

**Minutes of an extraordinary meeting of the Actuarial Council held on 2 May 2013 at Aldwych House, London WC2B 4NH**

**PRESENT**

Olivia Dickson                      Chair  
Keith Barton  
Martin Bradley  
Angela Darlington  
Ashok Gupta  
David Hindley  
Howard Jacobs  
Joanne Livingstone  
Oonagh McDonald  
Martin Miles

**Apologies**

Paul Johnson

**Observers**

Paolo Cadoni                      Prudential Regulation Authority (for item 1)  
Amit Kamal                        HM Treasury  
Sir Philip Mawer                 Institute and Faculty of Actuaries  
Nigel People                        The Pensions Regulator (up to item 1.19)

**In Attendance**

Anna Colban                        Codes & Standards Project Manager  
Faye Dyce                            Project Manager, Actuarial Policy Team  
Stephen Haddrill                 Chief Executive (up to item 2.10)  
Robert Inglis                       Project Director, Actuarial Policy Team  
John Instance                       Project Director, Actuarial Policy Team  
Paul Kennedy                       Director, Actuarial Policy  
Melanie McLaren                 Executive Director, Codes & Standards  
Natasha Regan                     Incoming Project Director, Actuarial Policy Team  
Julie Glass                            Committee Secretary

**1. REVIEW OF THE FRC'S ACTUARIAL AGENDA: PROPOSALS AND RECOMMENDATIONS**

- 1.1 The Council noted that this extraordinary meeting of the Council had been arranged to discuss the emerging conclusions from the review of the FRC's actuarial agenda, prior to the Steering Group meeting on 13 May 2013 and the FRC Board meeting on 21 May 2013.
- 1.2 The FRC had worked closely with the IFoA on the review of the FRC's actuarial agenda in response to the request from the FRC Board to test whether the framework for actuarial

regulation remains appropriate and to establish a medium-term agenda for actuarial regulation.

1.3 The Council noted that the overall conclusion of the review had been that the model provided for by Morris, although not perfect, was a sensible one and that no major problems had been identified which would justify redefining the boundaries and roles established by Morris. Ways in which the current arrangements could be improved had been identified, including:

- Monitoring and intelligence-gathering around actuarial work;
- Communication of the limitations of the FRC's role; and
- Working with other regulators.

1.4 The Council received a presentation on the emerging conclusions which took into account the discussion at a recent meeting of the Steering Group with a focus on areas where the Council's advice was sought. The discussion included the following reports, points and observations:

1.5 The preliminary conclusions and recommendations from the Steering Group covered five areas:

- A. Working with co-regulators;
- B. Options for monitoring;
- C. Standard-setting framework;
- D. Scope and structure of standards; and
- E. International.

#### **A. Working with co-regulators**

1.6 The Council noted the importance of co-regulatory working between the FRC, the Institute and Faculty of Actuaries (IFoA), the Financial Conduct Authority (FCA), the Prudential Regulation Authority (PRA), the Pensions Regulator (tPR), and Lloyd's. The findings which had been presented to the Steering Group were discussed:

- Weaknesses of current co-regulatory arrangements
  - Overlapping responsibilities/risk of gaps/confused accountability
  - FRC limited access to information and knowledge
- Improve sharing between IFoA and FRC
  - Data on roles with more granularity
  - Research projects
  - Actuarial methodologies – analysis of risks
- Strengthen FRC and IFoA relationships with tPR, FCA, PRA, Lloyd's
  - Agree approach with HM Treasury (HMT)
  - Align goals of regulation
  - Shared process for identifying and taking action on emerging risks
  - Monitoring

1.7 The Council discussed the recommendations from the FRC Executive, which were supported by the Steering Group, to agree a statement of the objectives of actuarial

regulation and to establish an Actuarial Regulation Committee (ARC) comprising representatives from the main regulators with an interest in actuarial regulation. An ARC could provide:

- A forum for input between regulators;
- Regular review of balance of public interest and standards;
- Regular review of emerging risks and mitigation;
- Facilitate sharing of monitoring evidence to support and input on actuarial standards;
- Input on operation of monitoring arrangements;
- Advice / sharing on research programmes; and
- Forum on international standards (with other stakeholders).

1.8 The Council considered the proposed co-regulatory architecture presented and the discussion included the following reports, points and observations:

- The other regulatory bodies would wish to consider in detail the extent to which deficiencies in the current framework had been demonstrated as well as the implications of the proposal to create an ARC, especially on resourcing.
- There was a potential public law issue if a regulator were to operate outside of its statutory objectives.
- It was suggested that another option would be to strengthen the role of the Scheme actuary.
- It was noted that the creation of an ARC was not intended to impinge on the scope or activities of other regulators, but to facilitate the mutual sharing of learnings from the actuarial monitoring currently carried out. This would provide a stronger evidence base for actuarial regulation going forward.
- The establishment of an ARC was intended to underpin and strengthen the role of the regulators, and thereby create a more efficient and effective regulatory architecture.
- An ARC would help the FRC decide whether there was a demonstrable need for a new technical standard to be developed by the FRC, and risk assessment would inform this decision.
- It was noted that the proposed Memorandum of Understanding (MOU) between the PRA and the FRC would cover information-sharing.
- There should be an ongoing and comprehensive review of the risk to the public interest of actuarial activities and this should be a joined-up and evidence-based view.
- There should be a forum to identify and articulate emerging risks relating to actuarial activities, and this could be achieved by creation of an ARC.
- There was an expectation from stakeholders (including actuaries whose activities are regulated and the wider public) that the respective regulators would work together within the existing complex structure, including on risk assessment; the creation of an ARC could be a pragmatic way to address this.

- One approach would be to seek to identify potential problems through monitoring and analysis, and to assess which part of the co-regulatory architecture would be responsible, thereby highlighting any gaps in the current structure.
- The lack of communication between financial services regulators had been one cause of the 2008 crisis, illustrating the need for regulators to establish constructive working relationships and good lines of communication; this could be facilitated by the creation of an ARC.
- Some concerns were expressed that the creation of an ARC would add unnecessary bureaucracy without achieving any significant improvement to the current arrangements under which regulator interaction, early warning analysis and horizon-scanning took place through the Actuarial Council and the Actuarial User Group, with regulators attending meetings as observers.
- It was agreed that common commitment and ownership from all regulators would be needed for an ARC to be successful.
- It was noted that the creation of an ARC would enable a higher level of collaboration between regulators than the bilateral arrangements currently in place. Regulators had worked together successfully at staff level on a number of projects, but there was a need for a more senior and permanent focus to this collaboration outside of project activity.

## **B. Options for monitoring**

1.9 The Council discussed the three possible options for additional monitoring in the event that gaps remain which had been considered by the Steering Group:

- Joint arrangements – statutory regulators share information with the IFoA and FRC through ARC.
- FRC actuarial inspection unit – this would operate under the FRC Conduct Committee, similar to the FRC audit quality review team (AQRT), but would duplicate monitoring activities by other regulators and be relatively expensive.
- Full monitoring by IFoA – this would be a widening of the current proposal for actuarial firms. Monitoring would be overseen by the FRC Conduct Committee and would have similar disadvantages to an FRC actuarial inspection unit.

1.10 The preliminary view of the Steering Group was that progressing with joint arrangements was the preferred option, emphasising that the IFoA was a full partner and would bring evidence from its developing firms monitoring function. Evidence from the FRC would include audit conduct evidence, and it would also be important to tap into insights from other regulators in respect of their actuarial monitoring activities.

1.11 It was suggested that a potential fourth option for monitoring would be by external review, i.e. contracted-out inspection carried out by a commercial third party, for firms where materiality was assessed as being above a pre-determined threshold.

1.12 The Council considered the options for monitoring presented and the discussion included the following reports, points and observations:

- It was suggested that the role of the actuary in insurance company audits could be strengthened.
- It was confirmed that the joint arrangements option did not propose that joint monitoring would be carried out, but that there would be information-sharing from the monitoring carried out by regulators.
- The external review option for monitoring would provide a second pair of eyes, but there could be a perceived (and actual) governance and ethical issue around the close relationships between regulators / the regulated and the limited number of third parties qualified to carry out external review.
- There was an analogy between how to handle the potentially cosy relationship between a Scheme Actuary and an external reviewer and the current discussions on auditor rotation and tendering.
- It was noted that inadequate monitoring arrangements had been highlighted by the 2007/08 financial crisis, and it was agreed that an evidence base needed to be available and visible to ascertain whether current monitoring arrangements were adequate.
- It was important for monitoring arrangements to be sufficiently flexible to identify emerging issues, including systemic risks.

### **C. Standard-setting framework**

1.13 The Council discussed a possible standards framework which would potentially add a second level (High Level Principles) below the Code and a fifth level (Guidance) below the TASs. It was intended that the development of this hierarchy would provide a principles base and technical underpinning for the framework.

1.14 The Council considered the proposed standards framework presented and the discussion included the following reports, points and observations:

- Additional guidance would be welcomed by some actuaries but it was acknowledged that the development of technical guidance must not undermine the principles-based regime.
- There should be clarity on responsibilities and rights under the framework, e.g. the IFoA would continue to develop ethical standards, but the FRC would continue to have a reserve power to set ethical standards as envisaged under Morris.
- High Level Principles would cover all actuarial work. It was noted that this approach would bring the framework into line with ISAP 1.
- Careful thought should be given to potential upheaval and higher costs involved in the introduction of additional levels in the standards framework, since actuaries were used to operating in accordance with the existing Code and TASs. Short versions and

checklists developed from the current TASs might be used more extensively going forward.

- It was suggested that an alternative would be to introduce the High Level Principles as a TAS rather than as a separate level in the framework. This could be progressed as part of the review of TASs which was scheduled for later this year. There was also an opportunity to rebrand the existing TASs and extend their application more widely.

1.15 The Council discussed two options for the standard-setting framework (tabled at the meeting) which were blends of elements of the options previously circulated (it was noted that neither of these options had yet been considered by the governing bodies of the IFoA or the FRC):

**Option 1A:** the respective roles of the FRC and the IFoA in relation to standard-setting agreed following the Morris Review would not be formally altered; the FRC would continue to lead on technical actuarial standards and the IFoA would lead on ethical standards but with flexibility. The arrangements for regulatory collaboration between the FRC and the IFoA would however be significantly strengthened through a number of measures, including an understanding that, by agreement, either party could include relevant ethical/technical material in the technical/ethical standards or guidance for which they are responsible. It was noted that the FRC would wish to maintain the right to issue its own ethical standards, subject to proper process and consultation.

**Option 1B:** the agreement between the FRC and the IFoA would be amended in order to give each party confidence in its role and functions, and preserve independence. The agreement would implement the recommendation by the Morris Review that the FRC should have a reserve power to set ethical standards if either it considers that the IFoA's ethical standards need to be supplemented or that there is a general need for it to issue ethical standards as an independent standard-setter in the public interest. Some procedural details could also be addressed separately from the main agreement.

1.16 The Council considered the two options for the standard-setting framework presented and the discussion included the following reports, points and observations:

- Option 1A provided for the FRC or the IFoA crossing the regulatory boundary between them by agreement, if this was felt to be in the public interest. It was hoped that this collaborative arrangement would assist the IFoA in maintaining a coherent system of ethical regulation (including for actuaries based overseas) and in regulating the ethical conduct of its members.
- The FRC's reserve power to set ethical standards, which would be implemented under Option 1B, would still be available to the FRC even if Option 1B was not pursued. It was agreed that it was desirable to have clarity around the criteria and mechanism for the exercise of this reserve power by the FRC.
- It was noted that the search for regulatory certainty was understandable but could be considered to be illusory. In these circumstances, the focus should be on improved regulatory collaboration rather than redefining regulatory boundaries, and it was intended that the creation of an ARC would assist in achieving this.

1.17 The Council discussed how the actuarial equivalent of the three lines of defence model might look: the actuarial profession would be the first line of defence, with responsibility for identifying risks; other regulators would be the second line of defence; and the proposed

ARC would be the third line of defence. The key initial matters to be considered by the proposed ARC would be the arrangements for assessing risk and regulatory co-operation. It would be important to acquire a shared understanding of risk and establish collaborative monitoring arrangements to promote effective regulation.

- 1.18 The Council noted that there was no difference in the fundamental objectives underlying option 1A and option 1B. The FRC and the IFoA would discuss how to bring together the desired elements of the two options in a way forward acceptable to both.

#### **D. Scope and structure of standards**

- 1.19 The Council noted that the development of high-level standards applicable to all actuarial work would enable the FRC to develop more focused specific standards where the public interest required having regard to other regulatory requirements. The Council further noted that a review of TASs was scheduled for 2014 and the need to collect relevant evidence to justify any proposed changes to their scope.

#### **E. International**

- 1.20 The Council discussed the report on the International framework workstream (previously circulated) and the discussion included the following reports, points and observations:
- 1.21 The Council noted that the vision was that actuarial standards should be principles-based, user-focused and support actuarial quality through delivery of reliable, decision useful actuarial work. Development/maintenance of actuarial standards should be subject to independent oversight to increase public confidence in the value of actuarial work.
- 1.22 The Council considered the key aspects of the eight detailed recommendations from the international workstream:
- Active engagement with international bodies with an interest in the quality of actuarial work to promote the vision;
  - FRC staff involvement in IAA/GC standard-setting processes (through IFoA);
  - Involvement/observation by FRC staff on relevant IFoA committees; and
  - Strengthened UK Forum terms of reference and commitment from members including co-regulators – to cover for example IAIS/IOPS and EIOPA.
- 1.23 The Council welcomed the analysis of the complex international framework which covered the key activities in Europe and also highlighted the degree of connectivity on a global scale. The potential scope and increased complexity of international actuarial standards were noted. Some concerns were expressed that a prescriptive approach to European standards would reduce discretion.

## **2. REVIEW OF THE FRC'S ACTUARIAL AGENDA: EMERGING WORKSTREAM CONCLUSIONS**

2.1 The Council considered the evidence and findings from the individual workstreams in the review of the FRC's actuarial agenda (to the extent that they had not already been discussed under minute 1 above), in support of emerging recommendations (paper 3.1):

- (i) Mission
- (ii) Role of actuaries
- (iii) Actuarial methods
- (iv) Scope of regulation
- (v) International framework
- (vi) Ethics
- (vii) Quality, monitoring and firms
- (viii) Research

**(i) Mission workstream**

2.2 The Council considered an update on the Mission workstream and noted that the outcome of the review of the FRC's actuarial agenda would be taken into account during the next review of the FRC's mission statement to be carried out later in 2013 as part of the FRC's annual planning round.

**(ii) Role of actuaries workstream**

2.3 The Council considered an update on the Role of actuaries workstream and noted that there was little evidence that the role of actuaries had changed significantly since the time of the Morris review, but that information as to the nature of actuarial work in life and pensions needed to be collected at a more granular level. Further, the IFoA's membership was much more international, meaning that the IFoA had increasing regard to the international applicability of actuarial regulation.

**(iii) Actuarial methods workstream**

2.4 The Council considered an update on the Actuarial methods workstream and some amendments to the wording of the emerging conclusions were suggested:

- the wording of the third bullet should be revised to clarify the role of the IFoA;
- the output from this workstream should emphasise the importance of exercising judgement, which was fundamental to actuarial methods; and
- the process for ensuring that judgement is sound should also be covered.

2.5 It was noted that a detailed workstream paper (which had not been circulated) did outline the key actuarial methods as identified by the IFoA PECs.

**(iv) Scope of regulation workstream**

2.6 The Council considered an update on the Scope of regulation workstream and noted the emerging conclusions (see discussion above).

**(v) International workstream**

2.7 The Council considered an update on the International workstream and noted the emerging conclusions (see discussion above).

**(vi) Ethics workstream**

2.8 The Council considered an update on the Ethics workstream and noted that it had spent time on ethics at its last meeting at the request of the Conduct Committee and so would not repeat that discussion. The Council agreed that the role of the employer should be addressed, bearing in mind the finding that members feel their most important accountability is to their employer. The work on firms monitoring (also reviewed at the last meeting) was important – see below.

2.9 The Council noted that the emerging conclusion from this workstream (endorsed by the Conduct Committee) was that the FRC should express in principle support for the IFoA's work programme and encourage it to follow through its paper on the professional actuary as part of a planned more fundamental review of the Actuaries' Code..

**(vii) Quality, monitoring and firms workstream**

2.10 The Council considered an update on the Quality, monitoring and firms workstream and noted that this workstream had generated considerable discussion, including at the last Council meeting at the request of the Conduct Committee.

2.11 The Council noted that (in addition to the broader points on monitoring discussed above), the immediate conclusion from this workstream – which had been endorsed by the Conduct Committee was that the FRC should provide in principle support for the IFoA's proposals on firms, but continue to press for improvements in the drafting particularly of the standard and work closely with the IFoA during the consultation period.

**(viii) Research workstream**

2.12 The Council considered an update on the Research workstream and noted that the proposals were essentially about process rather than content. The Council agreed that the FRC should focus on its own evidence needs to support policy making and regulatory activities. Research activities and data collection would be carried out on a regular basis, with an annual review linked to the annual planning cycle.

**3. REVIEW OF THE FRC'S ACTUARIAL AGENDA: NEXT STEPS**

3.1 The Council noted that a draft paper on the outcome of the review of the FRC's actuarial agenda would now be prepared for the Steering Group meeting on 13 May 2013 and the FRC Board meeting on 21 May 2013, taking into account the points raised above. Further input would be requested from members of the Actuarial Council at an appropriate stage.

**4. COUNCIL SECRETARY**

4.1 The Council noted that Peter Dingwall would be stepping down as Secretary of the Actuarial Council at the end of May and requested that their thanks and appreciation for his work be recorded.