

FROM THE CHAIRMAN OF THE DISCIPLINARY BOARD

Mr Paul Seymour, FIA
Chairman, Board for Actuarial Standards
Financial Reporting Council
5th Floor Aldwych House
71-91 Aldwych
London WC2B 4HN

21 June 2007

Dear Mr Seymour

Preliminary consultation paper towards a conceptual framework

This letter conveys the comments of the Disciplinary Board of the Actuarial Profession on the consultation paper.

I should perhaps begin by explaining that the Board is the independent body appointed under the Profession's professional disciplinary schemes to oversee the governance and management of the schemes. The schemes are concerned with allegations of professional misconduct by actuaries; the definition of misconduct is as follows (my underlining):

"For the purposes of this Scheme, Misconduct means:

- (a) any breach of the Bye-laws of the Institute; and/or
- (b) any conduct,

by a Member, whether committed in the United Kingdom or elsewhere, in the course of carrying out professional duties or otherwise constituting failure by that Member to comply with the standards of behaviour, integrity, competence or professional judgement which other Members or the public might reasonably expect of a Member having regard to any advice, guidance, memorandum or statement on professional conduct, practice or duties which may be given and published by the Institute and/or, for so long as there is a relevant Memorandum of Understanding in force, by the Board for Actuarial Standards and to all other relevant circumstances."

As you will see from the definition, the mechanism of enforcement of BAS standards, in relation to the individual actuary is, at the highest level, the Memorandum of Understanding referred to in paragraph 1.6 of the consultation paper, but on a day to day basis it is achieved through the disciplinary schemes of the Faculty and Institute applying the definition of misconduct in an effective manner.

This is because the Profession's disciplinary jurisdiction is limited to individual Members.

Faculty of Actuaries
Maclaurin House
18 Dublin Street
Edinburgh EH1 3PP
Tel: +44 (0)131 240 1300
Fax: +44 (0)131 240 1313
e-mail: faculty@actuaries.org.uk
www.actuaries.org.uk

Institute of Actuaries
Staple Inn Hall
High Holborn
London WC1V 7QJ
Tel: +44 (0)20 7632 2100
Fax: +44 (0)20 7632 2111
e-mail: institute@actuaries.org.uk
www.actuaries.org.uk

Institute of Actuaries
Napier House
4 Worcester Street
Oxford OX1 2AW
Tel: +44 (0)1865 268200
Fax: +44 (0)1865 268211
e-mail: institute@actuaries.org.uk
www.actuaries.org.uk

Unlike the accountancy profession, it cannot take action against both firms and individuals. Actuarial standards therefore need to bite on the individual actuary if there is to be individual liability and accountability. Although standards have a role that is not limited to enforcement, as matters stand, ultimately the test of a BAS standard is how an actuary, his client or other member of the public, and - if it came to it a professional disciplinary tribunal – can assess whether it has been met by that individual. This must inevitably impact on the way in which the standards are drafted.

Your paper very properly stresses the advantages of having standards that embrace not just individual actuaries but the firm which employs them. Your review might usefully consider how this might be achieved through powers which the Actuarial Profession currently lacks. Other bodies may through the use of their powers be able to fill the gap.

Thus, if the BAS were able to secure agreement of other regulators, like the Pensions Regulator and the FSA, then it might be possible to enhance the enforcement mechanisms in various ways. It would indeed be useful to be able to make employers, who benefit from having actuaries in their staff, more responsible for making the standards, and indeed the professional disciplinary mechanisms, work in practice. That, however, would equally have an impact on the way in which the standards are drafted. If you do decide to pursue this line of inquiry we would be happy to assist you.

Finally, may I take this opportunity to inform you that the Disciplinary Board is currently undertaking a review of the Profession's disciplinary schemes. If there are any comments that the BAS would like to make in relation to that review, for example in relation to the enforcement of the BAS standards, we should be pleased to receive them. We are also in contact with the Professional Oversight Board about the review.

Yours sincerely

A handwritten signature in black ink, appearing to read 'John Hayes', with a long horizontal flourish underneath.

**John Hayes,
Chairman,
The Actuarial Profession's Disciplinary Board**