

Conflicts of Interest for Pensions Actuaries

December 2007

General Principles – Professional Conduct Standards

- “Clients are entitled to assume that advice given by a member is unaffected by interests of those other than those of the client”

General Principles

– UK Actuaries Code

- “Actuaries take reasonable steps to avoid conflicts of interest. Where conflicts do arise they manage these in a professional manner including the disclosure of those conflicts to all affected clients or if appropriate their employer”

General Principles – Draft Standard of Principles on Conflicts of Interest for Pensions Actuaries

“A member must not hold a dual appointment unless a conflict management plan has been drawn up and agreed with each client covering the extent to which the member’s duties to each client are restricted”

Acting for Trustees and Employer – is it consistent with these principles?

- It is proposed that it should be possible for an actuary to advise both the Trustees and Employer subject to certain safeguards which would be stipulated in guidance

Suggested Preconditions to Acting for Trustees and Employer

1. Both Employer and Trustees must be made aware of the dual appointment including –
 - Any restriction on the advice that will be provided to either client as a result of the dual appointment
 - The treatment of confidential information – actuary may become aware of something from one client which he cannot disclose to the other
 - The steps that will be taken in the event of an actual material conflict emerging

This communication should be in writing

2. Both parties must provide their informed consent to these arrangements in writing before advice is provided to either party (subject to transitional arrangements for existing clients)
3. There must be no actual material conflict at the time the dual appointment is created.
4. Overriding responsibility to act reasonably and in a professional manner – circumstances may require actuary to resign from both appointments. Actuary may need legal advice.

If an Actual Material Conflict Emerges

- The actuary must stop providing advice to one client and the other client must be made aware of this
- The actuary need not specify in advance which client would be the continuing client in these circumstances
- A second actuary from the member's firm could get involved in advising the second client subject to certain conditions

What is an actual Material Conflict?

- Not capable of precise definition and it is not proposed to include a precise definition in guidance
- Actual not potential – all dual appointments have potential for conflict

Actual Material Conflicts?

Adviser to trustees and providing accounting information to employer	Probably No
Adviser to trustees and advising employer on benefit reductions	Probably Yes
Acting on contingent fee basis i.e. "no foal no fee"	Probably Yes
Acting for vendor and purchaser in a corporate transaction	Probably Yes

Calculations V Advice

- In general the preparation of calculations not requiring advice (including advice in relation to assumptions) will not normally generate an actual conflict

How should confidential information be treated

- It is proposed that confidential information acquired from one client up to the point at which a material conflict emerges need not be disclosed to the second client (assumed to be the continuing client)
- Both clients should be made aware of this in writing at outset

One Firm – Two Appointments

- This should be treated as a dual appointment and should satisfy the conditions for dual appointments
- **Alternatively** the two appointments may be maintained even if there is an actual material conflict provided sufficient independence exists between the two appointments that
 - the confidentiality of information and
 - the quality of adviceare not at material risk of compromise
- In either case both clients must give informed consent

Keep Situation under Review

- If involved in a dual appointment keep the situation under regular review
- Be sensitive to the potential evolution of material conflicts