

Public Trust in the Professions

25 February 2010

It is a great privilege for me to be invited to address this conference and a pleasure to be able to welcome you to Staple Inn, the head office of the UK Actuarial Profession. I am looking forward greatly to learning from today's presentations and discussion and I must begin by congratulating Jane Hern and Chris Megone and the conference organisers for assembling such an interesting set of workshop presenters.

I want also to thank on your behalf the staff of the Actuarial Profession for the practical arrangements they have undertaken to make today's conference possible. This event marks an important step for the Profession as it seeks to take its place alongside others in encouraging wider public debate on the value of the professions as a whole and on the best means of regulating them.

As you will have gathered from Chris's introduction, my particular interest in the issue of public trust in the professions stems today from my role as the first lay chairman of the Actuarial Profession's Professional Regulation Executive Committee – hardly a snappy title but the body within the Profession, consisting of both actuarially qualified and lay members, which is particularly charged with undertaking the Profession's responsibility for the ethical regulation of its members. I shall therefore make a number of references in what I say to what we in the Actuarial Profession are seeking to do to achieve our ambition of becoming a first class professional regulator.

My interest in these matters goes back further, however, to my days trying to regulate politicians, first as the Parliamentary Commissioner for Standards for some six years and now as the Prime Minister's Independent Adviser on Ministers' Interests. I suppose the view we all traditionally have of politicians is

best summed up in Aesop's remark that "We hang the petty thieves and appoint the great ones to public office".

Politicians of course probably don't qualify as a profession. They are not subject to a single governing body; there is no entrance qualification as such; and there is no test of ongoing competence, unless you regard the ballot box as providing one – although I suspect that decisions about how to vote are influenced by many factors, of which an assessment of a politician's competence is only one. However, the experience I have gained in the area of political regulation certainly informs much of what I shall say, and my growing experience of the Actuarial Profession suggests that many facets of that experience are common to all who seek to regulate those in a position of public trust. Moreover, the actions of politicians certainly affect the status and well-being of the Professions closely, an issue to which I shall return later.

My chief aim today is to examine the issue of public trust in the professions, to suggest how and why that trust is challenged, and to identify what the professions are doing and must do to ensure that public trust in them continues. But I also want to couple that acknowledgement of the responsibility resting on the professions with a challenge to politicians, the media and the public to value the role of the Professions, and to recognise the positive part they – politicians, the media and the public - have to play in building confidence in the professions rather than knocking that confidence down.

First, some definitions of terms. Professions are, speaking generally, learned occupations whose governing body is responsible for regulating admission to the occupation; for directing the behaviour of their members within that occupation; and for providing leadership to those members, acting not merely in their interest but in the interest of the public in matters concerning the profession. Professions have long been associated with the ideas of vocation or

calling and of service, which together require the pursuit and application of expertise for the public good or in the public interest.

The characteristics of a profession were set out most clearly by Lord Benson in the House of Lords in 1992. He offered nine criteria for a group to be considered a profession, including that:

- The rules and standards enforced by the Governing Body should be designed for the benefit of the public and not for the private advantage of the members.
- Work is often reserved to a profession by statute - not because it is for the advantage of the member, but because of the need to protect the public.
- In its specific field of learning, a profession must give leadership to the public it serves.

This putting of the public interest before the individual needs of their members is what gives professions the right to self-govern. With it comes an acceptance that specific professions are best placed to govern their members because they have knowledge of their occupation that others do not have.

If professions are to occupy this privileged status, their stakeholders, including their clients, must trust them. But how do we define “trust” in this context?

Many of you will have read the excellent summary of existing research on professional standards and consumer trust by Jackie Wells and Mary Gostelow, which was commissioned by the FSA and published last November. Trust and trustworthiness, they say, “... are elusive qualities, hard to define and harder still to measure”. My own belief is that, in the context we are considering, trust involves a willingness to place confidence or faith in another person or organization to fulfil a course of action competently and ethically.

Trustworthiness is the sum total of the qualities which earn that confidence.

A key point I wish to underline is that trust is a quality that inhabits a relationship between two or more people or organisations. It is the fact that it exists in relationship that I want to stress. Much emphasis is rightly and understandably placed on the need for organisations or individuals to earn or justify trust. However, trust also has to be granted. It is a truism that trust is easily lost by the actions of a Profession or an individual. It is less commonly acknowledged that trust cannot exist except as part of a reciprocal relationship, in which the other party in the relationship has to be prepared to step out in faith if the bond of trust is to be established.

In the context of trust in the Professions, this means that a Profession has to work hard to justify or deserve public trust. However, it also means that the public too - and those who stand as proxies for the public, whether in government or the media - have their part to play in ensuring that relationships of mutual confidence are preserved.

I have described the nature of the professions and the concept of trust. A brief word now about what we mean when we refer to “the public”. Again, this is a term we need to define carefully within its context. Sometimes we mean by it public opinion in general, as established through opinion surveys. Sometimes we mean the views expressed by particular spokespeople, by politicians, the media or other stakeholders. Sometimes we have in mind the views of a particular individual or client who has had dealings with the Profession in question. So I make a plea for clarity and specificity about to whom we are intending to refer when we speak of “the public”.

Putting all of these elements together, it is a common perception that public trust in the Professions has declined seriously in the last 20 to 30 years. I am not sure how well based in research that perception is but it is certainly widespread. This perceived lack of trust has been attributed to many factors, some internal to

the Professions themselves, others external in character. Among the former are the effect of widely publicised failures in ethical standards or malpractice (such as the Equitable Life debacle or the Harold Shipman case) and occasional instances of members of a Profession questioning the need for or advantage of abiding by its rules. Among the latter is the widespread lack of deference towards any institution (from the Monarchy downwards) in today's society, increasing individualism, rising levels of education leading to a more questioning approach, and a widespread emphasis on checking and regulation (what Smith and Sachs, quoted in the paper I mentioned earlier, have referred to as a move to "the audit society").

Certainly, all professions find themselves faced with demands for greater transparency and accountability. The Actuarial Profession is no exception and it has responded in a similar fashion to many others. The Profession has traditionally prided itself on having entrance exams which are among the hardest of any. It has for some time had an externally invigilated complaints and discipline scheme. In the last year, it has introduced a new shorter Code of Conduct – the Actuaries' Code. It is currently reviewing its requirements for continuous professional development (CPD), and debating the production of additional guidance for members on such subjects as conflicts of interest and whistle-blowing.

In a recent report to the FSA, the Professional Associations Research Network (PARN) identified three pillars of any effective system of professional regulation, three ways of ensuring that professionals are competent and trustworthy and provide professional services that meet expected standards. Each of these pillars are, the authors of the report suggested, essential to the effectiveness of professional regulation. The three pillars are:

- Entry standards

- Complaints and discipline, and
- CPD and positive supports for ethical behaviour.

The first two are more traditional ways of ensuring standards: the third – CPD – is a newer and still developing aspect of arrangements. Traditionally, the professions applied a system of “regulation by exception”; that is, they relied on strong entry qualifications to weed out undesirables, and on complaints coming to the attention of the regulator to deal with any who escaped the initial clearing of the ground. The third pillar embodies a recognition, not that the traditional approach has to be abandoned, but that on its own it is not enough. Regulation by exception – reactive regulation – needs to be accompanied by proactive regulation, including the continuous monitoring and evaluation of professional practice.

In the Actuarial Profession we find ourselves engaged on a similar journey to that on which many other professions are engaged. Some key features of this are:

- We are moving from a rules-based to a principles- based regime, but find ourselves wrestling with how and when to supplement the principles with guidance to members on specifics.
- We are increasingly seeing the need to emphasise proactive quality assurance mechanisms in the work place as a means of supplementing reactive regulation through codes and discipline schemes.
- We are looking to define the skill sets or competencies we expect of actuaries, not just at the point of entry but throughout their careers.
- We are increasingly conscious of the importance, not just of technical skills but of those skill sets which include managerial and presentational skills and are about aspects of professionalism in its widest sense.

- We are considering moving from inputs-based to outputs-based CPD, and as part of this process are acutely aware of the need to improve the range and quality of the CPD we offer in professionalism and other skills.
- We are very much aware of the importance of the working environment to the professional development of actuaries and whilst we have traditionally regulated individuals, our members, we are increasingly looking to work closely with firms in advancing our regulatory agenda.

So we are focussing hard on all of the three pillars identified by PARN, especially on the third one.

However, I believe that the three pillars identified in the PARN report need to be seen in the wider context of what I would call the prevailing ethos or culture of a profession. If the three pillars are regulatory mechanisms, the culture of a profession is the vital fourth ingredient, which enables the three pillars to achieve their maximum strength. So initial training and CPD need to be seen, not just as being about the acquisition of skills but as being about the shaping of members in the culture of a profession. We are not in the business simply of training but of formation, of forming members in the values and expectations of the Profession of which they seek to be, and then are, a proud part.

Leadership is vital to the development and transmission of this culture.

Exhortation and professions of commitment to high-sounding principles are not enough. Those who lead a profession have to be seen to model in their actions the virtues it professes. Only in this way is right behaviour exemplified and widespread trust built up.

So, if public trust is to be encouraged, there is a big task facing each of the Professions, not only in getting and keeping their regulatory houses in order but in continually modelling the behaviour to which they say they aspire. I hope that

we in the professions will increasingly see value in learning from each other in this difficult task.

However, as I have said earlier, trust is a quality that inhabits a relationship. Governments, the media and the public must play their part in building and maintaining it.

Governments, and I include with them statutory regulators, and the media must be seen to value the contribution the professions collectively make to the fabric of society. The professions are a vital part of the social capital of the UK. They must be recognised for the valuable functions they perform on behalf of society, as well as on behalf of their immediate clients and members.

As part of this, professionals have to be treated by everyone (including the professions themselves) as grown-ups. Space must be preserved for the exercise of individual professional judgement, and recognition be afforded that not everything a profession does can or should be measured and recorded.

Sometimes professionals will get their judgements wrong and they must be held to account when they do so. But we should not fool ourselves into thinking that we can regulate mistakes out of existence.

Next, the media. I value the fact that we have a free and fearless press. They are right to identify and criticise shortcomings in the professions, as in other walks of life. However, they need to weigh carefully the potentially corrosive long term effect on levels of public confidence of the way they report on individual cases. I well recall Lord Scarman saying to me when writing his report on the Brixton disturbances that, while he would not hesitate to criticise individuals and organisations where the evidence clearly called for it, he would exercise great care indeed not to report in such a way as needlessly to damage public confidence in institutions vital to society. It is a precept I have ever since borne in mind.

Finally, individuals, whether clients or stakeholder groups, have a responsibility too – a responsibility above all to consider each case on the evidence and to avoid stereotyping and caricaturing. To take an example, it may be amusing to define the word politics as being derived from the Latin “poly” meaning “many”, and “tics” meaning “blood-sucking parasites” – it may be amusing to adopt such a view of politics and politicians but such an approach, oft-repeated, does nothing to help break down traditional stereotypes of those in politics or to build confidence in what I believe is not only an inevitable but a vital part of community life.

To conclude, trust in the Professions may be less strong than it was, and those of us in them must work hard to ensure that it is sustained rather than eroded. But we should not allow ourselves to be bullied or regulated out of our birthright. We need to assert more loudly and together the value to society and the public interest of what we do. We also need to draw clearly to the attention of both governments and the public the active part they have to play in recognising the value of the contribution the professions continue to make, and in helping ensure that confidence in that contribution is not undermined.