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# FEEDBACK STATEMENT ON CONSULTATION TO CHANGES TO TAS 400:

## Funeral Plan Trusts

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# FEEDBACK STATEMENT ON CONSULTATION TO CHANGES TO TAS 400: FUNERAL PLAN TRUSTS

## Consultation and Responses

On 17th February the FRC issued a consultation paper *Changes to Technical Actuarial Standard 400: Funeral Plan Trusts* and received a total of three responses to the consultation. The purpose of the consultation was to seek input on the content of the Exposure Draft. We thank those who took the time and trouble to respond and list the respondents in Appendix 1 to this document.

The Exposure Draft proposed the addition of three paragraphs to TAS 400 to reflect the introduction of an Asset Adequacy Report required under the Funeral Planning Association Rules with effect from January 2020.

We received three responses to the Consultation of which two were broadly supportive of the changes with the third suggesting that no change be made to TAS 400.

The main issues raised in the responses were:

- There are increased risks during the transition period and it is important that actuaries receive guidance on how to address these risks
- There are limits on the ability of the actuary to provide professional opinions on the solvency of the Funeral Plan Trust
- There will be a need to reconsider the need for - and scope of – TAS 400 once the transition to FCA supervision is complete.

## Transition Period Risks

The view was expressed that *“there are now significant transition risks at least some of which will directly impact the work of actuaries.”*

The specific concern voiced was a commercial risk. At a date in the medium-term future, Funeral Plan Trusts will need to apply for authorisation from the FCA. There is a risk that some Trust providers may fail to obtain such authorisation or may choose not to apply and in the transition period may seek to extract surplus funds from the Trust.

This may represent a risk to the interests of the Trust members but also a reputational risk to the actuarial profession.

The inclusion of the new paragraphs in TAS 400 to reflect the actuary’s role in supporting the Asset Adequacy Report - when the actuary is asked to participate in production or oversight of this report – help to mitigate this risk in respect of Trusts which belong to the Funeral Planning Authority.

The point was made that by one respondent that they *“believe that guidance should be provided to actuaries involved in these field. This could help support them in resisting requests to remove surpluses from trusts in any transition period without taking full account of future risks including non-authorisation of the provider by the FCA or the provider choosing not to seek authorisation.”*

While we understand the importance of this commercial risk, we feel that the issues are ethical in nature and therefore belong elsewhere than in the TASs. We will liaise with the Institute and Faculty of Actuaries to determine the nature and level of support to be given to actuaries working in this area.

### **Limits on the Actuarial Skill Sets**

Respondents were concerned that actuaries should not be expected to provide opinions on matters that go beyond actuarial training and skill sets.

As an example, when providing an opinion on the suitability of a deficit repair plan the actuary should be able to consider the suitability of the actuarial assumptions (e.g. mortality) and the duration of the plan but would have to rely on the opinions of third party experts for matters such as the covenant of the Trust provider.

### **Future Development of TAS 400**

There were mixed views on whether we should make the proposed changes to TAS 400 now or whether we should defer making any changes until authorisation has transferred to the FCA and specifics of the new regime are known.

Two of the three respondents felt either that it was important to change Tas 400 to refer to the Asset Adequacy Report or that guidance is needed. One respondent felt that it would be better to wait.

For reasons given above we are concerned about the increased transition period risks and therefore feel that taking no action at this time is not acceptable.

The changes to TAS 400 have been kept to a minimum. When the FCA become responsible for authorisation and supervision of Funeral Plan Trusts we will need to look much more fundamentally at what need there is for a specific Funeral Plans TAS and – if there is such a need – what provisions it should contain.

### **Next Steps**

We are grateful to the respondents for their helpful comments and we are publishing the revised TAS 400 with the minor wording changes indicated in section 14 below to reflect the substance of those comments, to take effect for projects started on or after 1 December 2020.

## Responses to the Consultation

The questions in the consultation paper are repeated below together with a summary of the points made in the responses.

**1. We have not proposed any changes to TAS 400 to reflect the risk of providers not transferring to FCA authorisation as we consider it the realm of management and not actuarial in nature. Do you agree or do you think that we should be making changes to TAS 400 to address this risk? If so, please specify what insertions you think we need to make.**

- 1.1. Two of the respondents agreed without further comment.
- 1.2. The third respondent also agreed but added that they “*do believe that guidance should be provided to actuaries involved in these field. This could help support them in resisting requests to remove surpluses from trusts in any transition period without taking full account of future risks including non-authorisation of the provider by the FCA or the provider choosing not to seek authorisation.*”
- 1.3. We recognise the risk to the public interest but feel that the issue is an ethical one rather than a technical one. As such we do not propose to reflect this risk within the revised TAS 400.

**2. Do we need to amend TAS400 for any risks other than for the Asset Adequacy Report? If you feel that changes are required, please indicate what changes we should make to TAS400.**

- 2.1. All respondents agreed that there is no need to amend TAS 400 at this time for any risks other than for the Asset Adequacy Report.

**3. Do you think that we need to make changes to TAS400 to reflect the Asset Adequacy Report or is the current version of TAS100 sufficient without requiring changes to TAS400?**

- 3.1. Two of the respondents agreed that TAS 400 should reflect the Asset Adequacy Report (AAR). One of them commented that “*we believe that TAS400 would be incomplete without reference to the AAR.*”
- 3.2. One respondent observed that “*faith community funeral expenses schemes may not always have hypothecated assets*”. The implication of this observation is that it may not always be possible for the actuary to provide or comment on an AAR. We understand this and agree and that is why the proposed new paragraph 12 in the Exposure Draft begins “**When** an actuary participates ...”. This wording is deliberately intended to show that there is no obligation on the actuary to conduct the AAR and that TAS 400 covers only the situation where they have been requested – and agreed – to participate.
- 3.3. One respondent commented that it was not the intention of the Asset Adequacy Report to “*to create additional actuarial work but rather for it to be an exercise for the provider to demonstrate their understanding of how matters would unfold on a provider failure.*”

- 3.4. We recognise that the intention may not have been in an actuarial direction. However, the concept of asset adequacy (i.e. whether assets are sufficient to pay for liabilities) is actuarial in nature and we also note that the other respondents agree that it is important to include reference to actuarial responsibilities within TAS 400.
- 3.5. Given our comments in paragraph 2.4 we intend to leave paragraph 12 unchanged from the Exposure Draft.

**4. Should the actuary be expected to comment on whether the deficit is “material” or is it reasonable for the actuary to rely on the view of the trustees in this regard?**

- 4.1. All three respondents agreed that the actuary should not be expected to comment on whether a deficit is “material”.
- 4.2. Two of the respondents felt that such an opinion would require skills and experience that goes beyond what should be expected of an actuary.
- 4.3. The third respondent felt that it is inappropriate in principle for the actuary to comment as the AAR *“is not the actuary’s report”*.
- 4.4. Therefore, we do not intend to change the proposed wording in the Exposure Draft as we agree that the actuary should not be required to decide what constitutes a “material” deficit.

**5. Do you agree that it is important for the FPT to be made aware of those items where the actuary has relied on the opinions of others?**

- 5.1. All three respondents agreed. One respondent noted that this is consistent with the requirements of TAS 100.

**6 Should the actuary have to comment on the reasonableness and supporting evidence for the third-party opinions relied upon to provide their actuarial opinion?**

- 6.1. There were mixed responses to this question.
- 6.2. One respondent felt that it was right to expect the actuary to conduct due diligence to ensure that the third party relied upon has experience and was competent to provide the estimate. They commented, however, that the actuary is unlikely to have sufficient expertise to judge the reasonableness of the actual estimate provided.
- 6.3. A second respondent expressed concern that the actuary should not provide an opinion *“on issues outside their field of expertise, but we suggest that in some cases the actuary’s comment would be helpful. For example, the actuary could make a statement on the covenant assessment carried out.”* In fact, for actuaries involved with the valuation of Funeral Plan Trusts, covenant might well lay outside the actuary’s area of competence. This respondent also suggested that we widen the scope of the statement to begin *“Where the actuary relies on **data provided by or the opinion of a third party**...”*
- 6.4. We accept these points and will therefore change the proposed paragraph 12 in the Exposure Draft to read

“13. Where the actuary relies on data provided by or the opinion of a third party for any aspect of the Asset Adequacy Report, communications shall state the actions taken by the actuary to satisfy themselves of the experience and competence of the third-party to provide such an estimate or data.”

6.5. In the above paragraph the underlined emphasis has been added solely to indicate where there are changes from the original version.

**7 Given the anticipated, but not guaranteed, timescale before all Funeral Plan Trusts come under FCA authorisation and regulation, do you agree that we should make changes to TAS400 this year rather than waiting for the FCA regime to become effective?**

7.1. Responses were mixed.

7.2. One respondent agreed that it is needed to amend TAS 400 now although they made the comment that once the FCA regime is known in greater detail it may be necessary to consider further changes to TAS 400.

7.3. A second respondent also noted the uncertainty in the future FCA regime and therefore preferred to wait until that regime is well defined before making any changes.

7.4. The third respondent considered that there was a greater need for guidance to actuaries rather than an amendment at this stage of TAS 400.

7.5. We have considered these responses but remain committed to the proposed changes to TAS 400 for the following reasons.

7.5.1. This amendment to TAS 400 is a minor change. When the FCA become responsible for authorisation and supervision of Funeral Plan Trusts we will need to look much more fundamentally at what need there is for a specific Funeral Plans TAS and – if there is such a need – what provisions it should contain.

7.5.2. In the meantime, the FPA have amended their Rules and TAS 400 should reflect the important considerations that actuaries are expected to make.

7.5.3. In the transition period there are risks as enumerated in the Consultation document. In our view these represent a risk to the public interest and if no action is taken on TAS 400 we are concerned that there is a reputational risk both to the actuarial profession and to the FRC. In amending TAS 400 we are highlighting the actuarial nature of the Asset Adequacy Report and providing direction to actuaries who are asked to participate in the production.

**8. Do you agree with the proposed wording to be inserted into TAS400 as paragraphs 12, 13 and 14?**

8.2. One respondent agreed with the wording.

8.3. A second respondent agreed with the wording apart from a concern as to whether the actuary would be qualified to pass an opinion on the Third-Party estimate (as mentioned above). They also expressed a concern that *“there will be some limitations to the actuary’s ability to comment on the suitability of the plan for removing the deficit ... whilst the actuary will be able to comment on the reasonableness of the actuarial assumptions made and the term of the deficit repair plan, they will not be qualified to*

*assess the implications on the provider (such as the affordability and timescale at which the deficit is removed)."*

- 8.4. While we understand this concern, our view is that in principle this is similar to an actuarial role for a defined benefit pension scheme where the actuary produces a deficit repair plan for the trustees.
- 8.5. The third respondent did not agree in principle that the three paragraphs should be added to TAS 400. On balance for the reasons stated above we do not agree with this view.

### **9. Do you agree that the actuary should be required to comment on the suitability of a deficit repair plan?**

- 9.1. Two respondents agreed with the caveat of the actuary not being required to go beyond their competence. In particular, the concern was that the term "suitability" used without qualification could be taken to mean that the actuary is expected to pass judgement on matters relating to the affordability of the plan and the solvency of the plan provider. This was not the intention and accordingly we have amended paragraph 14 to read.

"14 Where the **funeral plan trust** has a deficit for the purposes of the Asset Adequacy Report, **communications** shall comment on the suitability of the actuarial assumptions of the trustees' plan for eliminating the deficit over an appropriate time period and state that period and whether the duration of the payments is suitable for the duration of the liabilities."

### **10. Should the actuary be required to provide an analysis of the difference in costs between calculations based on the AAR assumptions and those used for the ongoing valuation?**

- 10.1. Respondents were not in favour of introducing a requirement for the actuary to analyse the difference in cost between the AAR and the ongoing valuation.
- 10.2. One respondent commented that the situation is similar to solvency and ongoing valuations of defined benefit pension schemes. A second respondent mentioned that the wholesale funeral costs are likely to have been provided by a third party and therefore it is not reasonable to expect the actuary to analyse the differences in cost. They did suggest that it might be more reasonable to expect the actuary to calculate the ratio of AAR solvency to ongoing solvency and to comment on this ratio.
- 10.3. We accept the above arguments. In the Exposure Draft we did not propose to include such a requirement and the responses confirm that we should not add one in.

### **11. Do you agree with our timescales for implementation?**

- 11.1. No respondents objected to the timescale for implementation although one commented that they would have preferred to wait for the new FCA regime to be in place. For reasons given above we do not feel that we can wait for the new regime before making this (admittedly interim) change to TAS 400.

**12. Do you agree with our impact assessment? Please give reasons for your response.**

12.1. Two responses confirmed that they believed the assessment to be reasonable. The third expressed an inability to comment.

**13. Do you have any other comments on our proposals?**

13.1. One respondent commented that *“there are now significant transition risks at least some of which will directly impact the work of actuaries. We are particularly concerned about surplus withdrawals in the transition period before any FCA authorisation. Such authorisation will not be guaranteed, either because the FCA refuses it or the provider chooses to not seek it. If there is no authorisation the trust will potentially have to be wound up and any recent surplus withdrawal (with the support of the actuary) could reflect badly on amongst others, the actuary. We think the IFoA / FRC should issue appropriate guidance / warnings around such risks and to encourage the actuary to consider the wider picture in this transition period.”*

13.2. While we recognise this danger to the public interest and to the reputation of actuaries, we agree with the assessment that such guidance should be framed outside the content of TAS 400. For the actuary, the issue is really an ethical consideration rather than a technical one.

13.3. We will liaise with the Institute and Faculty of Actuaries to determine the nature and level of support to be given to actuaries working in this area.

## **14 Summary of Changes**

We have amended the proposed new paragraphs in TAS 400 to read as follows (text underlined is amended from the original proposal in the Exposure Draft):

### **“Asset Adequacy Report**

12. When an actuary participates in the production of the Asset Adequacy Report, that report shall be consistent with the requirements of paragraph 5.7.6 and Appendix 2 of the Rules of the Funeral Planning Authority effective from 1st January 2020 and shall state the assumptions that the actuary has made for this purpose. The actuary shall also state how the key assumptions used for the AAR have been varied from those used in the ongoing trust valuation.
13. Where the actuary relies on data provided by or the opinion of a third party for any aspect of the Asset Adequacy Report, communications shall state the actions taken by the actuary to satisfy themselves of the experience and competence of the third-party to provide such an estimate or data.
14. Where the **funeral plan trust** has a deficit for the purposes of the Asset Adequacy Report, **communications** shall comment on the suitability of the actuarial assumptions of the trustees’ plan for eliminating the deficit over an appropriate time period and state that period and whether the duration of the payments is suitable for the duration of the liabilities.”

## APPENDIX 1 – LIST OF RESPONDENTS

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Institute and Faculty of Actuaries

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