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6 May 2021

RESTORING TRUST IN AUDIT AND CORPORATE GOVERNANCE

Questions 81 and 83: The components of a strengthened and statutory actuarial regulatory regime

Introduction

There is one particular aspect of the actuarial regulatory regime which is highly anomalous and which, on the evidence of the consultation document, BEIS may not yet be aware of. In this submission, I wish to address that one issue. I think it is best dealt with under the ambit of Questions 81 and/or 83.

The issue

Some of the regulations currently issued by the Financial Reporting Council (FRC) apply when an actuary carries out an activity which is open to anyone to undertake – but the regulations apply only when the activity is carried out by an actuary. As a result, we have the anomalous position that:

- an activity is governed by the FRC's regulations when the activity is carried out by an actuary;
- the identical activity is not governed by the FRC's regulations when it is carried out by an accountant, even though the FRC has regulatory powers in relation to accountants; and
- the activity is not regulated by – and not capable of being regulated by – the FRC when it is carried out by a person who is neither an actuary nor an accountant.

This anomaly should probably not have been allowed to arise even whilst the FRC's regulation of actuaries was by virtue of a voluntary arrangement between the Institute & Faculty of Actuaries (IFoA) and the FRC. But, with BEIS now proposing to place the regulation of actuaries on a "strengthened and statutory" footing, I suggest that the anomaly should be brought to an end and that it can very easily be brought to an end, either (a) by specifying that actuarial regulations should be limited to activities which are reserved, by law, to actuaries or (b) requiring that actuarial regulations should be applied regardless of who undertakes the activity governed by the regulations.

How this anomaly came about

The FRC has regulations which it labels as "Technical Actuarial Standards" (TASs). When the FRC first issued TASs, their scope was deliberately restricted to activities that were required, by law, to be carried out by a member of the IFoA.

But, in 2016, the FRC extended the scope of (some) TASs to embrace activities for which there is no requirement to be an actuary. If the same activity is carried out by a member of one of the accounting bodies regulated by the FRC, the FRC *chose* not to impose the TASs. And, if the activity is carried out by someone outside the remit of the FRC, the FRC had *no power* to impose the TASs.

I set out below a couple of examples to illustrate how this anomaly plays out in practice. The examples are not intended to be an exhaustive list.

Example 1: financial services
The financial services industry is the most dominant area of work in which actuaries operate. As a significant part of the UK economy, the industry is also a significant area of work for accountants.

For obvious reasons, practitioners within the financial services industry develop and operate many financial models. The FRC has issued a regulatory standard, TAS 100, which the FRC requires actuaries to comply with when using such models. The FRC does not, however, require members of accountancy bodies to comply with that TAS even if an accountant uses an identical financial model.

This anomaly was drawn to the attention of the FRC before TAS 100 was issued, but the FRC persisted with its decision to impose the standard. No explanation was offered – or, so far as I am aware, even attempted to be offered – by the FRC as to why there was a regulatory need for actuaries to be subject to rules that do not apply to anyone else doing the same work.

Example 2: pandemic modelling
It is well-known that models relating to Covid-19 were used to assist in the formulation of policy decisions which were, quite literally, of life-and-death importance and, at the same time, had a potentially huge influence on the health of the UK economy. The modelling could hardly have been of wider impact or greater significance.

I don't know whether any models used by the government were operated by actuaries, but TAS 100 is sufficiently widely drawn that, if any models were deployed by actuaries, the FRC requires those models to comply with TAS 100 – but only when the models are deployed by actuaries.

This particular consultation is probably not the appropriate forum (and BEIS not the appropriate department) to explore whether pandemic modelling ought to be regulated. But if regulation is needed, the scope of those regulations should plainly not be limited to models when they are used by actuaries and neither the Audit, Reporting and Governance Authority nor the Prudential Regulation Authority is likely to be deemed to be the appropriate body to develop such regulations.

The modelling of the Covid pandemic is not something which the FRC could have foreseen when it expanded the scope of its TASs. But the FRC certainly could see that the scope of TAS 100 encroached into activities that were not restricted to actuaries and also that the scope of the TAS was worded in such a way that it would automatically expand as and when the scope of actuarial activities expanded.

A similar point could be made about "climate change" modelling, which is an area that some actuaries are exploring.

Putting actuarial regulation on a legislative basis
I see no reason to disagree with BEIS's assessment that actuarial regulation should be placed on a legislative footing. But I suggest that BEIS should consider carefully whether the statutory basis can allow the scope of actuarial regulation to continue to be determined according to the practitioner's decision to join (or not to join) a particular membership body.

The anomaly would be resolved if the statutory regulation of actuarial work operated in one of the following two ways:

> ***Either***
> Actuarial regulations should be limited to activities which are reserved, in law, to actuaries.
>
> ***Or***
> Actuarial regulations should be applied regardless of who undertakes the activity.