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30 April 2010

Erhan Kalyon,
c/o Regulatory Policy and Programmes,
The Pensions Regulator,
Napier House,
Trafalgar Place,
Brighton,
BN1 4DW

Dear Erhan

Winding up: avoiding delays (consultation on revised guidance)

Please find below a response to the consultation document *Winding up: avoiding delays* on behalf of the Association of Consulting Actuaries.

Members of the ACA provide advice to thousands of pension schemes, including most of the country's largest schemes. Members of the Association are all qualified actuaries. All actuarial advice given by our members is subject to the Actuaries' Code. ACA members include the scheme actuaries to schemes covering the majority of members of defined benefit pension schemes.

The ACA is the representative body for consulting actuaries, whilst the Faculty and Institute of Actuaries are the professional bodies. Thank you for giving us the opportunity to respond to this consultation.

Given that there are not many significant changes proposed to the current guidance, we have relatively few comments.

To our mind, the most notable change (by some way) is the removal of the section on 'GMP equalisation'. We note that no comment is offered on the reasons for this deletion.

Bearing in mind the fact that this subject has recently become much more topical, with the Government statement on 28th January and the FAS-related guidance having raised many questions (some new) as to the appropriate way forward on this, we cannot believe that tPR can have concluded that the section is no longer 'necessary'.

We therefore infer that the deletion reflects understandable concern on the part of tPR about giving any sort of meaningful guidance in this area in the current environment of uncertainty, and hope that tPR realises that trustees and their advisers are operating under that same uncertainty and may consequently (and justifiably) be reluctant to 'take a punt' on this matter, notwithstanding a desire to expedite the wind-up process wherever possible.

We appreciate that slow progress in the winding up of schemes is a major concern to tPR and the DWP, but see a danger in appearing to prioritise 'speed' over other issues through a guidance document such as this. This is especially apparent in the 'General approach' section (page 8), where the final paragraph comes across as a severe warning ("there are few exceptions to the two-year deadline") and follows a paragraph which appears to imply (albeit surrounded by caveat words and phrases like "take comfort", "acted reasonably", "proper consideration" and "where appropriate") that tPR would rather see corners cut and a two-year timeframe achieved than a bit more time taken to 'get things right'.

The penultimate paragraph under 'Member option exercises' similarly seems to indicate that getting the process finished in two years should override any desire to give members extra time to consider their options.

The imperative to do things quickly will at times conflict with other stated priorities, such as "to ensure the best deal for members is obtained", and the draft guidance also includes other examples (not related to the 'speed' point) of 'requirements' which may be difficult to reconcile.

In particular, within the 'General approach' section (page 8) trustees should both "always ensure that they maximise the security of members' benefits" and "aim to obtain the best value for money". It will often be the case that in practice these two 'priorities' have to be balanced against each other, it being a feature of investment that increased security costs extra money and this extra cost could be disproportionate to its value, unless all members happen to place an overriding value on 'security'.

In the 'Administration' section on page 11, a statement is made that the suggested extra checks that would make life easier in a wind-up are not an "increased burden" but only an "advancement of costs that would otherwise be incurred in wind-up".

We certainly would not wish to give the impression that we are not in favour of good record-keeping and general administration, but we would say that this statement is unlikely to be correct unless it is foreseen that all schemes will wind up in the not-too-distant future. We think that the wording towards the end of the 'Data cleansing' section (page 16) is better.

We hope you find our comments helpful. If you wish to follow up any matters please contact me at Charles.young@hymans.co.uk

Kind regards.

Yours sincerely,

Charles Young
Chairman
ACA Pension Schemes Committee