



Institute
and Faculty
of Actuaries

Trust-Based Pre-Paid Funeral Plans

New policy proposals

by the Funeral Plans Working Party
of the Regulation Board

Exposure Draft ED34: APS Z1
Consultation paper

November 2014

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1 Introduction and background

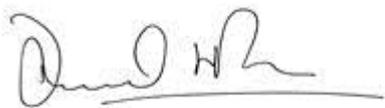
- 1.1 This Consultation Paper (the **Paper**) proposes the introduction, in the interests of planholders and in the public interest, of new regulatory requirements affecting actuaries working on pre-paid funeral plan trusts. We will use the term “funeral plan” or “funeral plan trusts” throughout this Paper to refer to these particular funeral plans.
- 1.2 Funeral plans enable people to plan ahead to cover the cost of their funeral, so potentially offering peace of mind to planholders and their relatives. Funeral plan contracts are a specified activity under Article 59 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (the **RAO**). However, plans are excluded from article 59 if the plan provider either uses the pre-payment to purchase a whole-life insurance or uses a trust which meets the requirements of Article 60(1)(b) of the RAO.
- 1.3 One of the requirements of Article 60(1)(b) is that the assets and liabilities of the trust must be valued by a Fellow of the Institute and Faculty of Actuaries (**IFoA**) at least once every three years. This gives members of the IFoA (**Members**) an important role to play in assessing the financial viability of a trust and in helping plan providers to ensure that the requirements for exemption from regulation by the Financial Conduct Authority (the **FCA**) are met. These responsibilities are also clearly of considerable importance to the interests of holders of these plans.
- 1.4 In February 2011, the Financial Reporting Council (the **FRC**) issued its Funeral Plans Technical Actuarial Standard¹ (the **Funeral Plans TAS**), which came into effect on 1 October 2011, replacing an earlier Guidance Note to actuaries issued by the IFoA. When commending the new TAS (in the preparation of which it had been consulted) to its Members, the IFoA noted that the prudential regulatory regime relating to trust-based funeral plans is less comprehensive than in other areas; and that it was continuing discussions with the FRC, and other interested parties, about the overall regulatory framework for such plans.
- 1.5 The IFoA subsequently set up a Working Party, consisting of experienced practitioners and independent lay members, to consider whether the IFoA should take regulatory action concerning the conduct of its Members undertaking work on such plans, within the scope of its responsibility for the ethical regulation of its Members. In this Paper, the Working Party seeks views on a package of measures which it is minded to recommend to the Regulation Board of the IFoA and thus, to implement, to improve regulatory safeguards relating to work by the IFoA’s Members on pre-paid funeral plan trusts. The package – details of which are set out in the following sections of this Paper – consists of a mix of specific regulatory provisions, new guidance for Members and trustees and additional professional support.
- 1.6 Additionally, the Working Party is aware that incidental changes may need to be made to the IFoA’s regulatory package to take account of the provisions of the Consumer Rights Bill which is currently going through the UK Parliament.² We would expect to make any consequent changes when the UK Government’s guidance on the Bill which is expected in Spring 2015 is available. However, we do not anticipate that the potential changes would be sufficiently material as to require re-consultation. Nonetheless, we would welcome comments on both the implications of the Bill for funeral plan actuaries and on our proposed approach.

¹ <https://www.frc.org.uk/Our-Work/Publications/BAS/Funeral-Plans-TAS-version-1-Feb-2011-File.pdf>

² <http://services.parliament.uk/bills/2014-15/consumerrights.html>

1.7 We shall welcome the help of the public, plan providers, other regulators and Members of the IFoA in developing proposals, which are fundamentally principles-based, and address the issues the Working Party has identified in a clear, proportionate and targeted way. Details of how to respond to the consultation can be found on page 12. We shall also continue to discuss with regulators, and other interested parties, the wider issues relating to the prudential regime for plans touched on in this paper which fall outside the IFoA's remit.

The Working Party looks forward to your response.

A handwritten signature in black ink, appearing to read 'Desmond Hudson', with a horizontal line underneath.

Desmond Hudson

Chair of the Regulation Board of the Institute and Faculty of Actuaries

A handwritten signature in black ink, appearing to read 'Penny Shepherd'.

Penny Shepherd MBE

Chair of the Funeral Plans Working Party of the Institute and Faculty of Actuaries

2 Executive Summary

2.1 The Working Party proposes a package of measures designed to address concerns regarding actuaries' involvement with pre-paid funeral plan trusts. The package is intended to help ensure that:

- a. actuaries working in this specialist area are sufficiently experienced for the task;
- b. they are aware of their particular responsibilities, not least to planholders; and
- c. they are adequately supported and assisted by the IFoA in undertaking their work.

The proposed package comprises the following elements:

2.2 **New regulatory provision:** The Working Party proposes the introduction of a new, short, ethical standard applying to Members working on funeral plan trusts to supplement the provisions of the Actuaries' Code and to sit alongside the TAS issued by the FRC. The new Actuarial Profession Standard (**APS**), which can be found at **Appendix 1**, is likely to be called APS Z1, "Duties and Responsibilities of Actuaries Working For Pre-Paid Funeral Plan Trusts" (**APS Z1**).

2.3 **New guidance:** To assist Members (and trustees) working with funeral plan trusts and to supplement APS Z1, the Working Party has produced two new sets of non-mandatory guidance:

2.3.1 A guide for actuaries working with, or advising on, pre-paid funeral plan trusts – included as **Appendix 2** to this Paper. This is intended to provide substantial non-mandatory guidance material on pre-paid funeral plan trusts for Members. The guide contains descriptions of relevant regulatory provisions and practical advice concerning trust-based pre-paid funeral plans. It also covers both ethical and technical matters which Members should be aware of when working on these plans.

2.3.2 A guide for trustees of funeral plan trusts, which seeks to set out for trustees' benefit the professional obligations falling on actuaries, with a view to stimulate discussion and scrutiny of actuarial work and to improve trustees' understanding of relevant issues, in particular, the role of the actuary advising them – included as **Appendix 3** to this Paper.

2.4 **Additional professional support:** To complement the regulatory provisions of the package, the IFoA will be providing additional continuing professional development (**CPD**) and training in relation to trust-based pre-paid funeral plans. The IFoA will be taking these measures forward in 2015. A new Member Interest Group (**MIG**) has already been created to support Members and interested non-members, for example, trustees, working in this area.³

2.5 **Structure of this consultation paper:** Section 3 sets out the current regulatory framework for pre-paid funeral plan trusts. Section 4 sets out a more detailed analysis of the Working Party's proposals. Section 5 provides information about how to respond to this consultation. Schedule 1 sets out the consultation questions.

³ <http://www.actuaries.org.uk/communities/communities/funeral-plans-member-interest-group>

- 2.6 Responses: these are invited, in the form of either general comments or completed questionnaires, by 13 February 2015. Members may be entitled to claim CPD hours for reading this Paper and completing the relevant questionnaire. Please check the CPD scheme for your particular category recording and eligibility requirements.

3 Current regulatory framework

- 3.1 Pre-paid funeral plan contracts are a specified activity under Article 59 of the RAO. However, plans are excluded from Article 59 if the plan provider either uses the pre-payment to purchase a whole-life insurance or uses a trust which meets the requirements of Article 60(1)(b) of the RAO. If provided through a trust, the requirements of article 60(1)(b) require that:
- a. the trust must be established by a written instrument (trust deed);
 - b. more than half of the trustees must be unconnected with the provider;
 - c. the assets of the trust must be managed by an independent, authorised fund manager;
 - d. annual accounts must be prepared and audited, with respect to the assets and liabilities of the trust; and
 - e. the assets and liabilities of the trust must be determined, calculated and valued by a Fellow of the IFoA at least once every three years.
- 3.2 There is a self-regulatory body, the Funeral Planning Authority (the **FPA**), which, according to its rules, checks that its accredited plan providers and funeral plan trustees are fit and proper persons and ensures that its Registered Providers (**RPs**) comply with the RAO, its rules and code of practice. The FPA, with which the Working Party has held discussions during its pre-consultation process, estimates that some 95% of UK funeral plans are provided by its RPs.
- 3.3 The requirements of membership of the FPA include those set out in article 60(1)(b) of the RAO, and, in some respects, the FPA goes further, for example, in requiring its RPs to have a procedure in place to resolve disputes with their customers, to typically undertake an annual actuarial review of the trust funds and in relation to the arrangements for making good any shortfalls in trust assets.
- 3.4 The FPA's Code includes a "Pledge to Customers", under which all its RPs are required to:
- "co-operate in the delivery of the Authority's "Pledge to Customers" by which, in the event of the insolvency of a Plan Provider, the other Plan Providers will examine ways in which the Authority might assist in arranging delivery of the funeral of the customers of the insolvent Plan Provider. The extent of this co-operation will be at the discretion of the individual Plan Provider."*⁴

⁴ <http://www.funeralplanningauthority.com/CodeOfPractice.html#Pledge>

3.5 Actuaries are also required to comply with the provisions of the FRC's Funeral Plans TAS and its Generic TASs on Data, Modelling and Reporting in undertaking work which involves the determination, calculation and verification of the assets and liabilities of a funeral plan trust. This includes work required by:

3.5.1 Article 60(1)(b)(v) of the RAO to be carried out at least once every three years; or

3.5.2 rules of the FPA to be carried out annually (or at such other intervals as the FPA may determine).

4 Analysis of proposals

4.1 The reasons for introducing this proposed standard and guidance are as follows:

4.1.1 To ensure that actuaries working in this specialist area are sufficiently experienced and supported for this particular task; and to ensure that actuaries are aware of their particular responsibilities in this area, including to planholders.

The Working Party believes that, although it has similarities with other areas of actuarial practice, work on trust-based funeral plans is a specialised area and involves consideration of actuaries' wider responsibilities and obligations, such as to planholders, rather than just to plan providers and trustees (or 'clients' as they may be more generically known). The IFoA wants to ensure that those actuaries experienced to work on such plans are appropriately guided and supported in their work. This, in turn, means that they can better support funeral plan providers and trustees for the benefit of planholders.

4.1.2 To ensure that actuaries have the right information gathering and escalation mechanisms available to them to undertake the calculation of the assets and liabilities of the funeral plan trust appropriately.

The guide for trustees and the guide for actuaries set out the key risks regarding trust-based funeral plans in more detail but, in short, the key risk to members of the public, who purchase a funeral plan, is that the plan will fail to meet the costs of their funeral, with consequent distress to their relatives. The marketing literature surrounding trust-based funeral plans has often suggested that taking out a plan guarantees that the costs of the specified funeral will be met in full. Generally, the guarantee comes from the funeral director or plan provider; the trust itself does not provide the guarantee. In practice, however, there can be no absolute guarantee that the funds in the trust supporting the plan will increase at a rate sufficient to cover all costs associated with the funeral of the planholder. This can happen with any pre-payment plan, in which actual costs may prove to be higher, or asset returns lower, than expected at the time the plan is taken out.

The risk of such a shortfall falls immediately on the plan provider or the participating funeral director. If, however, they have insufficient resources to meet the costs of the promised funeral, and other funeral directors or plan providers do not step in to meet the shortfall, there is a risk that the planholder's family, or estate, will have to make up the difference or accept a lower quality funeral.⁵ The failure of a plan would create a considerable degree of distress. There is no statutory ombudsman or compensation scheme applying to prepaid trust-based funeral plans.

When valuing the assets and liabilities of a trust-based plan, an actuary is guided by the terms of the trust deed. However, there is no necessary direct link between the trust deed and the contractual entitlements of the planholders. Those entitlements are governed legally by the terms of the contract between the planholder and the plan provider, but may be influenced by other documents, such as marketing material.

Whilst the actuary appointed by the trustees may seek to have regard to planholders' contractual entitlements in carrying out his/her assessment of the assets and liabilities of the funeral plan trust, there is no clear guidance laid down beyond the trust deed's terms, as to the basis on which the actuary is expected to conduct that assessment. Furthermore, there is no requirement that the trustees act on the results of their assessment of the assets and liabilities of the trust or the actuary's advice; or that the actuary should take any further action once he/she has produced his/her assessment, regardless of its conclusions. However, information gathering powers which can assist an actuary in producing their assessment – and may include reviewing relevant promotional material or the relevant trust documents – will be helpful in ensuring that actuaries can produce an appropriate assessment.

Likewise, ensuring that the actuary has appropriate escalation procedures built into their appointment to raise concerns, with either the trustees/plan providers and/or regulators /other professionals (for example the trust's or plan provider's auditors), is also an important mechanism for the actuary to be able to exercise, in order to properly protect planholders and to ensure that the trust-based funeral plan has been properly valued.

- 4.1.9 To ensure actuaries report their concerns to the most appropriate regulator and/or other professionals who may be involved in advising the funeral plan trustees and/or plan providers.
- 4.1.10 To set out, for the trustees' benefit, the professional obligations falling on actuaries, with a view to stimulate discussion and scrutiny of actuarial work and to improve trustees' understanding of relevant issues, in particular, the role of the actuary advising them – which helps to ensure that planholders' interests are appropriately protected.

⁵ Plans provided by RPs of the FPA are subject to the FPA's Pledge to Customers (quoted in full in paragraph 3.4 above) although the Pledge is about delivering the funeral, rather than plugging any shortfalls in the funding of the trust.

- 4.1.11 To seek to address any risks to the public, particularly given that actuaries have been specifically named in the relevant legislation by Parliament as the professionals who are appropriately qualified and ethically sound enough to undertake an assessment of the funeral plan trust's assets and liabilities.

A number of the potential risks to the public interest fall well outside the IFoA's remit and the Working Party is in the process of taking steps to draw these to the attention of the responsible authorities. However, the Working Party believes that there are a number of steps the IFoA can, and should, take to ensure that, in carrying out their role in relation to such plans, actuaries ascertain (and subsequently take into account) the contractual expectations of planholders. Furthermore, the IFoA can help to ensure that its Members report any concerns they may have about a developing shortfall in the trust measured against these expectations to the trustees. The Working Party believes that the measures it is proposing will complement the relevant provisions of the FRC's TASs.

- 4.1.13 The Working Party's detailed package of proposals to meet these ends is set out in the following sections of this paper. The first element in the package is a new APS.

4.2 APS Z1

- 4.2.1 The Working Party proposes to introduce a new APS to be known as APS Z1: "Duties and Responsibilities of Actuaries Working For Trust-Based Pre-Paid Funeral Plans. The full text of APS Z1 is included at **Appendix 1**. The Working Party is aware that it is proposing to introduce ethical requirements which go beyond what the RAO requires. This has been done as an appropriate step, by an ethical profession, conscious of its duties to the wider public and in the context of the current regulatory environment in this area, where actuaries have been tasked by Parliament to conduct the appropriate assessment of funeral plan trusts' assets and liabilities.

- 4.2.2 An analysis of the elements of APS Z1 now follows:

4.2.2.1 Paragraph 1 sets out the requirement that a Member must, when accepting an appointment to value a funeral plan trust, meet the requisite qualification requirements prescribed by the RAO and must comply with the relevant provisions of the Actuaries' Code.

4.2.2.2 Paragraph 2.1.1 requires that a Member must, when accepting an appointment, ensure that he or she has the right personally to present a report to the Trustees should he or she deem the report sufficiently important.

- 4.2.2.3 This provision is designed to ensure that the actuary's professional obligations to speak up and address matters of significant importance concerning the funeral plan trust are not fettered by the trustees or the existing scheme rules. This will hopefully encourage open and frank discussion between trustees and the actuary, especially if the actuary has serious concerns about the plan.
- 4.2.2.4 Paragraphs 2.1.2 to 2.1.7 and paragraphs 2.2.1 to 2.2.3 are intended to ensure that, working with the trustees, in carrying out his or her work in relation to a funeral plan trust, an actuary is aware of the planholders' contractual entitlements; draws to the attention of the trustees any change of circumstance bearing on those entitlements; and is satisfied that systems of control are in place intended to ensure that planholders are not misled as to their expectations, also drawing any concerns he or she may have about this to the attention of the trustees. These provisions are designed to stimulate discussion and scrutiny of actuarial work and to improve trustees' understanding of relevant issues, in particular, the role of the actuary advising them for the benefit of planholders and providers.
- 4.2.2.5 The Working Party believes that an actuary should be clear, in their dealings with the trustees in relation to the assessment of the trust's assets and liabilities, as to what is the actuary's understanding of the planholders' contractual entitlements. They should make themselves aware of all relevant material bearing on those entitlements, including that made available by the plan provider to plan purchasers (both the marketing literature and the contract between plan provider and planholder) as well as the governing documents of the plan (the trust deed).
- 4.2.2.6 The actuary should also notify the trustees if any changes within the plan's operations or circumstances might mean that there are implications for the policyholders' contractual entitlements which need to be addressed. This is a crucial aspect of the actuary's function in advising the trustees and helping the trustees to fulfil their responsibility to both the planholders and the plan provider. Additionally, paragraph 2.1.2 tries to ensure that the burden of notifying planholders of changes to their entitlement falls on the trustees, rather than on the actuary or not at all.
- 4.2.2.7 Finally, paragraph 2.2.4 is designed to ensure that the actuary is satisfied that there are systems of control in place intended to ensure that the planholders are not misled as to their entitlements. If the Member has doubts about the adequacy of these systems, he or she should draw them to the trustees' attention.

- 4.2.2.8 Paragraph 2.3 addresses the situation where an actuary has produced an assessment of the trust's assets and liabilities but believes that there is a material shortfall in the assets held by the trustees to cover the liabilities or that the plan provider's contractual obligations are significantly higher than the liabilities of the trust (the RAO does not currently set out what the actuary should do if this occurs). The provision envisages that, as a first step, the actuary, having drawn the position to the attention of the trustees and the plan provider, should try to encourage the trustees to take appropriate action to alleviate the shortfall. If, however, appropriate remedial arrangements have not been made within a reasonable period of time, the provision envisages that the actuary would report the position to the plan provider.
- 4.2.2.9 As a secondary measure, if the trustees and the plan provider have not put in place appropriate remedial arrangements within a sensible period of time, it is proposed that actuaries should report their concerns to the auditors of the trust or the plan provider and, if the plan provider, is a FPA RP, also to the FPA.
- 4.2.2.10 The Working Party does not envisage that an actuary would report in anything other than extreme circumstances, where, for example, following protracted discussion, no attempt has been made by trustees and/or the plan provider to remedy a shortfall. In any case in which a report had been made, the actuary would be required by paragraph 1.2.3 of the APS and clause 3.6 of the Actuaries' Code to speak to any successor actuary regarding what had happened.
- 4.2.2.11 The Working Party is aware that, due to deficiencies in the wording of the relevant legislation i.e. Articles 59 and 60 of the RAO, and the fact that the IFoA has been accorded the ability to set professional standards related to the assessment of the assets and liabilities of the funeral plan trust by the RAO because it requires that the assessment be conducted by an IFoA Fellow, the IFoA is in a position to set the boundaries of actuaries' ethical responsibilities in this area.
- 4.2.2.12 As described above, the policy proposal currently taken in APS Z1 is that the obligation to whistleblow is positioned so that the auditors and the FPA (in the case of an FPA RP) or the auditors (in the case of a non-FPA RP) are informed of the actuary's concerns. That being said, the Working Party has concerns about the ability of the FPA to intervene in a trust should the actuary raise whistleblowing concerns – particularly, of course, if the entity complained of is not a FPA RP. Furthermore, the Working Party has considered other possible solutions than the auditor suggestion, e.g. advertising restrictions or requiring compulsory FPA membership. These areas are clearly outside the scope of the IFoA's responsibilities but we will raise these suggestions in our discussions with appropriate stakeholders - in the context of the wider regulatory and compensation regime associated with these types of funeral plans.

4.2.2.13 In any event, the Working Party seeks Members' and interested stakeholders' views regarding the policy proposals set out in APS Z1.

4.2.3 Review of work

4.2.3.1 The IFoA is currently considering introducing a new proposed standard, APS X2: Review of Actuarial Work, which would set out requirements for all Members in relation to the review of actuarial work. This would include the work of actuaries involved with funeral plan trusts.

4.2.3.2 Nevertheless, the Working Party has also considered whether specific, additional review of work requirements should apply to actuaries involved with funeral plan trusts. However, the Working Party has come to the conclusion that it is not appropriate to mandate specific review requirements in APS Z1 at this time for the following reasons:

- a. many Members working in this area are likely to already have review regimes in place in circumstances where the work is truly risky or of high value because of the internal control arrangements in their own firms;
- b. there is already strong recognition amongst Members of the need to invite review by an external reviewer in particularly difficult circumstances;
- c. adding a requirement for mandatory, formal review in all circumstances would add significantly (and disproportionately) to the cost of the assessment of the trust's assets and liabilities;
- d. the small size of the Member community dealing with these matters means that a mandatory review regime would lead to significant problems with respect to resourcing a comprehensive system of review, as well as raising issues of client confidentiality;
- e. the FPA performs, in respect of its Members, a "cold" external review and reviews the assessment of the trust's assets and liabilities undertaken, so that there is already an additional built in layer of protection for the majority of schemes; and
- f. Members are subject to whistleblowing obligations under the Actuaries' Code, which would oblige them to make a report to the IFoA if it was thought that another practitioner was falling below the standard expected of a Member engaging in such work.

4.3 Guide for actuaries

4.3.1. The Working Party has prepared a draft guide for actuaries to assist all actuaries working with or advising on pre-paid funeral plan trusts. The text of this can be found at **Appendix 2**. This is intended to constitute substantial guidance material for Members working in this area.

- 4.3.2. The guide, which contains both ethical and technical guidance, covers the operation of trust-based pre-paid funeral plans and identifies some of the risk areas of which Members should be aware before accepting an appointment as adviser to a plan, or providing an opinion on the adequacy of the trust fund assets to cover the promised future funerals. Recognising that there are a variety of different structures and approaches in the way trust-based pre-paid funeral plans can be constituted, the guide is designed to encourage Members to understand thoroughly the establishment and operation of any such plan, in order to ensure he or she is aware of the issues he or she should be taking into account in framing the advice to be given.
- 4.3.3 The Working Party is interested in receiving comments on the guide.

4.4 Guide for trustees of funeral plan trusts

- 4.4.1 The Working Party has also drafted a short guide for actuaries to offer the trustees of funeral plan trusts. This seeks to set out for the benefit of trustees the professional obligations falling on funeral plan actuaries and, thus, to help trustees manage relations with their actuary. The draft of this guide is at **Appendix 3**. The Working Party has been helpfully assisted by an experienced independent trustee in preparing the draft guidance, to ensure that it is practically useful and, it hopes, pitched at an appropriate level.

4.5 Additional Professional Support

- 4.5.1 The Working Party has encountered a very clear demand by Members involved in work on trust-based funeral plans for additional CPD and training provision on this topic, and on related professional issues. Meeting this demand, therefore, forms an important part of the package of measures being put forward by the Working Party.
- 4.5.2 The Working Party proposes that the existing provision be improved and will be encouraging the IFoA to prepare relevant material, including case studies, to complement the regulatory changes and guidance it has proposed. Additionally, the IFoA has established a MIG for Members and non-actuaries, for example, trustees working in this field, to facilitate discussion amongst practitioners and to enable those concerned to assist one another, particularly when difficult matters arise.
- 4.5.3 The Working Party would welcome specific comment and suggestions on what additional resource material and/or training Members working in this area would find useful.

4.6 Conclusion

- 4.6.1 We would welcome general comments on the overall package of measures, including in relation to the practical implications of the proposals.

5 How to respond to this consultation

5.1 The aim of this consultation is to gather views on the package of measures relating to pre-paid funeral plan trusts recommended by the Working Party, and summarised at section 2 above. The questionnaire can be found at Schedule 1 below. The deadline for responses to be received is Friday, 13 February 2015.

5.2 **An online version of the questionnaire can be found on the IFoA's website at** <http://www.actuaries.org.uk/regulation/pages/consultations-and-discussion-papers>. In order to more efficiently analyse the results, survey respondents are encouraged to complete the online survey – even if you do need to leave some fields blank. We appreciate that some respondents will wish to respond in an alternative format. If you do choose to respond in that way, we may contact you to request an electronic version of your response. Our email address is funeral.plans@actuaries.org.uk

Our postal address is:

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Consultation meetings

5.3 We would encourage Members and interested stakeholders to attend one or other of the following two consultation meetings to discuss and comment on these proposals.

- The first will be held at de Vere Venues. Holborn Bars, 138-142 Holborn, London EC1W 2NQ at 17:00 hours on 8 January 2015. Refreshments will be served from 16:30 hours; and
- The second will be held at Level 2, Exchange Crescent, 7 Conference Square, EH3 8RA from 17:00 hours on 13 January 2015. Refreshments will be served from 16:30 hours.

5.4 In order to gauge participant numbers, we should be grateful if you would please contact us at: <http://www.actuaries.org.uk/events> if you are planning to attend either of these meetings.

5.5 Members may be entitled to claim CPD hours for reading this consultation paper and completing the relevant questionnaire. Please check the CPD scheme for your particular category recording and eligibility requirements.

Collation of results, analysis and publication

- 5.6 The survey responses will be collated by the IFoA Executive and then shared with the Working Party and/or the Regulation Board, who will keep the responses confidential. A list of respondents and responses may be published by the IFoA in its feedback document. Please set out clearly if you do not wish your name and/or response to be published. Responses will not be personally attributed to any particular respondent. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure.
- 5.7 Once responses have been considered, a decision will be taken by the Regulation Board of the IFoA regarding the extent to which the Working Party's recommendations will be implemented. A further and final feedback report will then be issued.
- 5.8 Thank you for your time and interest.

Schedule 1: Questionnaire

1. About You

| | |
|-------------------------------------|--|
| Name: | |
| Name of firm/self-employed/retired? | |
| Position held: | |

2. Are you a Member of the Institute and Faculty of Actuaries?

| | | |
|-----|----|--|
| Yes | No | |
|-----|----|--|

3. If yes, which category of membership?

| | | |
|-----------|-----------------|--|
| Student | Fellow | |
| Affiliate | Honorary Fellow | |
| Associate | | |

4. What is your primary practice area? (Answer one option only)

| | | |
|----------------------------|-----------------|--|
| Education | Health and Care | |
| Enterprise Risk Management | Life Assurance | |
| General Insurance | Pensions | |
| Finance and Investment | Other | |

5. Do you want your name to remain confidential?

| | | |
|-----|----|--|
| Yes | No | |
|-----|----|--|

6. Do you want the name of your organisation/employer to remain confidential?

| | | |
|-----|----|--|
| Yes | No | |
|-----|----|--|

7. Do you want your comments to remain confidential?

| | | |
|-----|----|--|
| Yes | No | |
|-----|----|--|

8. Do these comments represent your own personal views or your organisation's views?

| | | | |
|----------|--|--------------|--|
| Personal | | Organisation | |
| Both | | | |

9. Do you work on funeral plans and, if so, in what capacity?

| | | | |
|---------------|--|-------------------------|--|
| Actuary | | Auditor | |
| Legal Adviser | | Financial Adviser | |
| Trustee | | Other (please describe) | |

We would be particularly interested in hearing your views on the following:

APS Z1

10. Do you agree with the Working Party's proposals in APS Z1?

| | | | |
|--|--|----|--|
| Yes | | No | |
| If not, why not? | | | |
| If yes, is there anything you would like to say about the proposals? | | | |

11. What, if anything, should be included in APS Z1 which is not currently included?

| |
|--|
| |
|--|

12. Are you content with the proposed escalation provisions in light of the current regulatory regime applicable to funeral plan trusts?

| | | | |
|------------------|--|----|--|
| Yes | | No | |
| If not, why not? | | | |

13. Do you agree with the Working Party's initial conclusion that it is not appropriate or proportionate to include a formal, mandatory work review obligation in APS Z1?

| | | | |
|------------------|--|----|--|
| Yes | | No | |
| If not, why not? | | | |

Guide for Actuaries On Trust-Based Pre-Paid Funeral Plans

14. Should any other areas of guidance relating to the operation of pre-paid funeral plan trusts be addressed in the guide for actuaries?

| | | |
|--|----|--|
| Yes | No | |
| If yes, please provide further comments. | | |

15. Section 4, paragraph 4.37, “General Governance” of the guide for actuaries is intended to set out the reasons why actuaries need to ensure that they understand the underlying governing arrangements of the trust. Does this paragraph adequately set out that rationale?

| | | |
|--|----|--|
| Yes | No | |
| Please provide further comments or drafting suggestions. | | |

16. Is the guide for actuaries too detailed in its content? For example, are there too many references to specific regulatory requirements or is this helpful?

| | | |
|---|----|--|
| Yes | No | |
| If no, please provide further comments or drafting suggestions. | | |

17. Do you have any other comments on the draft guide for actuaries?

| | | |
|--|----|--|
| Yes | No | |
| If yes, please provide further comments. | | |

Guide for Trustees On Trust-Based Pre-Paid Funeral Plans

18. Do you have any comments on the guide for trustees?

| | | |
|--|----|--|
| Yes | No | |
| If yes, please provide further comments. | | |

Additional Professional Support

19. What further resource material and/or training would you find helpful in relation to pre-paid funeral plan trusts?

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| |
|--|

General

- 20.** Do you have any comments on the implications of the Consumer Rights Bill for funeral plan actuaries and on the Working Party's current approach to dealing with proposed amendments to the consultation package in light of that Bill?

| | | |
|--|----|--|
| Yes | No | |
| If yes, please provide further comments. | | |

- 21.** Do you have any comments on the practical impact of the proposals or have any further comments about anything in the consultation package?

| | | |
|--|----|--|
| Yes | No | |
| If yes, please provide further comments. | | |

Thank you for your time.



Institute
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APS Z1: DUTIES AND RESPONSIBILITIES FOR ACTUARIES WORKING FOR TRUST-BASED PRE-PAID FUNERAL PLANS

Author: Regulation Board

Status: Draft (to be approved under the Standards Approval Process)

Version: 1.0 to be effective from 1 xxx 2015

To be reviewed: No later than 1 xxx 2018

Purpose: To set out the requirements for actuaries carrying out **Valuations of Funeral Plan Trusts**

Authority: Institute and Faculty of Actuaries

Target Audience: Actuaries working for, advising or involved with **Trust-Based Pre-Paid Funeral Plans**

General Professional Obligations:

All **Members** are reminded of the Status and Purpose preamble to the Actuaries' Code which states that the Code will be taken into account if a **Member's** conduct is called into question for the purposes of the Institute and Faculty of Actuaries' Disciplinary Scheme. Rule 1.6 of the Disciplinary Scheme states that misconduct:

“means any conduct by a Member...in the course of carrying out professional duties or otherwise, constituting failure by that Member to comply with the standards of behaviour, integrity or professional judgement which other Members or the public might reasonably expect of a Member having regard to...any code, standards, advice, guidance, memorandum or statement on professional conduct, practice or duties which may be given and published by the Institute and Faculty of Actuaries and/or...by the [Financial Reporting Council] (including by the former Board for Actuarial Standards) in terms thereof, and to all other relevant circumstances.”

Members are required to comply with all applicable provisions of **APSs**.

In the event of any inconsistency between this **APS** and the **Actuaries' Code**, the Code prevails.

Use of the words “must” and “should”:

This **APS** uses the word “must” to mean a specific mandatory requirement.

In contrast, this **APS** uses the word “should” to indicate that, while the presumption is that **Members** comply with the provision in question, it is recognised that there will be some circumstances in which **Members** are able to justify non-compliance.

1. Introduction

- 1.1. The responsibilities of **Members** to whom this **APS** applies are to provide information concerning the assets and liabilities of **Trust-Based Pre-Paid Funeral Plans** to **Trustees** and/or **Plan Providers** and, as such, are important to the interests of **Planholders**.
- 1.2. In order to accept an appointment to undertake a **Valuation** of a **Funeral Plan Trust**, a **Member** must:
 - 1.2.1. be a Fellow of the Institute and Faculty of Actuaries;
 - 1.2.2. have the necessary skill and experience to provide appropriate actuarial advice;
 - 1.2.3. before accepting that appointment, ensure that the relevant requirements of the **Actuaries' Code** have been met, including the need, as appropriate, to liaise with his/her immediate predecessor; and
 - 1.2.4. ensure that he/she has read the **Governing Documents**.

2. Obligations

- 2.1. Before accepting an appointment, a **Member** must ensure that the **Trustees** and the **Plan Provider** will:
 - 2.1.1. allow him/her to present a report directly to the **Trustees** and/or **Auditors**, should he/she consider that there is a compelling reason to do so;
 - 2.1.2. have the ability to notify **Planholders** if the circumstances set out in paragraph 2.3 arise;
 - 2.1.3. provide the **Member** as soon as practicable with notice of any replacement to, alteration of, or addition to, the **Governing Documents**;
 - 2.1.4. whenever practicable, discuss with the **Member** any proposed replacement to, alteration of, or addition to the **Governing Documents** in advance of the proposal taking effect;
 - 2.1.5. provide the **Member** with sufficient membership, asset and other data as is necessary to carry out a **Valuation**;
 - 2.1.6. provide the **Member** with guidance and decisions on the interpretation and/or meaning of any of the provisions of the **Governing Documents**, where such guidance and decisions are reasonably needed by the **Member** to permit him/her to fulfil his/her duties; and
 - 2.1.7. highlight to the **Member** any information contained within the **Governing Documents** which may assist the **Member** in understanding the nature of the **Plan Provider's** contractual obligations.

- 2.2. During the course of an appointment, the **Member** must ensure that:
- 2.2.1. he/she informs the **Trustees** of his/her understanding of the **Planholders'** contractual entitlements and of the need for the cost of providing the contracted funerals to be taken into account in a **Valuation**, having regard to any relevant representations which have been made to the **Planholders** and which are set out in the **Governing Documents**;
 - 2.2.2. on becoming aware that a significant change is likely to take place or has, in fact, taken place in the **Trust-Based Pre-Paid Funeral Plan's** operations, practices or other circumstances, he/she takes reasonable steps to ensure that the **Trustees** and the **Plan Provider** take appropriate account of any implications for the provision of the contracted funerals to the **Planholders**;
 - 2.2.3. on becoming aware of any other issue which may reasonably be expected to impact upon the provision of the contracted funerals to the **Planholders**, he/she must inform the **Trustees** and the **Plan Provider**; and
 - 2.2.4. should he/she consider that the systems of control in place to protect the **Planholders'** interests may not be adequate, he/she must draw this to the **Trustees'** and the **Plan Provider's** attention.
- 2.3. Where a **Member** has produced a **Valuation** and considers that:
- 2.3.1. there is a material shortfall in the value of the assets held by the **Trustees** to cover the calculated value of the liabilities of the **Funeral Plan Trust**, or that the contractual obligations of the **Plan Provider** to **Planholders** under the **Trust-Based Pre-Paid Funeral Plan** have a significantly higher value than the relevant liabilities of the **Funeral Plan Trust**; and
 - 2.3.2. having drawn this point to the **Trustees'** and the **Plan Provider's** attention, appropriate remedial arrangements have not, within a reasonable time period been put in place by the **Trustees**,
- the **Member** should report these matters to the **Plan Provider**.
- 2.4. If, having raised these concerns with the **Plan Provider**, appropriate remedial arrangements have not, within a reasonable time period been put in place, the **Member** should report his/her concerns to the:
- 2.4.1. **Auditors** if the **Plan Provider** is not a **FPA** registered provider; or
 - 2.4.2. **Auditors** and to the **FPA** if the **Plan Provider** is a **FPA** registered provider.

3. Definitions

| Term | Definition |
|-----------------------------------|--|
| APS | Actuarial Profession Standard. |
| Auditors | Auditors of the Plan Provider and the Auditors of the Funeral Plan Trust. |
| FPA | Funeral Planning Authority. |
| Funeral Plan Trust | A trust established as part of a Trust-Based Pre-Paid Funeral Plan to hold money paid by Planholders to the Plan Provider for the purpose of providing funerals and which meets the requirements listed in article 60(1)(b) of the RAO. |
| Governing Documents | The documents governing a Trust-Based Pre-Paid Funeral Plan which include the following non-exhaustive list of documents: the current trust deed and any previous amendments of the Funeral Plan Trust, the current and historical marketing literature, contracts or terms and conditions between the Plan Provider and the funeral director, the funeral director and the Trustees and the Plan Provider and the Planholder. |
| Member | A member of the Institute and Faculty of Actuaries. |
| Planholder | The person with whom the Plan Provider has contracted. |
| Plan Provider | The entity which undertakes to provide, or secure that another person provides, a funeral in the United Kingdom for the Planholder on his/her death. |
| RAO | Financial Services and Markets Act 2000 (Regulated Activities) Order 2001. |
| Trust-Based Pre-Paid Funeral Plan | An arrangement established by a Plan Provider to support the sale of contracts of the type defined in article 59(2) and exempted from Financial Conduct Authority regulation under article 60(1)(b) of the RAO. |
| Trustees | Those persons charged with the control of the Funeral Plan Trust. |
| Valuation | The determination, calculation and verification of the assets and liabilities of the Funeral Plan Trust. |



Institute
and Faculty
of Actuaries

Guide for Actuaries

On Trust-Based Pre-Paid Funeral Plans

by the Regulation Board

November 2015

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This guide imposes no obligations upon Members over and above those embodied in APS Z1. The guide does not constitute legal advice, nor does it necessarily provide a defence to allegations of misconduct. While care has been taken to ensure that it is accurate, up to date and useful, the IFoA will not accept any legal liability in relation to its contents. The defined terms used in APS Z1 apply to this guide.

1. Purpose and target audience

- 1.1 This guide is issued by the Regulation Board of the Institute and Faculty of Actuaries (**IFoA**)¹ for the use and benefit of actuaries who may either be involved or become involved in:
- advising the Trustees of UK Funeral Plan Trusts or providers of Trust-Based Pre-Paid Funeral Plans; and/or
 - valuing UK Funeral Plan Trusts.
- 1.2 This guide is for all IFoA Members regardless of where they practise if they are involved in determining, calculating and verifying the assets and liabilities of pre-paid Funeral Plan Trusts under the relevant UK legislation. For ease of reference, the terms “actuary” or “you” are used in this guide to refer to IFoA Members.
- 1.3 UK Trust-Based Pre-Paid Funeral Plans are usually operated by specialist companies associated with a funeral director, or a group of funeral directors (where we refer to the companies and funeral director(s) together, we will call them “**funeral Plan Providers**”), in conjunction with Trustees. The Trustees oversee the management of the trust fund which holds the pre-payments until the funeral is needed.
- 1.4 This guide briefly covers the general operation of these UK plans and identifies some of the risk areas which you need to consider before accepting an appointment to provide an assessment of the assets and liabilities of the pre-paid Funeral Plan Trust. This guide’s aim is to provide you with information regarding how many (but by no means all) such plans operate and to outline some of the issues you might need to consider in providing actuarial advice to both Trustees and funeral Plan Providers. It is designed to stimulate thought processes, rather than serving as a mandatory “rule book”.
- 1.5 Demonstrating that you have followed the steps set out in this guide will make it easier for you to account to the IFoA for your actions but the key consideration is that, whatever means are employed, your obligations under the Actuaries’ Code (and related standards) are met. The IFoA hopes that the guide will be a useful tool for you when you find yourself needing to assess what to do when dealing with pre-paid Funeral Plan Trusts and the considerations relevant to handling such an engagement professionally and appropriately. You may also find it useful to contact the IFoA’s Funeral Plans Member Interest Group (**MIG**).

¹ Pursuant to the July 2014 Memorandum of Understanding (**MOU**) between the IFoA and the Financial Reporting Council (**FRC**), the IFoA may, with the agreement of the FRC, issue non-mandatory technical guidance for its Members. This guide contains ethical and technical guidance.

2. What is a pre-paid funeral plan?

- 2.1 A pre-paid funeral plan is an arrangement whereby an individual pays a sum of money in advance to secure the provision of an agreed funeral service at the time of his/her death. This sum can be paid in full or in instalments. These plans are also known as “pre-need” funeral plans.
- 2.2 The contract to provide the funeral is normally between the Planholder and the funeral Plan Provider or, occasionally, the Trustees. Care needs to be taken to identify clearly who is providing what to whom.
- 2.3 Many, but not all, pre-paid funeral plans are provided by Plan Providers registered with the Funeral Planning Authority (**FPA**), which is a self-regulatory organisation setting operational and governance standards for Plan Providers. It also aims to offer a ‘safety net’ for Planholders if funeral Plan Providers are unable to honour their commitments. The FPA’s website provides additional information regarding registration requirements and its monitoring activities.
- 2.4 Funeral plans can be provided under trust-based or insurance-based contracts. The **focus of this guide is on trust-based plans**.
- 2.5 In trust-based contracts, the pre-payment is paid by the individual Planholder to the funeral Plan Provider and a contract is issued by the provider confirming the payment and the details of the funeral to be provided on the Planholder’s death. This pre-payment is then paid into a separate trust fund and managed by Trustees. On the death of the Planholder, an amount is paid from the trust to the funeral Plan Provider to defray the costs of the Planholder’s funeral. Typically, the funeral Plan Provider is responsible for providing the funeral rather than the Trustees or the trust fund. Usually the trust fund provides an agreed sum of money and it is the funeral Plan Provider who would make up a shortfall, if any.
- 2.6 Different operational structures can apply to these arrangements, involving variations such as:
- the details of the funeral purchased and the elements which will be paid when the funeral is needed;
 - details of the pre-payment and whether payment is spread over a period of months or years;
 - the proportion of the sum paid by the Planholder to be held on trust so that their funeral is provided, but also to reimburse the funeral Plan Provider for any marketing, operational costs or commissions;
 - the amount due to be paid from the trust fund to the funeral Plan Provider when the funeral is needed – it may be the accumulated value, with investment returns, of the pre-payment originally received (which can be higher or lower than the current cost of the funeral), or an amount agreed for the funeral purchased;
 - the treatment of any surpluses (profits) or deficits (losses) that emerge within the trust fund;
 - the responsibilities for administering the arrangements and meeting the costs incurred;

- constraints on the investment of the trust funds;
- where the arrangement is for a group of funeral plan directors, arrangements for selecting the funeral plan director to perform the eventual funeral;
- payments due if the Planholder cancels the plan;
- some plans being based on contracts between the Trustees and the Planholder, with the funeral Plan Provider performing the funeral at an agreed cost when required;
and
- taxation of the trust fund and of any profits.

3. Are there any legislative or regulatory requirements?

Legal requirements

- 3.1 As a trust-based arrangement providing a benefit at some future date in exchange for a payment now, there is a requirement under the Financial Services and Markets Act (Regulated Activities) Order 2001 (**RAO**) for a Fellow of the IFoA to determine, calculate and verify the assets and liabilities of the pre-paid Funeral Plan Trust every three years.

FPA requirements

- 3.2 Under the FPA's rules, there is a requirement for a more frequent determination, calculation and verification of the assets and liabilities of the trust than that required under the RAO. There are also other, additional provisions in the FPA's rules which will be relevant for actuaries to understand and consider if they are undertaking work for a FPA registered provider.

Trust requirements

- 3.3 The trust deed governing the funeral plan may set out additional obligations that you need to consider. As the IFoA's Actuarial Profession Standard Z1- Duties and Responsibilities of Actuaries Working for Trust-Based Pre-Paid Funeral Plans (**APS Z1**)- makes clear, you must read the documents governing the funeral plan, the trust deed, the funeral plan literature and the contracts with Planholders. In light of that review, you must consider the different parties involved in the operation of these plans - including any actual or implied contractual agreements between them relating to the operation of the trust and funeral provision.

Professional standards

- 3.4 You should comply with the Actuaries' Code. To comply with Principles 2 (Competence and Care) and 4 (Compliance) of the Actuaries' Code and APS Z1 when undertaking such a Valuation, you should ensure that you have sufficient knowledge and understanding of such arrangements and of the specificities of the types of contracts on offer.
- 3.5 Furthermore, and as APS Z1 makes clear at paragraph 2.2.1, when you are undertaking a Valuation, you are required to have regard to any relevant representations which have been made to Planholders which might be set out in the plan's Governing Documents. The types of representations that you might want to consider include what the marketing material says about the payment of third party costs other than the funeral director's costs, for example, cremation fees, burial plot leases, church service costs etc, or what guarantees, for example, might be being provided by the Plan Provider or funeral director. Using your professional judgement, you need to weigh up those representations against the Planholders' contractual entitlements and the cost of providing the contracted funeral to determine what the plan's liabilities might be.
- 3.6 Regarding your obligations to consider the Governing Documents of the pre-paid funeral plan, you are required to read those documents (1.2.4 of APS Z1) as it will inform your reflections as set out at paragraph 2.2.1 of APS Z1. If those documents are simply not available, then we would not expect you to have to take them into account. However, you would be expected to do what is reasonable to obtain those documents and to engage with the Trustees/Plan Provider to obtain them. In fact, the onus is on the Trustees and Plan Provider to provide you with relevant information which might impact on the Valuation. Indeed, paragraph 2.1 and, in particular, paragraph 2.1.5 of APS Z1 are designed to ensure that you

do have the relevant information gathering powers you will need to prepare a Valuation, acknowledging that the relevant information will most likely be held by the Trustees and Plan Provider and not you as the actuary.

- 3.7 Additionally, you should be aware of the speaking up obligations at paragraphs 2.3 and 2.4 of APS Z1. Paragraph 2.3 addresses the situation where you have produced an assessment of the trust's assets and liabilities but believe that, there is a material shortfall in the assets held by the Trustees to cover the liabilities or that the Plan Provider's contractual obligations are significantly higher than the liabilities of the trust. The provision envisages that, as a first step, having drawn the position to the attention of the Trustees and the Plan Provider, you should try to encourage the Trustees to take appropriate action to alleviate the shortfall. If, however, appropriate remedial arrangements have not been made within a reasonable period of time, you need to report the position to the Plan Provider. As a secondary measure, if the Trustees and the Plan Provider have not put in place appropriate remedial arrangements within a sensible period of time, it is proposed that actuaries should report their concerns to the Auditors of the trust or the Plan Provider and, if the Plan Provider, is a FPA registered provider, also to the FPA.
- 3.8 It is not envisaged that you would report in anything other than extreme circumstances, where, for example, following protracted discussion, no attempt has been made by Trustees and/or the Plan Provider to remedy a shortfall. In any case in which a report had been made, you would be required by paragraph 1.2.3 of APS Z1 and clause 3.6 of the Actuaries' Code to speak to any successor actuary regarding what had happened.
- 3.9 For work concerning the determination, calculation and verification of the assets and liabilities of a pre-paid Funeral Plan Trust, including the work described in paragraphs 3.1 and 3.2 above, you should comply with the Financial Reporting Council's (**FRC's**) Technical Actuarial Standard on Funeral Plans (the **Funeral Plans TAS**), as well as the FRC's Generic TASs on Data (**TAS D**), Modelling (**TAS M**) and Reporting Actuarial Information (**TAS R**).

4. What are the issues involved in operating these plans?

4.1 A list of some of the more common issues associated with pre-paid plan trusts is set out below. The extent to which these issues arise will vary from plan to plan. There may be other issues arising concerning the particular plan on which you are working. Consequently, any action you decide to take will be a matter for your own professional judgement.

Issues to consider under Technical Actuarial Standards (TASs)

4.2 When undertaking the Valuation of a Funeral Plan Trust, including those that are required by the RAO or the annual assessment that has to be submitted to the FPA, you should consider the following non-exhaustive summary of the requirements of the TASs:

Data

4.3 Paragraph C.5.1 of TAS D requires you to consider the assessment of data required to meet the needs of the user of the actuarial work you are undertaking. The data required is likely to include:

- membership data;
- the accumulation of funds in respect of the Planholder (allowing for an annual allocation of investment returns, costs, current and future tax provisions etc);
- the actual funeral to be provided; and
- details of any guarantees.

4.4 Paragraphs C.5.6 to C.5.10 of TAS D requires you to perform checks to ensure the accuracy, the relevance and completeness of the data you are using.

4.5 Paragraphs C.5.11 to C.5.15 of TAS D notes that you should assess whether the reliability of the data can be improved by adjusting or supplementing it and you should document any action taken to that incomplete or inaccurate data. Examples of issues concerning incomplete data include:

- data can sometimes be limited, particularly in respect of Planholders who joined some time ago, when gender and dates of birth were often not recorded;
- there is usually no evidence or indication of the health status of the Planholders at the point of sale; and
- claims data may not always be sufficiently detailed to enable a comprehensive analysis of the experience of the trust.

4.6 C.4.3 of TAS R obliges you to report on any material uncertainty over the accuracy of the data and explain the approach taken to any uncertainty in the calculations of the assets and liabilities of the trust.

4.7 Depending on the nature of the data provided, it may be that you could be regarded as a Data Controller under the Data Protection Act 1998. You should consider the IFoA's guidance on actuaries as data controllers to determine whether this applies to you²

² <http://www.actuaries.org.uk/research-and-resources/documents/data-controller-responsibilities-guidance-material-actuaries-and-1>

Assumptions

- 4.8 For the Valuation of a Funeral Plan Trust that is required by the RAO or the assessment that has to be submitted to the FPA, the assumptions are set by the actuary who performs the work.
- 4.9 When selecting any assumptions for this work, paragraphs D.2.1 to D.2.7 of the Funeral Plans TAS require assumptions to be appropriate for the purpose of the calculations for which they are used. Assumptions must additionally be derived from as much relevant information as is sufficient, or, if there is insufficient relevant information, as is available.
- 4.10 Paragraph C.4.6 of TAS R explains that you should describe the rationale for assumptions used.

Discount rates

- 4.11 Discount rates are often among the assumptions that have the most material effect on the results of the work that is being performed.
- 4.12 The requirements of the Funeral Plan TAS for discount rates (paragraphs D.2.9 to D.2.12) need to be met, as they reflect the need of Trustees to understand the nature and characteristics of the cash flows to which they are applied, how any discount rates are derived, and the implications of adopting them.
- 4.13 The discount rate used might include an allowance for the fact that the liquidity characteristics of a trust's liabilities are not the same as that of assets generally traded in financial markets. In particular, Planholders usually have the right to a refund of their pre-payment, subject only to a small penalty, to allow for administrative costs. Therefore, it might be judged that funeral plan liabilities are liquid. On the other hand, there is an implicit penalty if there is no allowance for interest on the pre-payment. This implicit penalty increases the longer the plan remains in force, which might lead to the judgement that funeral plan liabilities are increasingly illiquid. In addition, there is uncertainty over the determination of illiquidity premiums that are implicit within various market instruments. Transparency about any allowance for illiquidity is particularly important as understanding, application and market practice continue to develop.
- 4.14 In selecting the discount rate and providing information to the Trustees, you might wish to consider the paper *A Framework for the use of Discount Rates in Actuarial Work* published by the IFoA in November 2012.³

Mortality

- 4.15 Paragraphs D.2.13 to D.2.15 of the Funeral Plans TAS relate to the selection of mortality assumptions. Accordingly, you should use separate assumptions for base mortality rates and subsequent changes, and assumptions for the base rates of mortality must reflect the current Planholders of the Funeral Plan Trust.
- 4.16 If the Funeral Plan Trust is large enough, and has been operating with a similar membership profile for a long enough period, it may be possible to use its mortality experience in the derivation of the assumptions. Otherwise, adjustments will have to be made to publicly available mortality tables, or mortality rates will have to be derived from a wider base.

³ <http://www.actuaries.org.uk/research-and-resources/documents/framework-use-discount-rates-actuarial-work>

Information that might be used to adjust standard tables includes the place of residence and the socio-economic profile of Planholders, if known.

- 4.17 The inter-relationship between funeral price inflation, investment return and mortality risks can mean that an underestimation of mortality (i.e. Planholders assumed to be living longer than reality) can lead to an overstatement of the liability, whereas an overestimation of mortality can give rise to an undervaluation of the liability. Both an underestimation and overestimation of mortality will affect projected cash flows.

Funeral cost inflation

- 4.18 Increases in the cost of funerals are unlikely to follow a standard measure of inflation. Increases in the cost of funerals reflect non-standard factors and will typically be higher than standard measures of inflation, such as the Retail Prices Index. You will need to consider the various components of the funeral that contribute to the total cost and the factors that will affect how these change in price over time to make an appropriate assumption for funeral cost inflation.

Models and calculations

- 4.19 When undertaking the Valuation of a Funeral Plan Trust, including those required by the RAO or the annual assessment that has to be submitted to the FPA, TAS M will be relevant.

Measures

- 4.20 When determining the liabilities of the Funeral Plan Trust, you need to give consideration to the measure of liabilities used (for example, whether to value the marginal or actual cost of providing the funeral). It is important to check whether the trust deed provides guidance on which measure should be used and, as the work within the scope of the Funeral Plans TAS is repeated at regular intervals, consider what measure was used for the previous exercise.
- 4.21 Paragraph C.4.6 of TAS R requires an explanation and a rationale for the measures and methods used to calculate the value of the assets and the liabilities of the trust.

Comparisons

- 4.22 Paragraph C.5.17 of TAS R requires the assumptions, results and other material matters of two similar exercises to be compared. The comparison of results should include a reconciliation of the results.
- 4.23 Additionally, paragraph D.3.1 of the Funeral Plans TAS requires an explanation of any changes in the measures, methods or assumptions used between two similar and related exercises and that the overall effect of the changes on results is quantified.

Projections

- 4.24 Paragraph C.5.20 of TAS R requires, for work that is performed at regular intervals, projected results from future corresponding calculations. Issues relating to new business and the pricing of contracts may need to be considered in producing the projected results. For example:
- *Profile and volume of new business* - The profile and volume of new Planholders has a direct impact on the value of the inflation and other guarantees and will therefore impact on the future liabilities of the plan. The incidence of new business gives an

indication of the potential additional strain that is being put on the assets and profits of the funeral Plan Provider.

- *Source of new business* - How new business is obtained is also important; for example, advertising in local and national press may produce a more diverse group of new Planholders than concentrating on hospital geriatric wards. This may also impact on the future liabilities of the plan.
- *Pricing* – Some plans offer a contract for a funeral to be provided at some time in the future and are priced on the standard terms applicable at the time of the commencement of the contract. As an actuary, you are unlikely to be involved in the pricing of such contracts and the investment and inflation risks are normally borne by the funeral Plan Provider. Nevertheless, if the relevant information is available, you may need to identify any risks which might arise from the initial pricing of the contract. You may also need to consider the impact of the pricing of such contracts on the calculation of liabilities (or your projection of those liabilities) and the trust's investment strategy, and advise the Plan Provider and Trustees accordingly.

Reporting

- 4.25 You should communicate results clearly, so that Trustees and other users can make informed decisions concerning the management of the trust. TAS R requires that the style, structure and content of reports are suited to the skills, understanding and levels of relevant technical knowledge of users (TAS R paragraphs C.6.1 to C.6.3).

Estimating the value of liabilities

- 4.26 Paragraph C.5.5 of TAS R requires an indication of any uncertainty and a statement of the nature and significance of the risks faced by the Funeral Plan Trust and the approach taken to those risks. Risks faced by Funeral Plan Trusts include:
- increasing longevity extending the duration between the receipt of the pre-payment and the date of the funeral, increasing the exposure of the trust to the inflation of funeral costs, which might in turn not be matched by asset returns;
 - if the Plan Provider no longer sells funeral plans, the trust is exposed to the risk that expenses absorb an increasing proportion of the income received from the trust's assets. Assets might also have to be sold to meet claim payments, potentially exposing the trust to market risk;
 - a pandemic unexpectedly requires a liquidation of assets, exposing the trust to liquidity risk; and
 - investment returns might be lower than expected.
- 4.27 Judgement should be exercised in order to determine an appropriate allowance for adverse risk and uncertainty concerning liability cash flows. In exercising this judgement, you should consider the purpose of the exercise and the information that would enable the Trustees to make appropriate decisions about the management of the trust.
- 4.28 Any allowance might depend on factors such as the nature and term of the investments of the trust, uncertainty concerning mortality improvements and funeral cost inflation. Possible methods include adding provisions for adverse deviation to the assumptions used to project

and discount liability cash flows, and adding an explicit margin for risk to the present value of an unbiased probability-weighted estimate of the liability cash flows.

4.29 Paragraph D.4.1 of the Funeral Plans TAS requires an explanation of how adverse risks to and uncertainty in liability cash flows have been taken into account in the estimate of the value of the liabilities.

4.30 The following specific areas can give rise to risk and uncertainty which might affect the value of the liabilities:

- *Guarantees* – For some funeral plans, there may be guarantees in place. For example, the funeral Plan Provider often provides guarantees to the Trustees to ensure that the contracted funeral service will be provided irrespective of the amount of money available in the trust fund to be paid in respect of any one Planholder. However, there may be further guarantees; these might, for example, restrict any costs to be recovered by the provider during the operation of the plan.

Where the funeral plan contract is between the Trustees and the Plan Provider, any guarantees being provided by the Trustees should be examined, particularly concerning the financing of those guarantees.

In determining the value of the assets and liabilities of the Funeral Plan Trust, the nature, timing and parties to any guarantees need to be established. The extent to which these guarantees have been taken into account in the Valuation of the assets and/or the liabilities of the plan should be reported.

- *Tax* – Funeral plan trusts are typically subject to tax and the tax on income and capital gains (both current and future) is an element of the funeral plan's liabilities. The incidence of taxable gains and taxable income is influenced by the existing and new business profiles, cash flow needs and investment strategies. Planholders who decide to leave the plan may be entitled to a repayment of the pre-payment (with or without interest and charges). Should these and other members be charged, for example, the full capital gains impact of a major asset sale or should this be spread? Such matters need to be considered by the Trustees and reflected in the Valuation of the Funeral Plan Trust's assets and/or liabilities.

The tax position can be very complex and you should discuss this with the Auditor and the Trustees' professional advisers (and other interested parties) and consider how the position might change over time. You may need to consider taking advice from specialist tax advisers, as recommended in paragraph 2.3 of the Actuaries' Code. It may be necessary to challenge appropriately the other professional's advice/calculations e.g. asking them what assumptions they used in coming to their conclusion.

- *Discretionary payments* - The Trustees of a Funeral Plan Trust usually have the discretion to apply any surplus arising, as a result of the change in the difference between the value of assets and the value of liabilities, to increase amounts payable from the trust to meet the cost of funerals. This may be seen to provide a level of protection to the Plan Provider from the impact of inflation on funeral costs in the period between the date of the pre-payment and the funeral.

An explanation of what allowance has been made for such discretionary increases in any estimate of the value of the liabilities of the Funeral Plan Trust should be provided.

- *Covenant* – Where the funeral plan contract is between the funeral Plan Provider and the Planholder, it is important to identify the financial ability and willingness of the provider to provide the funeral at times when, for example:
 - there has been a period of poor investment returns;
 - funeral costs have increased at a much faster rate than ordinary price inflation or investment returns;
 - a major epidemic causes a greater number of actual deaths than expected, leading to a strain on cash flows and service standards; or
 - the volume of funeral trust business is a significant proportion of the funeral Plan Provider's annual business, leading to:
 - potential new business strains; and
 - the inability of profitable non-trust business to support the trust-based contracts during periods of high funeral price inflation or poor investment performance.

An explanation of the extent to which the covenant of the funeral Plan Provider has been taken into account in the estimate of the value of the liabilities or the assets of the Funeral Plan Trust should be provided.

Liability cash flows

- 4.31 Paragraphs C.5.10 to C.5.12 of TAS R require you to provide an indication of the nature and timing of future cash flows being quantified.
- 4.32 You must also comply with D.4.3 and D.4.4 of the Funeral Plans TAS. This requires any report which includes an estimate of the value of the assets or of the liabilities of a Funeral Plan Trust to quantify the liability cash flows expected to arise in each of the first ten years following the effective date of the estimate, and explain how the estimate is derived from the liability cash flows.

Estimating the value of assets

- 4.33 Paragraph D.4.5 of the Funeral Plans TAS requires an explanation of the measures used to quantify the value of the assets and the reasons for their selection. The TAS also requires that, if the measures used are not fair value measures, then the Trustees should be provided with an estimate of the fair value of the assets.

Adverse scenarios

- 4.34 D.4.6 of the Funeral Plans TAS requires any report which includes an estimate of the value of the assets or of the liabilities of a Funeral Plan Trust to indicate the effect of uncertainty by considering the impact of adverse scenarios.

4.35 Such adverse scenarios might need to include:

- a combination of increasing longevity and high inflation of funeral costs;
- funeral plans ceasing to be sold by the Plan Provider, resulting in no new money being paid into the Funeral Plan Trust;
- a pandemic leading to a large number of claims on the Funeral Plan Trust in a short period; and
- income and capital returns from the assets of the Funeral Plan Trust being lower than expected.

Issues to consider under other Professional Standards

4.36 When undertaking any work in relation to the Funeral Plan Trust, you should consider the following:

Issues that impact on the provision of contracted funerals

4.37 In general, it is important to consider the implications, having regard to paragraph 2.2 of APS Z1, of any significant change which is likely to take place or has taken place in the plan's operations, practices or other circumstances. More specifically, possible issues include:

- *General governance* – This applies to the funeral Plan Provider and Trustees. It would cover areas such as: the availability of the provider's own funds, risk management and appetite and internal controls, including whether or not senior management have conducted their own review of the risks being taken; and transparency to users and the FPA. You should understand and take appropriate account of the Trustees' risk appetite, which may influence their choice of assumptions, and explain how they have done so in their report.
- *Operation of the trust* - Trust documents can often be out of date, inflexible or unclear. It is possible that the funeral plan is not operating strictly in accordance with the trust deed, nor may it be clear where particular powers lie, including for example who has the power to remove Trustees. As the operation of funeral plans becomes more complex and regulated, it is necessary to review the suitability and performance of the Trustees to ensure they have the expertise to deal with all aspects of the operation of the funeral plan. Although this is not a responsibility falling on you as the actuary, it is nevertheless an area you may become aware of problems and where you may need to consider the possibility of escalating matters to the relevant entity/authority, in accordance with paragraph 2.4 of APS Z1 and Principle 4 of the Actuaries' Code.
- *Conflicts of interest* - If working for both the Trustees of the trust and for the Plan Provider- e.g. in providing other actuarial advice- you may find yourself in a position of conflict. It is important that you are mindful of the implications in this context of Principle 3 of the Actuaries' Code (Impartiality). The IFoA has produced guidance on conflicts of interest and how conflicts may be reconciled. See: http://www.actuaries.org.uk/Conflicts_of_Interest_Guide_for_Actuaries_version_1.1

Remedial actions

4.38 Where there is a material shortfall of assets compared to liabilities, you should, where appropriate, apply paragraph 2.3 of APS Z1. Possible remedial actions that the Trustees could put in place include:

- *Management of Deficits* - The trust deed may allow Trustees to deduct an initial charge from new pre-paid sums plus another annual charge from gross annual income earned on the investments and pay that to the provider, who will usually be the general administrator for the plan. The provider may decide to defer or even cancel such payment at their discretion to improve the trust's financial status. However, even if the provider has provided a guarantee concerning the provision of the final funeral service, it does not mean that they have provided any guarantee to underwrite any losses in the trust fund. Such losses could require sizeable capital injections which impact on the Plan Provider's balance sheet and may not be affordable. You may need to consider the impact of this in assessing whether appropriate remedial action has been taken to alleviate any material shortfall of assets compared to liabilities.

5. Further Reading

5.1 Very little actuarial research has been done regarding the operation of these plans and it is therefore not currently possible to provide a comprehensive reading list. However, any actuary who is involved (or is likely to become involved) in such plans would benefit from investigating the following:

- The Financial Conduct Authority website: <http://www.fca.org.uk/firms/about-authorisation/do-i-need-to-be-authorised>;
- The Funeral Planning Authority website: <http://www.funeralplanningauthority.com/>; and
- Websites of current Trust-Based Pre-Paid Funeral Plans.

5.2 These types of plans are also operated in the United States of America and are known as “pre-need” funeral plans. There are some research papers and articles on the operation of such plans emanating from the United States and these can be found via the following websites:

- The Society of Actuaries: <https://www.soa.org/>;
- The American Academy of Actuaries: <http://www.actuary.org/>; and
- National Association of Insurance Commissioners: <http://www.naic.org/>.

5.3 You should also, of course, refer to relevant legislation, accounting standards, regulatory rules and guidance.

5.4 In particular, you should be familiar with:

- the Actuaries’ Code: <http://www.actuaries.org.uk/research-and-resources/documents/actuaries-code-v-20>;
- APS Z1: Duties and Responsibilities for Actuaries Working Trust-based Pre-Paid Funeral Plans *[to insert link when live]*;
- The Funeral Plans TAS <https://frc.org.uk/getattachment/700a3891-7ccd-47bb-958f-6a63b9178cef/Funeral-Plans-TAS-version-1-Feb-2011.aspx>;
- TAS D: Data: <https://frc.org.uk/getattachment/1d08e3b5-00bc-4793-b457-284162f002af/TAS-D-Data-version-1-Nov-09.pdf>;
- TAS M: Modelling: <https://frc.org.uk/getattachment/3a8825b8-4560-4750-955f-30f740960c7f/TAS-M-Modelling-version-1-Apr-10.pdf>;
- TAS R: Reporting; [https://frc.org.uk/getattachment/f6888ddc-79a4-4d26-858b-128eb736a8f7/TAS-R-Reporting-Actuarial-Information-version-\(1\).pdf](https://frc.org.uk/getattachment/f6888ddc-79a4-4d26-858b-128eb736a8f7/TAS-R-Reporting-Actuarial-Information-version-(1).pdf); and
- Articles 59 and 60 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001: <http://www.legislation.gov.uk/uksi/2001/544/part/II/chapter/XIV/made>.

5.5 Additionally, you may wish to consider and review the:

- IFoA's Guide for Funeral Plan Providers and Trustees on the Role of the Actuary in dealing with Trust-Based Pre-Paid Funeral Plans *[to insert link when live]*;
- FRC's "Funeral Plans TAS Significant Considerations" document:
<https://frc.org.uk/Our-Work/Publications/BAS/Funeral-Plans-TAS-version-1-Feb-2011/Funeral-Plans-TAS-Significant-considerations-Feb-2.pdf>; and
- IFoA's Guide for Actuaries on Conflicts of Interest:
http://www.actuaries.org.uk/Conflicts_of_Interest_Guide_for_Actuaries_version_1.1

6. Further Guidance

- 6.1 The IFoA's Professional Support Service and the Funeral Plans MIG may be able to help with more specific issues. It is good practice for all work to be checked and reviewed to ensure accuracy and clarity⁴ Pre-paid Funeral Plan Trusts can vary in their legal structures and operational procedures and, from time to time, you may find it helpful to discuss issues, in confidence, with another funeral plan actuary, who may be from another organisation.
- 6.2 Information about the Professional Support Service can be found here:
<http://www.actuaries.org.uk/regulation/pages/professional-support-service-0>
- 6.3 Information about the Funeral Plans MIG can be found here:
<http://www.actuaries.org.uk/communities/communities/funeral-plans-member-interest-group>

⁴ [Potential cross-reference to APS X2]

7. Contact us

- 7.1 The content of this guide will be kept under review and for that reason we would be pleased to receive any comments you may wish to offer on it. Any comments should be directed to:

Professional Regulation Team
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Institute
and Faculty
of Actuaries

Guide for Trustees

On Trust-Based Pre-Paid Funeral Plans

by the Regulation Board

November 2015

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The guide does not constitute legal advice, nor does it necessarily provide a defence to allegations of misconduct. While care has been taken to ensure that it is accurate, up to date and useful, the IFoA will not accept any legal liability in relation to its contents.

1. Introduction

- 1.1 An increasing number of people are choosing to purchase their funeral from funeral directors or other funeral plan providers in advance of their death through pre-paid funeral plans. Some plans are provided through insurance policies and others operate under a legal trust. **This guide focuses solely on plans provided under a trust arrangement.**
- 1.2 UK trust-based pre-paid funeral plans are usually operated by specialist companies associated with a funeral director, or a group of funeral directors (where we refer to the companies and funeral director(s) together, we will call them "**funeral plan providers**"), in conjunction with trustees. The trustees oversee the management of the trust fund which holds the pre-payments until the funeral is needed.
- 1.3 There are a number of reasons why actuaries are required to carry out regular actuarial valuations of this type of plan, including;
- the governing documents of the trust;
 - legislation as set out in the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (**RAO**); and/or
 - where the funeral plan provider is registered with the Funeral Planning Authority (**FPA**).
- 1.4 An "actuarial valuation" in this area means the determination, calculation and verification of the assets and liabilities of the pre-paid funeral plan trust (the **Valuation**).
- 1.5 Actuaries may also undertake interim funding assessments. Whilst they are no substitute for the full regular valuation, they may provide valuable insight into trends in the business written, liabilities and cash flows which can be a useful management tool. Adverse results would normally trigger a full valuation.
- 1.6 This brief guide has been prepared by the Institute and Faculty of Actuaries (**IFoA**), the professional body for UK actuaries, to help funeral plan providers and trustees of such UK trust-based pre-paid funeral plans understand the role of the actuary and the advice that he/she can give. Additionally, trustees will need to understand their wider responsibilities under trust law.

2. A developing market

- 2.1 Some two decades ago, there were relatively few trust-based pre-paid funeral plans in the UK. The structure of these arrangements continues to evolve with an increasing role for the actuary in helping the plan providers and trustees in the financial management of the plan and trust.

3. Understanding the structure

- 3.1 Funeral plan providers and trustees must understand the operation, legal structure and obligations of such arrangements. Usually, the pre-payment is paid by the individual planholder to the funeral plan provider and a contract is issued by the provider confirming the payment and the details of the funeral to be provided on the planholder's death.
- 3.2 This pre-payment is then paid into a separate trust fund and managed by the trustees until, on the death of the planholder, it is paid back to the funeral plan provider to meet the costs of the contracted funeral. Typically, the funeral plan provider is responsible for providing the funeral rather than the trustees or the trust fund.
- 3.3 Usually the trust fund provides an agreed sum of money and it is the funeral plan provider who would make up the shortfall, if any. Different operational structures can apply to these arrangements involving variations such as:
- the details of the funeral purchased and the elements which will be paid when the funeral is provided;
 - details of the pre-payment and whether payment is spread over a period of years;
 - the proportion of the sum paid by the planholder to be held on trust for their funeral minus any marketing costs, operational costs or commissions;
 - the amount due to be paid from the trust fund to the funeral plan provider when the funeral is needed - it may be the accumulated value, with investment returns, of the pre-payment originally received (which can be higher or lower than the current cost of the funeral), or an amount agreed for the funeral purchased;
 - the treatment of any surpluses (profits) or deficits (losses) that emerge within the trust fund;
 - the responsibilities for administering the funeral plan arrangements and meeting the costs incurred;
 - constraints on the investment of the trust funds;
 - where the arrangement is for a group of funeral plan directors, arrangements for selecting the funeral plan director to perform the eventual funeral;
 - payments due if the individual cancels the plan;
 - some plans being based on contracts between the trustees and the planholder, with the funeral plan provider performing the funeral at an agreed cost when required; and
 - taxation of the trust fund and of any profits.

4. Key role of the actuary

4.1 The actuary's role is prescribed by the RAO, a key part of which involves carrying out a Valuation. This involves the determination, calculation and verification of the assets and liabilities of the pre-paid funeral plan trust. The Valuation would normally be required at least every three years under legislation and the trust documents. Three points to note are:

- Trust documents may only require a valuation of the financial obligations that fall on the trust and which are the trustees' responsibility.
- The actuary will, as far as possible, assess the financial commitments as explained in the documents that communicate the pre-paid funeral plan arrangement to the planholders - he/she will consider the plan provider's/funeral director's contractual obligations. These may be different from, and wider than, the obligations of the trust. The plan provider is (usually) contracted to provide a specified funeral. The trust will provide a sum of money to the plan provider to defray the plan provider's expenses in honouring its obligations under the contract.
- Funeral plan providers and trustees should consider whether more frequent Valuations would be appropriate, particularly if the finances of the arrangement are anticipated to be volatile. These more frequent assessments will in some cases not be a full Valuation, but a more approximate high level assessment of the assets and liabilities of the plan. The assessments will still be required to comply with the following Technical Actuarial Standards (**TASs**) issued by the Financial Reporting Council (**FRC**):
 - The Funeral Plans TAS <https://frc.org.uk/getattachment/700a3891-7ccd-47bb-958f-6a63b9178cef/Funeral-Plans-TAS-version-1-Feb-2011.aspx>;
 - TAS D: Data: <https://frc.org.uk/getattachment/1d08e3b5-00bc-4793-b457-284162f002af/TAS-D-Data-version-1-Nov-09.pdf>;
 - TAS M: Modelling: <https://frc.org.uk/getattachment/3a8825b8-4560-4750-955f-30f740960c7f/TAS-M-Modelling-version-1-Apr-10.pdf>;
 - TAS R: Reporting; [https://frc.org.uk/getattachment/f6888ddc-79a4-4d26-858b-128eb736a8f7/TAS-R-Reporting-Actuarial-Information-version-\(1\).pdf](https://frc.org.uk/getattachment/f6888ddc-79a4-4d26-858b-128eb736a8f7/TAS-R-Reporting-Actuarial-Information-version-(1).pdf)

5. Information requirements

5.1 When carrying out the Valuation, the actuary will first need to obtain all information relevant to undertaking the project at the date of the valuation such as:

- data on the individual planholders and their funeral contracts;
- up-to-date indications of the cost of providing the funerals;
- details of the trust's assets and investments and its general investment strategy;
- a copy of the audited annual accounts of the trust at the date of the valuation;
- the ruling trust documents, including minutes of relevant meetings;
- examples of the communications to planholders explaining the arrangement;
- the general governance of the trust's internal controls;
- the ability and willingness of the funeral plan provider to pay (the covenant), in order to assess the provider's financial ability and willingness to meet in full the contractual obligations falling on the funeral plan provider;
- taxation of the trust fund and any arrangement agreed with HMRC; and for
- the audited accounts of the plan provider.

5.2 Additionally, the trustees, with the actuary's help, may need to explore the structure and operations of the plan/the trust in conjunction with the trust's auditor and legal advisor. This should help ensure that the trust operates correctly and that the trustees have obtained appropriate professional advice for example, regarding investment, taxation and funding matters.

5.3 Furthermore, if the Valuation discloses a shortfall in assets of the trust versus the liabilities, then the trust's advisors will need to work together with the trustees to ensure that appropriate, remedial steps are taken to plug any shortfall.

6. Assumptions the actuary will make

6.1 The actuary will want to discuss key assumptions he/she is proposing to use in the Valuation, and the materiality and sensitivity of these in the context of the results. Such assumptions are:

- *Investment Returns* - the rate of investment return he/she anticipates will be achieved on the trust fund's assets in the future.
- *Inflation* - the rate he/she anticipates will apply to any future financial obligations, perhaps adopting different rates for different obligations, e.g. for cremation fees compared with funeral plan providers' fees.
- *Mortality* - the rate at which planholders are expected to die in future years.
- *Administration and Management Expenses* - which will need to be met in the future.
- *Cancellation Rates* - the rate at which planholders are expected to cancel policies in the future.
- *Current and Future Tax Rates* - this will reflect the extent to which, for example, a tax charge is building up on unrealised gains which may have to be paid at some time in the future.

6.2 Using these assumptions, the actuary will place a value on the liabilities of the trust (and the financial obligations of the funeral plan provider if possible) and produce a summary or written report identifying the extent to which the value of the assets will exceed the stated liabilities (a surplus), or fall short of the stated liabilities (a deficit).

6.3 In relation to the value of the assets of the trust, the actuary may need to take account of peculiarities relating to assets which have different book and face values. The actuary will need to make various assumptions and explain why the assets may have different accounting values than would normally be the case. Furthermore, the trustees should expect the actuary to present:

- an analysis quantifying how the surplus or deficit has changed since the last Valuation and the main contributory factors to these changes;
- an assessment of the pricing of new plans being issued; and
- for future individual years, a projection of the anticipated number of deaths, income and payments falling due from investments, and payments due to plans, compared with the expected payments for funerals and cancellations.

6.4 The trustees, usually in conjunction with the funeral plan provider, should expect the actuary to present the results and conclusions in person, for them to understand and discuss the financial implications of the operation of the funeral plan.

6.5 Based upon these discussions, the trustees, with the support and advice of the actuary, will consider what steps, if any, need to be taken to maintain or restore the financial health of the trust and plan. Where there is a shortfall in the value of the assets below the value of the liabilities, the trustees and plan provider should be fully aware of their legal and contractual obligations to redress the shortfall.

7. Further advice from the actuary

7.1 The actuary may advise and support the trustees and funeral plan provider on other financial and operational matters. For example, assessing the financial/operational impact of:

- any revision of the obligations committed to under new or existing plans, and any re-pricing of new plans being issued;
- establishing or revising the investment policy of the trustees;
- merging or absorbing other pre-paid funeral plans or arrangements;
- changing marketing policy or strategy;
- restructuring administration arrangements;
- adequate planholder details held on a database; and/or
- mortality experience of the plan.

7.2 The actuary can also provide advice connected to the buying and selling of the business of funeral plan providers.

8. Appointment of an actuary and their professional obligations

- 8.1 When appointing, or reviewing the appointment of, an actuary to a pre-paid funeral plan trust, the trustees and funeral plan providers concerned will clearly want to satisfy themselves that the actuary has the appropriate experience and expertise. The RAO requires that the actuary be a Fellow of the IFoA if the trust is exempted from regulation by the Financial Conduct Authority.
- 8.2 The IFoA expects actuaries to work diligently and with integrity to provide a professional service for all clients. All members of the IFoA are bound by the Actuaries' Code, which sets out their ethical conduct requirements¹. The IFoA operates in the public interest to ensure that its members operate correctly, objectively and transparently. Members are expected to be robust in identifying and resisting pressures to act against their professional judgement.
- 8.3 Principle 2 of the Actuaries' Code requires actuaries wishing to work on pre-paid funeral plan trusts to be satisfied that they have an appropriate level of knowledge and skill to undertake this work. Failure to comply with this principle may lead to disciplinary proceedings against the actuary concerned. Therefore, trustees and funeral plan providers can expect that actuaries undertaking such a role will have appropriate experience and a sound understanding of their ethical and professional obligations.
- 8.4 On appointment, actuaries are expected to identify their primary client, usually the trustees, and respect client confidentiality. They must manage and avoid conflicts² that may emerge in advising any associated parties, such as the funeral plan provider. The actuary is required to raise concerns about any unlawful, unethical or improper actions and may be required to "speak up"³ to the relevant authorities. These matters should be covered in the actuary's appointment letter.
- 8.5 An appointment letter may be expected to:
- clearly identify the client and any associated party the actuary may advise;
 - cover confidentiality issues and arrangements for handling conflicts of interest;
 - set out undertakings to supply information and data requested or expected by the actuary;
 - describe limitations on the scope of the actuary's role and advice;
 - explain practical arrangements for contacting the actuary, or colleagues in their absence;
 - describe arrangements for dealing with disputes or complaints;
 - describe the process for termination of the appointment, by either party;
 - set out the usual commercial terms, including setting out the basis of fees and payment; and

¹ www.actuaries.org.uk/regulation/pages/actuaries-code

² http://www.actuaries.org.uk/Conflicts_of_Interest_Guide_for_Actuaries_version_1.1

³ <http://www.actuaries.org.uk/regulation/pages/whistleblowing>

- refer to the actuary's ability to liaise with the other advisors to the trustees, including auditors, administrators, investment advisers and solicitors.

8.6 Enquiries of the actuary into the arrangements for discussing and reviewing his or her professional work on a regular basis will also be helpful when assessing an appointment.

8.7 In addition to the Actuaries' Code, actuaries should comply with specific professional guidelines if they have been appointed to pre-paid funeral plan trusts:

- an Actuarial Profession Standard (APS Z1) on the "Duties and Responsibilities of Actuaries Working for Trust-Based Pre-Paid Funeral Plans" issued by the IFoA;
- a guide for actuaries working on pre-paid funeral plan trusts issued by the IFoA; and
- a Funeral Plans TAS issued by the FRC, and any other relevant TASs, such as TAS D: Data, which may apply.

9. Additional Useful Information

- 9.1 The IFoA has set up a Funeral Plans Member Interest Group (MIG) which will enable actuaries and interested non-actuaries, for example, trustees, to come together to discuss pre-paid funeral plans matters in order to develop and maintain their professional competence in this area.
- 9.2 Details about the MIG can be found here:
<http://www.actuaries.org.uk/communities/communities/funeral-plans-member-interest-group>
- 9.3 Actuaries can also contact the IFoA's confidential Professional Support Service (PSS) if they have queries in relation to this area. Details about the PSS can be found here:
<http://www.actuaries.org.uk/regulation/pages/professional-support-service-0>

10. Contact us

- 10.1 The content of this guide will be kept under review and for that reason we would be pleased to receive any comments you may wish to offer on it. Any comments should be directed to:

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The Institute and Faculty of Actuaries
Level 2, Exchange Crescent
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or

regulation@actuaries.org.uk