph 5.2 refers constitutes **Client Advice** in relation to the **Relevant Scheme** in question, the **Scheme Actuary** to that **Scheme** must additionally ensure:
- 5.6.1. The agreement of a plan, in writing, with the **Trustees** and **Employer** for whom the work is undertaken, to be reviewed at appropriate intervals, describing all known conflicts of interest and setting out how they are to be addressed. The plan must set out any limitation on the extent of any **Client Advice** which may be provided to the **Employer** and on who may provide that advice.
 - 5.6.2. The plan takes account of everybody who, to the **Scheme Actuary's** knowledge, is involved in the provision or review on behalf of the **Scheme Actuary's Firm** of **Client Advice** in relation to the **Scheme** to either the **Trustees** or **Employer**.
 - 5.6.3. So far as necessary to safeguard the interests of the **Trustees**, the plan provides for the waiver of any duty of confidentiality which would otherwise be owed to the **Employer** by:
 - 5.6.3.1. the **Scheme Actuary**; or
 - 5.6.3.2. any other **Member** directly responsible for the provision or review of **Client Advice** to the **Trustees** of the **Scheme** in question.
 - 5.6.4. The terms of the plan are such that, if it becomes inappropriate for the **Scheme Actuary** to continue to provide **Client Advice** to both the **Trustees** and the **Employer**, the **Trustees** will have the option to continue with the appointment of the **Scheme Actuary**.
 - 5.6.5. That he/she is reasonably satisfied that the **Trustees**, in agreeing to the plan, are appropriately informed as to its implications and that they have as a minimum considered taking independent legal advice. **Scheme Actuaries** are also in this context reminded of their obligations in terms of paragraphs 4.1 to 4.3 of this **APS**, and principle 4.1 of the Actuaries' Code,
- 6. Members other than Scheme Actuaries, including students, undertaking work in relation to pension schemes**
- 6.1. The principles set out in sections 1 and 4 also apply to any other **Member** who is involved in the provision of advice or other services to the **Trustees** at a level that involves direct contact with the **Trustees**. In the case of paragraph 4.1, a requirement to inform the **Trustees** of the need to take further advice does not arise where the **Member** is aware or has reasonable cause to believe that the

Scheme Actuary or another person (such as the **Trustees'** legal adviser) has appropriately (for example, in relation to level of authority and timescale) informed or will inform the **Trustees**. In the case of paragraph 4.3, the **Member** may decide to raise the matter with the **Scheme Actuary** rather than directly with the **Trustees**.

- 6.2. To the extent to which they are practical and appropriate in the circumstances, the principles set out in section 1, paragraphs 3.1 to 3.4 and section 4 also apply to a **Member** who is in a similar role to a **Scheme Actuary**, or a **Member** within the scope of paragraph 6.1 who is working for a governing body of a pension scheme other than **Trustees**, or a **Member** working for a decision-making body in relation to public sector or public service pension schemes. Deviations from the provisions of paragraphs 3.1 to 3.4 (and Appendix 1) and section 4 should be consistent with the nature of the **Member's** appointment.
- 6.3. If paragraphs 6.1 and 6.2 would both apply (for example, where the decision-making body in relation to public sector or public service pension schemes is a body of **Trustees**), only paragraph 6.2 applies.

Conflicts of Interest - Schemes requiring a Scheme Actuary

- 6.4. The principles in paragraphs 5.1, 5.2 and 5.6 also apply to any **Member** who, although not acting on behalf of the **Scheme Actuary's Firm**, is directly responsible for the provision or review of **Client Advice** to the **Trustees** of a **Relevant Scheme**.
- 6.5. Having regard to principle 3 of the Actuaries' Code, any **Member** should presume that he/she would have an irreconcilable conflict of interest where:
 - 6.5.1. he/she is involved in the provision or review of **Client Advice** to both the **Trustees** and **Employer** of a **Relevant Scheme**; and
 - 6.5.2. that **Client Advice** in each case relates either to the funding of the **Scheme** or to any matter which has a direct bearing on the benefits payable under the **Scheme**; and
 - 6.5.3. that **Client Advice** in each case requires a material element of judgement by that **Member**.
- 6.6. In considering whether, exceptionally, it is appropriate to depart from the presumption set out in paragraph 6.5, the **Member** should have regard to all of the relevant circumstances, including, as applicable, those set out in sub-paragraphs 5.4.1 to 5.4.5.
- 6.7. The **Member** must record any decision to depart from the presumption set out in paragraph 6.5 and the reasons for that decision, including the reasons for concluding that, in the particular circumstances, there is no irreconcilable conflict. It will be for that **Member** to justify the basis for any such departure if reasonably called upon to do so.

Conflicts of Interest - Schemes not requiring a Scheme Actuary

- 6.8. This paragraph applies to a **Member** who is directly responsible for the provision or review of **Client Advice** to the **Trustees** of a **Scheme**, other than a **Relevant Scheme**. A **Member** to whom this paragraph applies must:

- 6.8.1. consider the extent to which the principles set out in section 5 and paragraphs 6.4 to 6.7 are relevant, as they are in relation to a **Relevant Scheme**, to them and to that **Scheme**;
- 6.8.2. to the extent that they are relevant, apply those principles as nearly as may be appropriate in the circumstances; and
- 6.8.3. ensure that such steps as are taken under this paragraph 6.8 are recorded.

7. Definitions

Term	Definition
APS	Actuarial Profession Standard.
Client Advice	Information or recommendation provided by a Member to a client, which includes a material element of judgement or analysis, upon which that client is entitled to rely.
Codes of Practice	Codes of practice issued by the Regulator.
Employer	Any entity which participates in a pension scheme or is associated with such an entity.
Existing Actuary	The incumbent or previous incumbent Scheme Actuary of a pension scheme.
Firm	A sole practitioner, partnership, limited liability partnership or other corporate entity engaged in the provision of actuarial services. It includes related or connected entities which are: <ul style="list-style-type: none">(i) controlled by the Firm; or(ii) under common control, ownership or management; or(iii) part of a larger structure that is clearly aimed at profit or cost sharing.
Member	Member of the Institute and Faculty of Actuaries.
New Actuary	The incoming Scheme Actuary of a pension scheme.
Practising Certificate	Practising certificate issued by the Institute and Faculty of Actuaries to act as a Scheme Actuary to pension schemes.
Regulator	The Pensions Regulator.
Relevant Scheme	A pension scheme in relation to which a Scheme Actuary is, or requires to be, appointed.
Scheme	A pension scheme of any sort.
Scheme Actuary	An actuary appointed to advise the Trustees of a defined benefit pension scheme in accordance with section 47(1)(b) of the Pensions Act 1995.
Section 70	Section 70 of the Pensions Act 2004.
TASs	Technical Actuarial Standards issued by the Financial Reporting Council.

Trustees

The Trustees of a pension scheme, or, for pension schemes not established by a trust, the managers as defined in section 318(1) of the Pensions Act 2004.

Appendix 1: Matters to be covered in written agreement with Trustees

1. Liaison with other advisers

1.1. The agreement with the **Trustees** should allow the **Scheme Actuary**:

- 1.1.1. to liaise with other advisers to the **Trustees** in relation to matters which might be relevant either to the **Scheme Actuary's** statutory responsibilities or to other legislative or regulatory responsibilities which are placed on the other advisers in relation to the scheme;
- 1.1.2. to ask any **Existing Actuary** for information in accordance with paragraph 3.4 of this **APS**; and
- 1.1.3. in the event of his/her resignation or removal, to provide the **New Actuary** with the information referred to in paragraph 3.4 of this **APS**.

2. Information to be provided by Trustees

2.1. The **Scheme Actuary** should obtain the **Trustees'** written agreement that the **Trustees** will advise the **Scheme Actuary** of specified events which could, in the **Scheme Actuary's** opinion, be of material significance to the financing or solvency of the scheme. Appropriate timescales for notifying events should be included. The list should be reviewed by the **Scheme Actuary** as frequently as he/she considers necessary or appropriate.

2.2. Appendix 2 illustrates the types of events which, if material, a **Scheme Actuary** would normally require the **Trustees** to notify to a **Scheme Actuary**. However, a **Scheme Actuary** will need to consider:

- 2.2.1. whether all the categories listed are relevant to a particular scheme;
- 2.2.2. whether additional categories should be included; and
- 2.2.3. the actual events within each category which should be specified.

2.3. In drawing up the list of events to be notified, the **Scheme Actuary** should be satisfied that the **Trustees** understand what the **Scheme Actuary** would consider to be material, and, if used, how words such as "unexpected", "significant" or "major" should be interpreted. In specifying timescales, phrases such as "as soon as possible" or "as soon as reasonably practicable" might be used.

2.4. The **Scheme Actuary** should also obtain the **Trustees'** written agreement that the **Trustees** will:

- 2.4.1. provide the **Scheme Actuary** with copies of any future reports to the **Regulator** under **Section 70** which are either made by, or sent to, the **Trustees**;
- 2.4.2. advise the **Scheme Actuary** if any order, notice, direction or statement (or similar) which is relevant to the financing or solvency of the scheme is issued by the **Regulator** (or has been issued and is still relevant at the date of the **Scheme Actuary's** appointment) of which the **Trustees** are aware, for example:
 - an order issued under section 231(2) of the Pensions Act 2004;
 - a contribution notice under sections 38, 47 or 55 of the Pensions Act 2004;
 - a financial support direction under section 43 of the Pensions Act 2004;

- a clearance statement under sections 42 or 46 of the Pensions Act 2004;
 - a restoration order under section 52 of the Pensions Act 2004; or
 - an approval notice in relation to an approved withdrawal arrangement under the Occupational Pension Schemes (Employer Debt) Regulations 2005;
- 2.4.3. allow the **Scheme Actuary**, on request, access at all reasonable times and in all reasonable circumstances to such information and explanation as may be required to carry out his/her duties as **Scheme Actuary**, including:
- 2.4.3.1. the scheme's books, accounts and supporting documentation;
 - 2.4.3.2. copies of the minutes of the **Trustees** and sub-committees of the **Trustees'** meetings;
 - 2.4.3.3. copies of the **Trustees'** resolutions;
 - 2.4.3.4. copies of any other documents recording decisions taken by the **Trustees** following actuarial advice from him/her or from a person advising the **Trustees**; and/or
 - 2.4.3.5. copies of all scheme constitution documentation.
- 2.5. The **Scheme Actuary** does not need to require the **Trustees** to provide him/her immediately with the information referred to in paragraph 2.4.3 of this appendix. However, there may be occasions when the **Scheme Actuary** will need to insist that specific information of the types listed is provided (or access to such information is allowed) without delay in order to assist him or her in assessing whether a report needs to be made to the **Regulator** under **Section 70**.

Appendix 2

Events which could affect the financing or solvency of a scheme

Appendix 2 illustrates the types of event which could affect the financing or solvency of a scheme and which, if material, a **Scheme Actuary** might typically require the **Trustees** to notify to him/her (see paragraphs 2.1 to 2.3 of Appendix 1 of this **APS**). The lists are not exhaustive.

1. Changes affecting the status of the scheme

1.1. For example:

- cessation of future accruals
- closure to new members
- a decision to wind up or otherwise discontinue the scheme
- a determination to defer winding up.

2. Changes to (or legal opinions on the interpretation of) the trust deed and rules or the benefits provided under them

2.1. For example, in relation to:

- the definition of pensionable pay
- contribution or benefit levels
- normal retirement date
- the degree of priority accorded to benefits in the event of the scheme winding up
- an exercise under which members may change the form of their benefits.

3. Significant changes to the membership

3.1. For example, in relation to:

- the general remuneration levels of scheme members
- the numbers of active members, deferred pensioners or pensioners
- an exercise which could involve many members taking transfer values from the scheme.

4. Events in relation to participating employers

4.1. For example:

- a change in the **Trustees'** view of the strength of a participating employer's covenant
- a relevant event (as defined in section 75(6A) of the Pensions Act 1995) in relation to a participating employer
- an employment-cessation event (as defined in Regulation 6ZA of SI 2005/678) in relation to a participating employer

- sales and purchases affecting the membership of the scheme.

5. Events in relation to investment matters

5.1. For example:

- a change in investment policy or investment management arrangements
- adverse investment performance relative to agreed objectives.

6. The exercise of a discretionary power

6.1. For example, the augmentation of a benefit, or the granting of a discretionary pension increase, where the cost is not met by additional contributions at the time on a basis agreed with the **Scheme Actuary**.

7. Events connected with the Regulator

7.1. For example:

- any event notified to the **Regulator** under section 69 of the Pensions Act 2004 by the **Trustees** (or any event of which the **Trustees** are aware has been notified to the **Regulator** under such section by a participating employer)
- an application for a refund of surplus to a participating employer.

8. Events in relation to financing

8.1. For example:

- non-payment of the employer's and/or employees' contributions stated in the most recent Schedule of Contributions
- a change of policy in relation to the payment of expenses
- a change in the arrangements for insuring death in service benefits or a change from insured to self-administered or vice versa
- a change to the scheme year for accounting purposes.



APS P1: DUTIES AND RESPONSIBILITIES OF MEMBERS UNDERTAKING WORK IN RELATION TO PENSION SCHEMES

Version: 3.0, effective []

Purpose: This APS sets out specific ethical requirements that apply to certain **Members** of the Institute and Faculty of Actuaries operating in the pensions area of practice.

1. Practising Certificate requirement – Scheme Actuaries

1.1 A **Scheme Actuary** must have a current **Practising Certificate**.

2. Obligations relating to appointment, replacement and absence – Scheme Actuaries and Equivalent Scheme Actuaries

2.1 This section applies to **Members** who are a **Scheme Actuary** and/or an **Equivalent Scheme Actuary**.

2.2 A **Scheme Actuary**, or **Equivalent Scheme Actuary**, must have a written agreement with the **Trustees** covering the information that they require the **Trustees** to provide them with, or allow them access to, to do their job properly, and allowing them to share information with other advisers as appropriate.

2.3 The matters covered by the agreement in 2.2 may vary from scheme to scheme but the **Scheme Actuary**, or **Equivalent Scheme Actuary**, must have a justifiable reason for the exclusion of any of the matters described in Appendix 1.

2.4 The agreement in 2.2 must be reviewed periodically and updated to ensure that it continues to be fit for purpose. In drawing up the list of events to be notified under paragraph 3 of Appendix 1, the **Scheme Actuary**, or **Equivalent Scheme Actuary**, should be satisfied that the **Trustees** understand what they would consider to be material, and, if used, how words such as “unexpected”, “significant” or “major” should be interpreted. In specifying timescales, phrases such as “as soon as possible” or “as soon as reasonably practicable” might be used.

- 2.5 If an existing **Scheme Actuary** or **Equivalent Scheme Actuary** is to be replaced:
- 2.5.1 the existing actuary must provide the new actuary with the information that the existing actuary considers to be relevant for the new actuary to fulfil their responsibilities;
 - 2.5.2 the information in 2.4.1 must include any information considered to be relevant relating to reports made to the **Regulator** under Section 70 of the UK Pensions Act 2004, if relevant, or similar reports to other regulatory authorities;
 - 2.5.3 if necessary, the existing actuary and new actuary must discuss the information to be provided, if they are reasonably able to do so; and
 - 2.5.4 where the new actuary considers that they require more information for this purpose than the existing actuary originally provided, the new actuary must, if reasonably possible, ask the existing actuary for this additional information. Provided that the new actuary agrees to any reasonable conditions imposed by the existing actuary for the release of information, the existing actuary must comply with any such reasonable request or explain why it is not possible or appropriate to comply.
- 2.6 A **Scheme Actuary** or **Equivalent Scheme Actuary** who resigns or is removed, must ensure that the **Trustees** have been notified of:
- 2.6.1 the need to appoint a replacement within any prescribed timescales; and
 - 2.6.2 any deadlines relevant to responsibilities that might pass before a new actuary has had time to address them.
- 2.7 A **Scheme Actuary** or **Equivalent Scheme Actuary** must have appropriate arrangements to cover any period during which they are unable to fulfil their duties, taking account of the anticipated length of such a period. Depending on the circumstances, it might be appropriate or necessary to resign the appointment.
- 3. Speaking Up – Scheme Actuaries, Equivalent Scheme Actuaries and Other Actuarial Advisers**
- 3.1 A **Scheme Actuary, Equivalent Scheme Actuary** and/or (subject to paragraph 3.3 below) **Other Actuarial Adviser** should notify:

- 3.1.1 the **Trustees**, or another relevant party involved in the running of a **Scheme**, if they are aware that it is reasonably likely that a party's actions could adversely affect the security of members' benefits and/or financing of the **Scheme**; or
- 3.1.2 the **Trustees**, if they consider that the **Trustees** should be seeking advice or further advice, either from the **Scheme Actuary**, **Equivalent Scheme Actuary** or from another adviser.
- 3.2 A **Scheme Actuary**, **Equivalent Scheme Actuary** and/or (subject to paragraph 3.3 below) **Other Actuarial Adviser** who has material concerns that the **Trustees** are not properly fulfilling their duties and responsibilities should share their concerns with the **Trustees** and take appropriate action.
- 3.3 Paragraphs 3.1 and 3.2 above do not apply to **Other Actuarial Advisers** where they have reasonable cause to believe that a **Scheme Actuary** or **Equivalent Scheme Actuary** is fulfilling these requirements.
- 4. Conflicts of Interest – Scheme Actuaries, Equivalent Scheme Actuaries and Other Actuarial Advisers**
- 4.1 This section applies to **Scheme Actuaries**, **Equivalent Scheme Actuaries** and **Other Actuarial Advisers**, as provided for in the individual paragraphs below.
- 4.2 Where the **Scheme Actuary** or **Equivalent Scheme Actuary** for a **Scheme** is aware, to the best of their reasonably held knowledge, that another person is undertaking work on behalf of their **Firm** for the **Employer** to that **Scheme**, they must notify the **Trustees** of this fact and of the potential for conflict(s) of interest to arise as a result.
- 4.3 A **Scheme Actuary**, **Equivalent Scheme Actuary** or **Other Actuarial Adviser** should presume that the provision or review by them of **Advice** to the **Employer** of a **Scheme** (for which they are acting for the Trustees), in relation to the funding of that **Scheme** or to any matter which has a direct bearing on the benefits payable under that **Scheme**, would give rise to an irreconcilable conflict of interest.
- 4.4 In considering whether, exceptionally, it is appropriate to depart from the presumption set out in paragraph 4.3, the **Scheme Actuary**, **Equivalent Scheme Actuary** or **Other Actuarial Adviser** should have regard to all of the relevant circumstances, including, as applicable:
- 4.4.1 the public interest, including the public interest in safeguarding the interests of **Scheme** members;

- 4.4.2 the extent of the **Trustees'** independence and expertise;
- 4.4.3 relevant legislation;
- 4.4.4 where the **Scheme** rules require the provision of such **Advice** by the **Scheme Actuary, Equivalent Scheme Actuary** or **Other Actuarial Adviser** to the **Employer**, whether it is reasonably possible and appropriate to amend the **Scheme** rules;
- 4.4.5 for an **Other Actuarial Adviser**, the type of work they have been involved with on behalf of the **Trustees**;
- 4.4.6 whether it is appropriate to resign one or more appointment(s), rather than depart from the presumption.
- 4.5 Where the work to which paragraph 4.2 refers constitutes **Advice** in relation to the **Scheme** in question, the **Scheme Actuary** to that **Scheme**, or **Equivalent Scheme Actuary**, must ensure that a **Conflict Management Plan** is agreed with the **Trustees** and **Employer** for whom the work is undertaken to be revised at appropriate intervals:
- 4.5.1 The plan must set out any limitations on the extent of any **Advice** which may be provided to the **Employer** and who may provide that advice;
- 4.5.2 The plan must provide for the waiver of any duty of confidentiality which would otherwise be owed to the **Employer**, to the extent necessary to safeguard the interests of the **Trustees**;
- 4.5.3 The plan must provide for the **Trustees** to have the option to continue with the appointment of the **Scheme Actuary**, or **Equivalent Scheme Actuary**, if it becomes inappropriate for them to continue to provide **Advice** to both the **Trustees** and the **Employer**;
- 4.5.4 The **Scheme Actuary**, or **Equivalent Scheme Actuary**, must be reasonably satisfied that the **Trustees**, in agreeing to the plan, are appropriately informed as to its implications.
- 5. Conflict Management Plan - Employer Adviser**
- 5.1 Where a **Conflict Management Plan** is agreed at paragraph 4.5 and imposes any requirements on an **Employer Adviser**, then the **Employer Adviser** must comply with those requirements.

5.2 Where a **Scheme** does not have a current **Conflict Management Plan**, but the **Employer** to that **Scheme** wishes to take **Advice** from a **Member** who is from the same **Firm** as that of the **Scheme Actuary** or **Equivalent Scheme Actuary**, then the **Employer Adviser** must first ensure that the **Scheme Actuary** or **Equivalent Scheme Actuary** has the opportunity to put a **Conflict Management Plan** in place.

6. Interpretation and application

6.1 A failure to comply with this **APS** may result in a finding of misconduct in terms of the **IFoA's Disciplinary and Capacity for Membership Scheme**.

6.2 This **APS** uses the word "must" to mean a specific mandatory requirement. It uses the word "should" to indicate that, while the presumption is that **Members** will comply with the provision in question, there may be some circumstances in which **Members** are able to justify non-compliance.

6.3 In the event of any inconsistency between this **APS** and the **Actuaries' Code**, the **Actuaries' Code** prevails.

7. Definitions

Term

Actuaries' Code

Definition

The ethical professional code for Members issued by the Institute and Faculty of Actuaries.

APS

Actuarial Profession Standard.

Advice

Information or recommendation provided by a Member to a user, which includes a material element of judgement or analysis, upon which that user is entitled to rely.

Conflict Management Plan

A written plan that is agreed between the Trustees, Employer and Scheme Actuary or Equivalent Scheme Actuary, which describes all known conflicts of interest and sets out how they are to be addressed.

Employer

Any entity which participates in a pension scheme or is associated with such an entity.

Employer Adviser

A Member of the IFoA who is providing actuarial Advice to the Employer of a Relevant Scheme, or a Scheme which has an Equivalent Scheme

	<p>Actuary, and is doing so on behalf of the same Firm as the Scheme Actuary or Equivalent Scheme Actuary.</p>
Equivalent Scheme Actuary	<p>A Member who is carrying out a role similar to that of a Scheme Actuary appointed under the UK Pensions Act 1995 (but for a Scheme that is not a Relevant Scheme). Including a Member who is working for a governing body other than Trustees or is working for a decision-making body in relation to a public sector or public service pension scheme.</p>
Firm	<p>A sole practitioner, partnership, limited liability partnership or other corporate entity engaged in the provision of actuarial services. It includes related or connected entities which are:</p> <ul style="list-style-type: none"> (i) controlled by the Firm; or (ii) under common control, ownership or management; or (iii) part of a larger structure that is clearly aimed at profit or cost sharing.
IFoA's Disciplinary and Capacity for Membership Scheme	<p>The currently in force Disciplinary and Capacity for Membership Schemes of the Institute and Faculty of Actuaries, as may be amended from time to time.</p>
Member	<p>Member of any category of the Institute and Faculty of Actuaries, including Students, Affiliates, Associates and Fellows, in any location.</p>
Other Actuarial Adviser	<p>A Member who provides Advice to the Trustees of a Scheme, but is not a Scheme Actuary or Equivalent Scheme Actuary. This would include a Member who provides Advice to the Trustees on behalf of a different Firm from that of the Scheme Actuary or Equivalent Scheme Actuary or as an in-house pensions actuary.</p>
Practising Certificate	<p>Practising certificate issued by the Institute and Faculty of Actuaries to act as a Scheme Actuary to pension schemes.</p>

Regulator	The Pensions Regulator as defined in Section 1 of the Pensions Act 2004.
Relevant Scheme	A pension scheme in relation to which a Scheme Actuary is, or requires to be, appointed.
Scheme	A pension scheme of any sort.
Scheme Actuary	An actuary appointed to advise the Trustees of a defined benefit pension scheme in accordance with section 47(1)(b) of the Pensions Act 1995.
Section 70	Section 70 of the Pensions Act 2004.
Trustees	The Trustees of a pension scheme, or, for pension schemes not established by a trust, the managers as defined in section 318(1) of the Pensions Act 2004 or other governing body of the scheme.

Appendix 1: Matters to be covered in written agreement with Trustees (References below to a **Scheme Actuary** should be taken to apply similarly to an **Equivalent Scheme Actuary**, except where they have no relevance.)

1. Liaison with other advisers

1.1 The agreement with the **Trustees** should allow the **Scheme Actuary**:

1.1.1 to liaise with other advisers to the **Trustees** in relation to matters which might be relevant either to the **Scheme Actuary's** statutory responsibilities or to other legislative or regulatory responsibilities which are placed on the other advisers in relation to the scheme;

1.1.2 to ask any existing actuary for information in accordance with paragraph 2.5 of this **APS**; and

1.1.3 in the event of their resignation or removal, to provide the new actuary with the information referred to in paragraph 2.5 of this **APS**.

2. Information to be provided by Trustees

2.1 The **Scheme Actuary** should obtain the **Trustees'** written agreement that the **Trustees** will advise the **Scheme Actuary** of specified events which could, in the **Scheme Actuary's** opinion, be of material significance to the financing or solvency of the scheme. Appropriate timescales for notifying events should be included and the list reviewed by the **Scheme Actuary** as frequently as they consider necessary or appropriate.

2.2 Paragraph 3 below illustrates the types of events which, if material, a **Scheme Actuary** would normally require the **Trustees** to notify them. However, a **Scheme Actuary** should consider:

2.2.1 whether all the categories listed are relevant to a particular scheme;

2.2.2 whether additional categories should be included; and

2.2.3 the actual events within each category which should be specified.

2.3 The **Scheme Actuary** should obtain the **Trustees'** written agreement that the **Trustees** will:

2.3.1 provide the **Scheme Actuary** with copies of any future reports to the **Regulator** under **Section 70** which are either made by, or sent to, the **Trustees**;

2.3.2 advise the **Scheme Actuary** if any communication which is relevant to the financing or solvency of the scheme is issued by the **Regulator** (or has been issued and is still relevant at the date of the **Scheme Actuary's** appointment) of which the **Trustees** are aware, including (but not limited to) the following:

- an order issued under section 231(2) of the Pensions Act 2004;
- a contribution notice under sections 38, 47 or 55 of the Pensions Act 2004;
- a financial support direction under section 43 of the Pensions Act 2004;
- a clearance statement under sections 42 or 46 of the Pensions Act 2004;
- a restoration order under section 52 of the Pensions Act 2004; or
- an approval notice in relation to an approved withdrawal arrangement under the Occupational Pension Schemes (Employer Debt) Regulations 2005;

2.3.3 allow the **Scheme Actuary** on request, access at all reasonable times to such information as may be required to carry out their duties, including:

2.3.3.1 the scheme's books, accounts and supporting documentation;

2.3.3.2 copies of the minutes of the **Trustees** and sub-committees of the **Trustees'** meetings;

2.3.3.3 copies of the **Trustees'** resolutions;

2.3.3.4 copies of any other documents recording decisions taken by the **Trustees** following actuarial advice from him/her or from a person advising the **Trustees**; and/or

2.3.3.5 copies of all scheme constitution documentation.

2.4 The **Scheme Actuary** does not need to require the **Trustees** to provide them immediately with the information referred to in paragraph 2.3.3 of this appendix. However, there may be occasions when the **Scheme Actuary** will need to insist that specific information of the types listed is provided (or access to such information is allowed) without delay in order to assist them in assessing whether a report needs to be made to the **Regulator** under **Section 70**.

3. Events which could affect the financing or solvency of a scheme (This list is not exhaustive)

3.1 Changes affecting the status of the scheme

For example:

- cessation of future accruals

- closure to new members
- a decision to wind up or otherwise discontinue the scheme
- a determination to defer winding up.

3.2 **Changes to (or legal opinions on the interpretation of) the trust deed and rules or the benefits provided under them**

For example, in relation to:

- the definition of pensionable pay
- contribution or benefit levels
- normal retirement date
- the degree of priority accorded to benefits in the event of the scheme winding up
- an exercise under which members may change the form of their benefits.

3.3 **Significant changes to the membership**

For example, in relation to:

- the general remuneration levels of scheme members
- the numbers of active members, deferred pensioners or pensioners
- an exercise which could involve many members taking transfer values from the scheme.

3.4 **Events in relation to participating employers**

For example:

- a change in the **Trustees'** view of the strength of a participating employer's covenant
- a relevant event (as defined in section 75(6A) of the Pensions Act 1995) in relation to a participating employer
- an employment-cessation event (as defined in Regulation 6ZA of SI 2005/678) in relation to a participating employer
- sales and purchases affecting the membership of the scheme.

3.5 **Events in relation to investment matters**

For example:

- a change in investment policy or investment management arrangements
- adverse investment performance relative to agreed objectives.

3.6 **The exercise of a discretionary power**

For example, the augmentation of a benefit, or the granting of a discretionary pension increase, where the cost is not met by additional contributions at the time on a basis agreed with the **Scheme Actuary**.

3.7 **Events connected with the Regulator**

For example:

- any event notified to the **Regulator** under section 69 of the Pensions Act 2004 by the **Trustees** (or any event of which the **Trustees** are aware has been notified to the **Regulator** under such section by a participating employer)
- an application for a refund of surplus to a participating employer.

3.8 **Events in relation to financing**

For example:

- non-payment of the employer's and/or employees' contributions stated in the most recent Schedule of Contributions
- a change of policy in relation to the payment of expenses
- a change in the arrangements for insuring death in service benefits or a change from insured to self-administered or vice versa
- a change to the scheme year for accounting purposes.

DRAFT

REGULATORY IMPACT ASSESSMENT

<p>Proposal:</p> <p>To replace Actuarial Profession Standard (APS) P1: Duties and Responsibilities of members undertaking work in relation to pension schemes (Version 2.0, effective 1 July 2013) with a new Version 3.0, implementing broadly the same substantial requirements with a proposed extension in scope.</p>	<p>Date:</p> <p>Monday 7 September 2020</p>
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The proposal is to replace the current APS P1 with a new version that has broadly the same requirements but with clearer, less prescriptive wording and a small extension in scope.

The current version of APS P1 is quite prescriptive and has some duplication. In undertaking the review of APS P1, the Committee sought to:

- review and clarify the scope of the APS;
- consider whether to re-order it and re-present the content in a more easily followed manner; and
- consider the extent to which the principles covered in the APS ought to apply to non-trustee advisers, in particular to corporate advisers.

After an extensive review, the Committee is proposing a more stream-lined and clearer standard for members operating in the pensions area, clarifying members' responsibilities. In addition there is a small proposed extension in scope to those advising the employer, and clarification that in-house advisers are also covered.

It is anticipated that the proposed new version of APS P1 will apply broadly the same requirements to those who currently fall within its scope, with some limited minor changes.

However, for those Members involved in work relating to pension schemes who are not currently within the scope of the APS (or do not believe they are within its scope), there may be more of an impact.

The expectations are that the revised version will require Members who did not think that their roles were previously covered, to carefully consider its provisions to determine whether they are now within its scope and, if so, put appropriate measures in place if needed in order to comply with the relevant requirements.

It is noted that the current APS P1 extended certain requirements beyond UK Scheme Actuaries. This included those Members assisting the Scheme Actuary in giving advice to trustees of a Scheme that has a Scheme Actuary, and those in a similar role to that of a UK Scheme Actuary (or to another actuary supporting the Scheme Actuary) in another defined benefit scheme. For example non-UK Pension Schemes and Local Government Pension Schemes. It does not apply to Actuaries advising any other parties other than Trustees (or analogous Scheme governing bodies).

The intention is that this new version is clearer about the extension of certain requirements so that while Members may not have understood they were within its scope already, this will now be clearer.

The revised APS also now extends its scope by imposing a requirement for newly defined 'Employer Advisers' to comply with the requirements of a Conflict Management Plan (CMP) and provides that they cannot accept an invitation to become an Employer Adviser without first ensuring that the Scheme Actuary has had the opportunity to put a CMP in place. This will cover Members who provide actuarial advice to the Employer of a pension scheme, on behalf of the same firm as the Scheme Actuary or Equivalent Scheme Actuary.

The revised APS introduces three new definitions of roles for Members: 'Equivalent Scheme Actuary', 'Other Actuarial Adviser' and 'Employer Adviser'. Other than as explained above, these new definitions cover roles that were intended to already be within the scope of the current APS P1 and it is hoped that these defined terms provide more clarity.