



Institute
and Faculty
of Actuaries

APS P1 Information Gathering Exercise

Analysis of responses

Regulation Board

November 2016

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1. INTRODUCTION

I am pleased to introduce this analysis of the responses received to the Institute and Faculty of Actuaries' (IFoA) information gathering exercise on the practical application of APS P1: Duties and Responsibilities of Members Undertaking Work in Relation to Pension Schemes.

Members will recall that the IFoA introduced conflicts of interest requirements for Scheme Actuaries in version 2 of APS P1, which came in to effect in July 2013.

The responses to the consultation on APS P1 indicated that introducing a prohibition on Scheme Actuaries acting for both the employer and the trustees was not a practical, or a proportionate, response to the concerns raised about conflicts in this area. Version 2 of APS P1 therefore contains a presumption that the provision of advice to the employer in relation to funding or benefits by a Scheme Actuary will give rise to an irreconcilable conflict of interest, but recognises that there may be limited circumstances when it may be appropriate to depart from this presumption.

Following the implementation of APS P1, the IFoA has, after allowing some time for practical experience of the new arrangements and any impacts or effects to emerge, undertaken a further information gathering exercise to:

- identify whether the provisions are achieving their envisaged purpose;
- assess compliance with APS P1 on an anonymous basis; and
- highlight whether any further guidance or assistance is required.

All members that renewed their Scheme Actuary practising certificate in the 12 months beginning March 2014 were asked to complete a brief questionnaire in relation to their application of APS P1.

We are pleased to report that the results of the questionnaire were very positive and indicated that APS P1 was working well and that the vast majority of members have a good understanding of the regulatory requirements.

The IFoA is committed to the regular review of its published standards and guidance and sets out in its 2016 Refreshed Regulatory Policy Statement the principles under which standards will be introduced and maintained. One of the ways in which the IFoA monitors the effectiveness and efficient working of its regulations is by conducting post implementation reviews.

This analysis is being published now in advance of the review of APS P1 scheduled to begin shortly. The results of the questionnaire provide a useful starting point for the planned review and will help to ensure that APS P1 remains effective in relation to the quality of actuarial work, proportionate and pragmatic.

We are extremely grateful for the assistance of our Scheme Actuary members in this important information gathering exercise which we hope will further assist members in the practical application of APS P1.

Desmond Hudson
Chairman of the Regulation Board
November 2016

2. ANALYSIS OF RESPONSES

When the Pensions Standards Committee considered all of the responses it made the following observations:

1. About 15% of scheme actuaries reported having at least one scheme under which legislation or the scheme rules required them to act for the employer as well as the trustees. This seems to represent about 7% of schemes. However, a number of these would appear to be schemes where the only requirements in relation to employer advice were related to contracting-out or automatic enrolment certification.
2. A very small number (around 3%) of scheme actuaries indicated that they had given advice to the employer which would fall within the 'rebuttable presumption' in paragraph 5.3 of APS P1, and for several of these it is not clear that the advice in question did actually fall under that presumption, as discussed further below. It therefore appears that the facility to 'rebut the presumption' is not being widely used.
3. Some responses indicated that there is some uncertainty as to whether accounting work is covered by the presumption in paragraph 5.3 of APS P1. It was not intended that such advice would normally constitute "Client Advice...in relation to the funding of [the] Scheme, or in relation to any matter which has a direct bearing on the benefits payable under [the] Scheme". However, actuaries need to consider whether this is the case for their particular schemes.
4. Several actuaries who indicated that they had given employer advice falling within paragraph 5.3 then went on to describe 'advice' which probably would not fall within the definition of 'Client Advice' that applies to paragraph 5.3, in that the 'advice' was potentially only 'basic information' (without any material analysis or judgement) and/or it was not given to the employer as a 'client'. These actuaries might have been interpreting the question as covering more than 'Client Advice' as specifically defined in APS P1 or might have been answering cautiously. Alternatively, it might be that there is some misunderstanding as to the exact scope of the 'Client Advice' falling under paragraph 5.3.
5. Some scheme actuaries appeared to justify rebutting the presumption under paragraph 5.3 on the grounds that the scheme was small and/or the trustees favoured such an approach. Members should note that the IFoA does not consider these to be circumstances in which an exception might apply. Nevertheless, it must be stressed that the number of schemes for which this justification appeared to have been used was very small and as such the vast majority of scheme actuaries appear to be aware that it will not be appropriate to rebut the presumption on these grounds. It is also possible that there has been some misunderstanding here in the interpretation of the question and/or response.
6. A very small number (under 2%) of scheme actuaries indicated that they were aware of other Members advising the employer on funding and/or benefits (and thereby rebutting the presumption under 6.5 of APS P1). Not enough information was requested here to assess to what extent, if any, these respondents believed that such advice would be contrary to APS P1, but Members are nevertheless reminded of their 'speaking up' obligations under principle 4 of the Actuaries' Code where they consider that there has been a material breach of any relevant legal, regulatory or professional requirements.

3. CONCLUSIONS AND NEXT STEPS

The responses to the questionnaire provide a strong indication that, overall, the new provisions are working well and the vast majority of Scheme Actuaries have a good understanding of the regulatory requirements with no significant issues arising. They have nevertheless highlighted a few minor potential misunderstandings in relation to the application of the standard. Therefore, in addition to publishing this feedback document, those matters will be considered as part of the scheduled review of APS P1 and the supporting conflicts of interest materials. Members are also able to contact the IFoA's [Professional Support Service](#)¹ in confidence if they are unsure about the application of professional or technical standards.

The information gathering exercise has been extremely helpful in terms of reviewing whether the conflicts of interest provisions constitute a proportionate and practical approach to assuring the quality of actuarial work.

In light of the information provided during this exercise and the conclusion that (a) APS P1 appears to have embedded successfully and (b) members seem to be comfortable with its practical application, we do not currently intend to repeat the exercise of asking Scheme Actuaries to complete a questionnaire on APS P1 upon renewal of their practising certificate.

However, as with all our professional standards, we will continue to keep APS P1 under review and for that reason we would be pleased to receive any comments you may wish to offer on this paper or on APS P1 itself. If you would like to share any such comments with the Pensions Standards Committee, please contact us using the details noted below. If the formal scheduled review of APS P1 concludes that changes should be made to the standard there will, of course be a consultation process and an opportunity to comment on any proposed changes.

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¹ <http://www.actuaries.org.uk/regulation/pages/professional-support-service-0>

4. SUMMARY OF RESPONSES

Between 1 March 2014 and 28 February 2015, 928 Scheme Actuaries responded to the questionnaire. The following is a summary of their responses.

Question 1: Since it came into effect from 1 July 2013, for how many pension schemes are you currently appointed Scheme Actuary?

The following table shows the number of actuaries who have been appointed Scheme Actuary and the number of schemes to which they have been appointed. For example, 109 actuaries have reported that they are Scheme Actuary to 1 scheme.

Number of actuaries who have reported that they have been appointed as Scheme Actuary	Number of schemes to which they have been appointed
89	0
109	1
103	2
79	3
75	4
79	5
47	6
50	7
35	8
40	9
214	10 or more

Question 2a: In certain circumstances the Scheme Actuary may be required by legislation or the pension scheme rules themselves to act for both employer and trustees. Of the pension schemes for which you are Scheme Actuary, to how many does this apply?

779 members (84% of respondents) reported that they were not required to act for both the employer and trustees.

The following table shows the number of actuaries who were required to act for both the employer and trustees, and the number of schemes this applies to.

Number of actuaries who were required to act for both employer and trustees:	Number of Schemes this applies to
62	1
24	2
12	3
6	4
12	5
3	6
1	8
3	9
8	10 or more
7	n/a

Respondents were also asked to provide examples of the types of advice that they provided for the employer in the circumstances outlined in Question 2a.

Many respondents indicated that any advice given to the employer is either done so jointly with the trustees, is shared with the trustees or the trustees themselves are asked to share the advice with the employer. A number of respondents also indicated that, while they provide certain information to the employer, they do not advise on this, and the employer obtains their own independent advice.

The examples of advice provided by respondents include the following:

- provision of Reference Scheme Test certificates to employers of contracted-out schemes;
- accounting disclosures (FAS 87, FRS 17 and IAS 19);
- certification of a pension scheme as an auto enrolment qualifying scheme;
- provision of augmentation costings to the employer which require payment of additional contributions to the scheme;
- changes to actuarial factors to be jointly agreed by the trustees and the employer, based on actuarial advice;
- PPF levy advice;
- advising on increases to benefits on an annual basis.

Question 2b: Other than where you are required to do so by legislation or the scheme rules, have you as Scheme Actuary advised the employer in relation to the funding of the scheme, or in relation to any matter which has a direct bearing on the benefits payable under that scheme?

If yes, please state the number of schemes to which this applies and give a brief indication in each case of the basis upon which you judged this to be appropriate:

Response	Number of respondents	Percentage of respondents
No	864	93%
Yes	29	3%
Not applicable	16	2%
Possibly	1	0.1%
Did not answer	18	2%

The proportion of Scheme Actuaries who had provided scheme funding advice or advice on any matter which has a direct bearing on the benefits payable was extremely low at only 3% of respondents.

The following is a summary of some of the circumstances provided by respondents in which they considered that it was appropriate to do so:

- the trustee has been made aware and/or has encouraged the Scheme Actuary to present valuation results to the employer;
- the trustees have agreed that requiring the employer to use another adviser would have a disproportionate effect on fees and/or would cause unnecessary division;
- the Scheme Actuary only provides information and not advice to the employer;
- where the trustees also include key employer contacts, the discussion may overlap into employer areas.

Question 2c: Are you aware of any other Member advising both the trustees and employer of any pension scheme for which you are Scheme Actuary in relation to the funding of the scheme, or in relation to any matter which has a direct bearing on the benefits payable under that scheme?

If yes, please state the number of schemes to which this applies and give a brief indication of the circumstances in which this situation arose.

Response	Number of respondents	Percentage of respondents
No	884	95%
Yes	15	2%
Not applicable	11	1%
Did not answer	18	2%

The types of situations in which this has arisen include:

- members who peer review work for the employer may be involved in peer review of work for the trustees;
- provision of funding updates to the employer and the trustees;
- provision of costing information based on a statement of changes prepared by the employer.

Question 3: Do you have any other comments on the application of the conflicts provisions of APS P1?

The questionnaire did not require any comments to be provided and only approximately 5% of respondents took the opportunity to provide such further comments.

A number of these respondents noted that the provisions were a sensible, fair and pragmatic approach to addressing potential conflicts of interest in this area. Several members reported that the provisions were operating smoothly and that there was a degree of overlap between the new provisions in APS P1 with their existing conflicts management procedures; therefore the introduction of the revised standard did not have a significant impact.

Some members noted that the more difficult aspects of the requirements related to more junior members outside the consulting teams and dealing with confidentiality. Respondents also highlighted that they had encountered difficulties in relation to old scheme documentation conflicting with the regulatory requirements.

A small number of respondents reported that they felt that the paperwork required in adhering to the new provisions has been cumbersome and the costs have outweighed the benefits, noting in particular that it has been more costly for smaller schemes. Some members also advised that their clients have had little interest or concern in relation to compliance with the regulatory provisions.

One respondent commented that agreeing conflict procedures with the employer and the trustees at the outset has been valuable and keeping trustees informed at all times is key in ensuring compliance with the provisions.