



THE LAW SOCIETY
of SCOTLAND
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**Department for Work and Pensions
Exposure Draft: Pensions**

The Law Society of Scotland's Response

May 2010

INTRODUCTION

The Pensions Law Sub-Committee ('the Committee') of the Law Society of Scotland welcomes the opportunity to comment on the Exposure Draft: Pensions Consultation. The Committee has the following comments to make.

'Actuarial Work'

The Committee questions what is meant by 'actuarial work' in the context of a scheme wind-up. While the BAS intends a fairly narrow definition, it might be interpreted as any work undertaken by an actuary that relates to the wind-up. This could include a lot of general consultancy advice that is not particularly actuarial in nature.

Section 2.19

Section 2.19 covers cases where there is one actuary advising the trustees and another advising the sponsor in scheme funding negotiations. The Committee is concerned that if both sets of work are covered by the TAS there could be a lot of duplication of work, as both advisers have to cover all of the disclosure requirements.

The report suggests that the sponsor could instruct their adviser not to cover the offending part of the TAS requirements. This solution is unsatisfactory, as it would be difficult for the sponsor to know what he or she should instruct the actuary to leave out. Furthermore, the Committee questions what would be the status of that instruction if the actuary had first to advise the employer of what they should leave out.

Comments on Exposure Draft of Pensions TAS

D 2.1 – General Considerations

In FRS 17, work directors are responsible for the assumptions used and in Part 3 funding valuations, the responsibility falls to the Trustees for these types of work, irrespective of what the actuary proposes, these parties could take a completely different view. The actuary has no control over the choice and may have to provide a report with assumptions he or she believes to be 'inappropriate.'

Assumptions for section 143 and section 179 valuations are set by the PPF and so D2.1 and D2.3 are irrelevant for the actuary preparing valuations. D2.6 acknowledges that some assumptions may be set by regulations (or some other legal documents) but does not say in what way such assumptions should be dealt with in the context of D2.1 and 2.3.

D2.1 states that only appropriate assumptions can be used and D2.7 requires that any materially inappropriate assumption must be commented on; If D2.1 is to stand without amendment (see above comments) this requirement in D2.7 seems unnecessary.

D 2.12-2.23 Discount Rates, Mortality and Discretionary Practices

Most of the content of these section are irrelevant for section 143 and section 179 valuations and for illustrations of the buy out/solvency position.

D 2.15 - Cash Flows

In the Actuarial Profession webinar regarding TAS R, it was stated by BAS that a narrative description of cash flows might be adequate. It would be helpful to have this stated within the TAS P.

E 3.3 – Aggregate Reports and Funding Methods

This section seems unnecessary. There is no point in including descriptions of various irrelevant funding methods. The Committee suggests that the emphasis in E5.6, ‘a description of the actuarial methods and measures used’, has a better emphasis.

E 4.2 – Aggregate Reports and Estimates of Liabilities

This section requires actuaries to supply neutral estimates. It is difficult to say what a neutral assumption is with respect to cash commutation and withdrawal rates. The section does not say that the actuary has to make individual neutral assumptions, but it is difficult to see how else the actuary would arrive at a neutral estimate of the liabilities.

E 5.2 – Scheme Funding Report

The Committee notes that a report could comply with this section by using a projection only 1 day beyond the effective date. It would be better to give an appropriate range, for example: “...no earlier than one year and no later than three years after the effective date.”

E 5.8 – Scheme Funding Report Cash Flows

This section states that a Scheme Funding Report will need to include ‘projected cash flows for different categories of the membership’. It is not clear why cash flows for different categories of membership are useful.



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