TAS 100 TJL comments

I am pleased to offer my thoughts on the draft TAS 100 issued on 18 November 2014

Key Introductory Points

You will see from what follows below that I am very positive about what has been produced and I would hate the thought that IFoA or others put pressure on you to go back to some earlier iterations of this standard!

You will also see that this is a note which lists 17 items to think about. Not all, by any means, are about suggested changes to the TAS. For example, some are about the need to gain better buy-in, some are about future direction of travel etc. It may be that with more time, I would cut out some of the points. I don't think any of the points should be seen as critical (contrary to where I was last summer so thank you for taking on board my comments) but I do think there is quite a bit of tidying up to eliminate lacunas, create clarity etc.

Perhaps my most important item is number 10 where I suggest that there is an implicit, but perhaps incorrect, assumption as to the style of work which falls outside reserved roles which is basically what TAS 100 is targeted at. As I state in what follows, reserved role work tends to result in a single number to each question with scenarios given to show ranges. But outside reserved role, there is much wider variety. I have often found myself giving three or four different numbers to meet different options presented and I found it impossible to pick and choose because the right answer depended on non-actuarial matters (eg a political view on social policy). The TAS does not really seem to allow for such wider variety of presentations without being extremely clumsy.

In addition, I think another important item in the paper is number 7 based on anecdotal feedback I have heard. I think too many actuaries have got the wrong end of the stick on what TAS 100 is all about and much more "selling of the benefits" by FRC and IFoA would not go amiss.

There are some comments which I have left open for you to discuss further and you should treat this as applying to anything I have said and not just where indicated. If you disagree with anything or don't understand I'd like to know please. It could be that I have not properly explained or it could be that I am mistaken or it could be that we agree to disagree. But it would be good to check this out for all of our benefits.

In conclusion, well done. My points are about better implementation rather than changing direction and I hope you find them helpful.

Overview

I am very pleased with what has been produced:

1. It is a TAS which covers all "actuarial work" performed by an actuary and does not restrict itself to reserved work
2. It seeks to keep to high level principles with a few rule type provisions – albeit with everything subject to materiality as required
3. It has defined actuarial work consistent with the way I have been suggesting – through the test of whether the user can reasonably take the work as actuarial
4. Just about all of my previous comments (if not all) have been taken on board fully or to some material extent.

So that's the good news and everything that follows should be seen in the context of these big messages.

Having said that, I think a significant amount of work remains to get the wording to deliver to what I think is intended. This is not necessarily just wording changes here or there but links to some more important concepts. So I set out below those concepts which I believe need some thinking about and, if agreed, consequential changes can be considered. Even so, I believe any resulting changes now would be all minor compared to the big points referred to above which I am very positive about.

Concepts

I set out below 17 items which I suggest need some thinking through before the TAS is finalised. They are about removing illogicalities, filling in gaps, thinking through effect of counter-factuals, consideration of how things are presented – in summary about helping to make the TAS deliver. The 17 items now follow – not in any particular order:

1. The TAS and explanatory papers should reflect the reality of what is going on in the profession and the future direction of travel. The TAS assumes that actuaries are expanding into wider fields but there does seem to be a serious lack of robust evidence one way or another on whether this is true (indeed there are anecdotes of a contraction rather than expansion) – so I suggest you should adjust TAS 100 accordingly to keep a more open position. That said, I think TAS 100 is well-positioned for the future whatever it holds (subject to the other concepts below) but the specialist TASs might be more impacted if they are to remain fit for purpose.

2. The principles as stated are not outcome-based but are actually output-based linked to a reliability output. This does not matter in terms of the wording of the TAS but it is always worth bearing in mind because it can lead to wrong conclusions and inefficiencies when it comes to addressing the points raised by me and others. You will see what I mean when it comes to the black and whiteness of the materiality test as I describe below. It's worth noting, despite my comment on the principles, that the overall standard itself can be argued to be outcome-based because of the materiality provision which links to actual results.

3. The new definition of "actuarial work" adds in a second leg around user perception; this is important and does create a working definition - but it now begs the question of the purpose of the first, more technical, leg to the definition. The only conclusion I can reach is that the first leg is now for other regulators in case they wish to use the TAS for non-actuaries since the work performed by actuaries is fully covered in the second leg of the definition. However, the first leg of the definition does not work on that basis through an analysis of counter-factuals – eg climate change models, banking models, share valuation models etc. which all become actuarial work. More detail can be supplied on request. Consideration should be given to ways in which the TAS can remain as is for actuaries whilst attracting wider take-up amongst regulators and firms wishing to improve their own risk management. Simply calling relevant work "actuarial" is I suggest precisely the wrong way to achieve this. Very happy to offer some ideas on this if requested. An interesting analogy might be the work I'm doing on strategic risk. I'm getting fantastic support across the board (as was seen at my seminar on 19th January and the seriously big follow-ups) but I know I would have nothing if I labelled my ideas as "actuarial work"!

4. Appendix E does not work. It looks as if it was written before the second leg of the definition was introduced. It should have much more on how all-embracing the second leg is so that for actuaries, you really don't need the case by case analysis in the way presented. Indeed I believe the analysis in E3 to E5 is wrong – this is actuarial work if done by an actuary because of the reliance the user will

put on the result for reliability (ie the user will expect the actuary to ensure that the assumptions underpinning the calculation remain valid and this uses judgement). Instead, what I suggest might be helpful to have in addition is more about how materiality and proportionality would reduce the compliance burden, statements around Board papers written by an insurance actuary and attempted get-outs eg an actuary saying his/her report is an economic piece of work not actuarial.

5. The link to discipline. Somewhere I think you should state that there is not any hierarchy or differential status between TAS, guidance and all other documents. Each only links to professionalism through the sanction of discipline and the discipline regime does not accept hierarchy but only relevance of the document to the validity of any misconduct complaint.

6. The process FRC uses for issuing standards, guidance etc. I feel that there should be an extra criterion around delivering to the BIS five good regulation principles. If this is not stated I shall assume that you don't want to deliver as such and maybe this needs reporting to the SoS. If the criterion is stated it is part of a positive selling message to the membership (more on this in concept 7 below).

7. More should be done to sell the benefits to the membership. This is probably just as much about IFoA as FRC but I do think FRC could do more in how things are presented. The big fear of actuaries is that every new initiative adds to the regulatory burden and there is a track record to support this fear. So it is important to keep stressing this is about reducing the burden on the reserved work, putting common-sense risk management mechanisms in place for the wider work which all firms should be doing in any event and better protecting public interest. So it has the potential to be "win win" all round. Having a criterion around good regulation (6 above) is pretty important on this.

8. The materiality clause does not quite work. Let's do a counter-factual. Suppose an actuary has good reason to believe that the user will take the same decision whether they get a comprehensive communication or not. Principle 5 of TAS 100 can now be deleted and will allow the actuary to issue no communication on materiality grounds. I don't like this and believe it has risks to public interest. The solution is to convert the black and white absolutes into shades of gray by adding "sufficiently" before "comprehensive", "clear" etc. with a linkage to the outcome-based decision. Indeed there is a case to add "sufficiently" in a number of places to protect public interest. I don't think the counter-argument for not having this addition will stand up to scrutiny and I suggest the problem may be caused by a misunderstanding of "outcomes" – see 2 above. Happy to discuss.

9. The proportionality clause does not properly work. It needs a rider to link it to materiality so that you cannot reduce what you do on proportionality grounds if you know that the reduced work has the potential to lead to a materially different user decision.

10. The style of TAS100 needs to change to reflect the differing nature of wider fields work. The current TASs assume an end-point of a formal report with a certified statement/number or recommendation. Indeed this is what reserved roles are all about. Wider fields work can be much more facilitative and consultative with open reports offering more than one way to look at a problem. As such, the different scenarios presented may not be consistent and certainly shouldn't be consistent on assumptions. Although you can argue that materiality and proportionality can get you out of difficulties, this is clunky and I believe that, because TAS 100 is targeted more to wider fields than reserved roles, the TAS should accept this greater range of outputs and be worded accordingly. This could entail quite a bit of work but it would be worth it to avoid confusion in the minds of users.

Footnote on wider fields. My anecdotal information is that many people in wider field work are not doing any extra or different work than their colleagues they sit next to and there is no specific benefit of FIA compared to CFA or CA or MBA or PhD etc etc. So being an actuary in these roles is simply a statement of educational achievement rather than a statement of a professional service. I

don't think this changes TAS 100 per se because TAS 100 is simply all common sense "right things to do". But the wording needs to accept this fact of life to avoid raising unnecessary hackles.

11. Compliance statement. More should be said on when a "non-compliant" statement can be used. Personally, I cannot think of any example where it is reasonable to issue a statement of non-compliance given the materiality and proportionality clauses. Prove me wrong – please give me a realistic counter-factual example!

12. The risk process for the specialist TASs is good but care is needed. The comments in concept 1 on future strategy are relevant (eg if practising certificates become more dominant for the key core areas).

13. The views of a consulting firm's general counsel will be critical. It's worth trying to get an inside track independent of any firm's formal response. It's no good saying that the new standards will remove box ticking and focus back to judgement if the firm's lawyers say that judgement is too risky and box ticking must continue even more so.

14. Points on definitions. Please delete "and does not … desired outcome" from definition of "neutral"[1]. Happy to discuss. Second, I am not sure it is right that the definition of "users" is silent on whether beneficiaries are users. Given pension schemes (or insurers) with a million members (or policy holders), this is not an easy one to land on and I suggest some consultation on this specific aspect before issuing the TAS.

15. Are shortfalls in data acceptable? 5.9 suggests they are not acceptable yet in Appendix B, there seems to be some conflict between Principle 2, 2.2 and 2.4 and 2.5. This is an example of the point I am making in concept 10 above. For reserved role work, I have no issue with the structure and how things are set out. But beyond that (highly controlled) reserved work, it is very common to be told to use the data as provided and this forms part of the terms of engagement. So it does not quite fit into the proportionality get-out and instead the key is the link between what is provided and the clear limitations that have to be stated when presenting any report in this situation. I would probably quite like to add something about terms of engagement into the proportionality definition, add "sufficiently" before "reliable" in first line of Principle 2 and strengthen 2.5 a bit. Given that engagement terms for reserved role work would not permit such data restrictions, I can't immediately see any risks in this approach.

16. ISAP1 – there is a strong case for not declaring substantial consistency. Previously, I was against declaring substantial consistency on the grounds that the previous version of TAS 100 was not substantially consistent. I do not have this issue now. However, I was talking in September to the general counsel for AAA[2]. Their equivalent document or documents to TAS 100 are, like the UK, substantially consistent to ISAP1 in their private non-formal view. However, to publicly declare as such creates a legal risk for AAA. So they won't. I think the same would be true for FRC. If FRC declare substantial consistency and an aggrieved individual, acting on actuarial advice that is TAS100 compliant, is able to show that if the advice had been fully ISAP1 compliant, it would have been different, then FRC is at risk of being sued and having to pay out. If I were on the Board of FRC, I would not be happy with this unrewarded risk and say "don't declare".

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[1] Here's an example of why the words do not work. Suppose the desired outcome is 100. Suppose a neutral range is determined as 95 to 110. Then there is no adjustment needed to get to 100. If however the desired outcome is 90, then an adjustment is needed but the adjustment takes the answer out of being neutral. I cannot devise any situation where the words I propose deleting have any practical effect. If there is an effect intended, then the words need making clearer.

[2] American Academy of Actuaries who set the standards for actuaries in the USA. Interestingly, they are independent of the SOA/CAS so in one sense like the FRC although they would say they are better than FRC because the ultimate control is practitioners – a fair point if they can be sufficiently trusted.

17. The focus on judgement needs to be continually monitored and there should be a willingness to keep amending the TAS as the years go by. Judgement is shifting. In the world of big data, I would argue that judgement is simply an attempt to come up with the right answer that would be given with full data in a situation of less than full data. In saying this I am struck by what is happening in the medical field where, so I have been reliably informed, algorithms are, on the whole, outperforming GP judgement. As data gets more full, the real issue of judgement will be more about how full the data is and applying an algorithm rather than judging what assumption to use. Further, as I look back on much work I have performed over the years in the pensions field, a lot of reserved role work increasingly requires very little judgement because there is so much prescription on what to do. Indeed for reserved role work, most firms have a central technical team who give even more prescription on what to do. In such circumstances, it is tough to argue that the judgement of the appointed, signing, actuary is central. Funnily enough, it's the wider fields work where greater judgement is required and that is where actuaries are losing out to the competition. Might this be because actuaries have become so used to following the prescriptive rules that younger actuaries have not been faced with using real judgement and older ones have become lazy and have forgotten. That said, I have no problems with the TAS100 wording at present – I'm just flagging that I do not see it as sustainable over the medium and longer term.

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15th February 2015