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11 December 2015

Maggie Simpkin
Department for Work and Pensions
1st Floor, Caxton House
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London SW1H 9NA

Dear Ms Simpkin

Better Workplace Pensions: Reducing regulatory burdens, minor regulation changes, and response to consultation on the investment regulations

I am writing on behalf of the Association of Consulting Actuaries in response to the above consultation document dated November 2015.

We have chosen to respond to Chapters 2, 4 and 5 and our comments on the specific questions in these Chapters are set out in the Appendix.

You will see that we have majored on the issue raised in Chapter 2. We do feel that there are a number of areas that are worth exploring.

We hope that you find our comments of assistance and would be happy to discuss them further if that is helpful. Please contact me on 020 7432 6635 (david.everett@lcp.uk.com).

Yours sincerely

David Everett

David Everett
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APPENDIX

Chapter 2: Reducing regulatory burdens on schemes

1. Do you have any views on ways that regulatory burdens on occupational pension schemes (including managers and trustees) can be reduced without compromising member protection?

Given the volume and complexity of pension legislation and its development over many years, it is inevitable that at any point in time there are topics and technical points that are worth exploring to see whether there is scope for easing the regulatory burden.

With this in mind we have a number of suggestions, presented in an A-Z order. Some challenge the need for the current policy, some the implementation and others are in the nature of good housekeeping. Some will require thorough investigation, whilst others should be straightforward to action.

a. Age discrimination

We suggest that this area needs a "health check".

Discrimination on grounds of age has been proscribed in relation to pension schemes since 1 December 2006 and yet pension schemes are by their very nature age discriminatory. Given this, regulations were made in 2006 that set out a number of exceptions.

Following the passage of the Equality Act 2010, these exceptions are now to be found in The Equality Act (Age Exceptions for Pension Schemes) Order 2010 (SI 2010/2133).

These exceptions are in a precise rather than general form. As a result there are a number of areas of occupational pension scheme design where an exception is not available and objective justification is necessary. There are also areas where there is uncertainty as to whether an exception applies.

There are known issues under three headings:

- Benefit accrual – eg termination of accrual and life cover at normal retirement age and age-related contributions to DC schemes (unless designed to produce equal or "more nearly equal" benefits);

- Options, consents and terms around early and late retirement – eg permitting flexible retirement between a specific age-range only; and

- Other wider design and payment issues – eg age-related pricing of flexible benefits (such as additional life cover).

Given the passage of time since these exceptions were laid down, we suggest that a small working group is set up to undertake a health check to see whether the Order is working in the current benefit environment and whether the current prescriptive approach remains appropriate. The guidance issued by DWP / DTI in 2006 may also need to be revisited.

b. Auto-enrolment and Lifetime allowance protections

We ask that you urgently extend regulations to allow for the 2016 protections.

Recent amendments to the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010 (SI 2010/772) turn, in some specific situations, the employer duty to auto-enrol into a power, thus giving the employer a choice as to whether to apply the duty.

One situation covers individuals who have registered for certain Lifetime Allowance protections – specifically, the easement applies where the employer has reasonable grounds to believe that a jobholder has registered for (and still validly holds) any of Primary, Enhanced, Fixed Protection 2012, Fixed Protection 2014 or Individual Protection 2014.

In the same situation, the auto re-enrolment duty is also turned into a power.

These regulations will need to be amended before 6 April 2016 in order to cater for Fixed Protection 2016 and Individual Protection 2016.

However, there is a fundamental difference in the process for registering for these protections. Unlike the current protections, there is no deadline for registration (even though accrual must stop by 5 April 2016 for Fixed Protection 2016 and no new scheme must be joined thereafter). So an individual who has opted out by 5 April 2016 may intend to register, but may not have done so by the date that employers need to auto-enrol. Indeed, an individual cannot register before July 2016 because the right tax law won't be in place until then.

c. Bulk transfers without consent – actuarial certification

We ask that you examine whether an actuarial certificate is appropriate for DC to DC transfers.

If the trustees of an occupational pension scheme wish to transfer members to another occupational pension scheme without their consent, then assuming that scheme rules are permissive, they must normally obtain a certificate from their scheme actuary. This is due to section 73 of the Pension Schemes Act 1993 taken with The Occupational Pension Schemes (Preservation of Benefit) Regulations 1991 (SI 1991/167).

The legislation was formulated at a time when defined benefit occupational pension schemes were the norm and DC to DC bulk transfers without member consent were exceptionally rare. The legislation is quite clearly aimed at the former rather than the latter, but it applies to both.

In the current environment, DC occupational pension schemes are much more common and many bulk transfers without member consent involve DC benefits.

Under the legislation, the actuary has to certify to the trustees of the transferring scheme that:

- the transfer credits to be acquired for each member under the receiving scheme are, broadly, no less favourable than the rights to be transferred; and

- where it is the established custom for discretionary benefits or increases in benefits to be awarded under the transferring scheme, there is good cause to believe that the award of discretionary benefits or increases in benefits under the receiving scheme will (making allowance for any amount by which transfer credits under the receiving scheme are more favourable than the rights to be transferred) be, broadly, no less favourable.

Actuaries are increasingly being approached to give a certificate in a DC to DC bulk transfer. Indeed, actuaries often need to be appointed to the scheme solely for this purpose. We therefore suggest that you investigate this area to establish whether an actuarial certificate is appropriate for such transfers. This is because the issues that may need to be considered by the actuary and the nature of the information that may need to be given to trustees prior to certification of such DC to DC transfers are not actuarial in nature.

d. Defined contribution schemes

We ask that you step back to assess whether you and the Pensions Regulator are regulating smaller DC schemes out of existence.

We have a general concern that the increasing regulatory burden on DC schemes will drive smaller occupational schemes to close, leaving members in bigger, less local schemes. We recognise that this may have some benefits on charges due to economies of scale but believe that the loss of the personal contact with trustees and so on would be unfortunate, especially as we note that many employers in this part of the market have been willingly paying some or all of the administrative charges for such schemes to date.

e. Employer debt

We request a resolution of a number of long-standing technical concerns.

This complex legislation contains a number of technical difficulties which it would be useful to resolve. These include the following:

- Precisely what constitutes an “active member” is not clear and yet this determines whether or not an employment-cessation event occurs. An informal view had previously been expressed by the DWP that life cover only members and those that have ceased to accrue benefits but retain a link to final salary are not active members.

- There appears to be a regulatory gap where a scheme ceases accrual for all members at the same time. This event does not in itself trigger a debt. Should the employer subsequently be sold off, its withdrawal from participation in the scheme would also not trigger a debt (since it could not be an employment-cessation event). Contrast this with a similar sell off before a scheme ceases accrual which is likely to constitute an employment-cessation event, hence triggering a debt.

- The definition of “relevant accounts” implies that the effective date has to coincide with the scheme year end. This means that where the updated asset assessment cannot be used (because the section 75 debt trigger was not an employment-cessation event), the scheme year end needs to be moved. This in turn triggers other requirements such as the preparation of the scheme annual report and setting the date around which certain disclosure requirements operate. We ask that the definition be revisited.

- The regulations do not appear to acknowledge prior debt payments if an employer previously triggered a debt through an employment-cessation event, paid any debt due, but started to employ members of the scheme again and then, in due course, triggered another debt. It seems that in this eventuality the debt that is apportioned could take account of all former employees of that employer from all periods in the scheme – a significant consideration for former employers who are thinking of starting to employ members of the scheme again.

- In relation to scheme apportionment arrangements, the regulations are not clear whether the amount to be apportioned to remaining employers should be a fixed or floating amount or whether it is the liabilities or the debt that should be apportioned. This makes scheme apportionment arrangements very difficult to implement in practice, with legal advisers insisting on complex documents to attempt to overcome the deficiencies in the regulations. The DWP has stated that the policy intention is not to apportion the departing employer's liabilities (which instead become orphan liabilities), but this is not necessarily consistent with the regulations.

- In relation to withdrawal and approved withdrawal arrangements it does seem odd for Schedule 1C of the regulations to require the actuary to certify the withdrawal / approved withdrawal arrangement share since this is not an actuarial liability, but a sum of money agreed between two parties. It would be more logical for the actuary to be required to certify that the approved withdrawal arrangement share was less than Amount A.

- The meaning of "relevant transfer deduction" is hard to determine in the context of withdrawal and approved withdrawal arrangements. Paragraph 4(2) of Schedule 1A seems to be implying a buy-out calculation, but Paragraph 4(4) appears to be implying the use of the scheme funding requirements. Scheme funding would be consistent with the pre 6 April 2008 regulations and we understand that this is the policy intention, but it has not been reflected in the regulations.

- The calculation of Amount B in a withdrawal and approved withdrawal arrangement is subject to some difficulties. Under the fixed approach the regulations also provide that in the case of a withdrawal arrangement, if the amount that the withdrawal arrangement provides for the cessation employer to pay exceeds the withdrawal arrangement share, an amount equal to that excess should be paid. However, this appears to be faulty and redundant wording. This appears to have been accepted, but it has not yet been reflected in the regulations.

We suggest that you seek assistance from interested stakeholders in order that these and other difficulties can be resolved.

f. Financial Assistance Scheme

We ask that you finalise the revisions to the FAS regulations.

The Financial Assistance Scheme was introduced to help individuals, not eligible for the Pension Protection Fund, who lost out as a result of their employer becoming insolvent and their scheme winding-up with insufficient assets. It has been subject to much change in its lifetime and this is reflected in the legislation.

Draft regulations, to be made under the Pensions Act 2011, proposed, inter-alia, to consolidate, simplify and clarify the legislation. These were issued for consultation on 10 June 2011 and the Government responded to the consultation on 10 May 2012. It is not clear why the regulations, which were widely supported, have not been made.

g. GMP conversion

We request appropriate adjustments to the GMP conversion legislation (primary and secondary) in order that this facility can be used.

You will be aware, from the work of the GMP Conversion working group, that there are a number of difficulties with the GMP conversion legislation which need to be addressed in order that it can be safely used by trustees. These include the following:

- It may be difficult to apply GMP conversion across the whole scheme;
- It is not clear whether Condition 1 relates to accrued rights;
- In testing that Condition 1 is met it is not clear what method to adopt;
- In testing that Condition 1 is met there is considerable flexibility on the actuarial assumptions to adopt;
- Condition 2 may prevent simplification in the converted benefit from being delivered;
- The Condition 4 survivor benefits requirements needlessly add to benefit complexity; and
- Other legislation may unduly impact on converted benefits – such as the Finance Act 2004.

Further details on these points and proposed solutions have been submitted through the group.

To date the GMP conversion facility has been little, if at all, used primarily because the issue of GMP inequalities needs to be addressed as part of the conversion process. Consequently, the conversion legislation has not been properly tested. All this may change if you put in place legislation whose purpose is to strip away any arguments for not addressing GMP inequalities and then seeks to provide guidance on GMP conversion. Given this, it is now most important that you reassess the conversion legislation to determine whether it is up to the task that was set for it and addresses any shortcomings.

h. GMPs and Section 9(2B) rights – payment as lifetime allowance excess cash lump sums

We ask that you make a simple change to regulations so that GMPs and Section 9(2B) rights can be taken as lifetime allowance excess cash sums.

It is not currently possible under DWP legislation to take GMPs or Section 9(2B) rights as a lump sum if such are authorised under tax legislation as a "lifetime allowance excess lump sum". By contrast it is possible to take such benefits as a lump sum in other situations.

We would make the following observations:

- The current block is not needed to protect the individuals concerned – by definition individuals who are able to take a lifetime allowance excess lump sum under pension tax law have already substantial private pension provision.

- The block is not needed to protect other members – we understand that you have previously argued that allowing the payment of a lifetime allowance excess lump sum might disrupt the funding of a scheme because it gives a member access to full security for a tranche of benefit which would otherwise be a low priority layer of benefit were the scheme to wind up in deficit. However, why is it relevant that contracting-out is the key determining factor? Our understanding is that around 10% of defined benefit schemes have never been contracted-out and hence have always been able to make such payments. Trustees usually have sufficient powers and duties to manage the affairs of schemes and can choose not to allow lifetime allowance excess lump sums if in their view this would prejudice scheme funding.

Moreover, the current provisions make clear that to the extent that an individual has pre 1997 excess over GMP or other non-contracted-out benefits, a lifetime allowance excess lump sum can be paid in respect of those balance benefits.

It would be a welcome and significant easement of DWP practice if all schemes were permitted to pay lifetime allowance excess lump sums. It would help with member communication and understanding of what appears to be anomalous treatment between two near-identical members. It would mean that administrators do not need to cater for a pitfall and have to have systems in place to spot such subtle differences and treat two such members differently.

The following is an example of the anomalies that arise. In both cases the members have drawn benefits from another scheme first which has already used up some of their Lifetime Allowance (LTA):

- Member A has a right to draw from a scheme a pension of £20,500 pa of which £500 pa counts as excess of the LTA so attracts an LTA tax charge. His benefit started to accrue a little before April 1997, and more than £500 pa was “pre 1997 but not GMP”.

- Member B is identical except that his service started after 1997 so all his £20,500 is Section 9(2B) rights.

Member A can have the £500 pa excess as pension or cash, whereas Member B can only have pension – why?

Member A and B in the case above could have had just the £500 pa benefit in the scheme, all of it above the LTA because of benefits already drawn elsewhere. It might be that the scheme is forced to administer this benefit on-going for Member B solely because of the block in the current legislation.

The change to the regulations would be a simple addition to the list contained within Regulations 18 and 25 of The Occupational Pension Schemes (Schemes that were Contracted-out) (No 2) Regulations 2015 (SI 2015/1677), for Section 9(2B) rights and GMPs respectively.

i. Hybrid benefits

We ask you to re-examine the efficacy of the treatment of hybrid benefits under the Bridge regulations.

In the light of the Bridge case, the definition of "money purchase benefits" was amended with effect from 24 July 2014. This was after a long period of reflection and the development of complex regulations.

Shortly before these regulations were finalised, adjustments were made to address the conditions under which hybrid benefits should be treated as money purchase benefits. These important adjustments were not exposed for consultation.

A contingent approach was adopted under which at the "relevant date", the components of a hybrid benefit are tested, with the benefit being regarded as money purchase if the value of the money purchase element is greater than the value of the non-money purchase element and non-money purchase otherwise.

This test is stated in very broad terms. Indeed, the regulations refer to the test being carried out on each "relevant date" "for any purpose". So a hybrid benefit may be money purchase today and not money purchase tomorrow or indeed both for different purposes on the same day.

This generic approach has the potential for some rather peculiar knock-ons, including the following:

- Cash equivalent – where the money purchase underpin bites it is not clear whether the Bridge Regulations turn the hybrid benefit into a money purchase benefit and if they do, whether it is for all purposes of the cash equivalent and appropriate independent advice legislation or only for some. If they do make the benefit money purchase for all purposes then the benefit will not fall out of scope of the cash equivalent legislation through being within one year of normal pension age, the processing of the cash equivalent will be as a pure money purchase benefit (so without a three month guarantee) and as a "flexible benefit" the independent advice requirements cannot apply. If they don't, for any purpose, then the opposite applies.

- Cash transfer sum – it seems possible to read section 71(1) of the Pension Schemes Act 1993 as at 1 October 2015 so that an early leaver from a hybrid scheme with at least 30 days qualifying service, whose benefit at the point of leaving was such that the money purchase element was the greater, would be treated as being subject to the 30 day rather than two year qualifying service criterion for preservation.

We suggest that a small group of stakeholders is convened to assess whether, with the benefit of hindsight, the Bridge solution adopted for hybrid benefits is robust.

j. Modifying accrued rights – the Section 9(2B) test

We continue to believe that the Section 9(2B) test introduced in 2013 is unnecessary and so we ask you to withdraw it.

For many years, section 67 of the Pensions Act 1995 has provided protection to members against the risk of their accrued benefits being amended without their consent. This protection has generally worked well, particularly in its current structure which dates from 6 April 2006.

However, since 6 April 2013, there has been a further test in respect of Section 9(2B) rights (ie rights that have accrued since 6 April 1997 as a consequence of the scheme being contracted out on a salary-related basis). This test applies whether or not the scheme is contracted out at the time of the rule change (and where not, so long as there is a person entitled to receive, or has, accrued Section 9(2B) rights). It is intended to be more restrictive than the Section 67 requirements which are also likely to apply should such accrued benefits be modified.

From 6 April 2016 this test is to be found in Regulation 17 of The Occupational Pension Schemes (Schemes that were Contracted-out) (No. 2) Regulations 2015 (SI 2015/1677). However, you intend to make some adjustments to this test and will consult at some future date.

It is far from clear why this additional test is necessary. Section 9(2B) rights accrued for 16 years before the test was introduced without any member protection issues arising in relation to their potential modification. Our view is that section 67 and trust law provide more than adequate protection. We therefore suggest that you should revoke Regulation 17.

k. Notifiable Events

We ask you to bring forward your proposals to improve this regime.

Since 6 April 2005, trustees and sponsoring employers of pension schemes that are eligible for the Pension Protection Fund have had to notify the Pensions Regulator in writing whenever a notifiable event occurs, unless exempted by the directions issued by the Pensions Regulator.

A number of difficulties have arisen in applying the notifiable events legislation including interpreting whether an event is notifiable and understanding the logic for the notification. For example:

- Large transfers – The legislation is not clear whether the requirement relates only to the transfer of an individual member or whether it also extends to bulk transfers;

- Granting large benefits – How the “cost” is determined for the purpose of ascertaining whether the threshold for reporting has been reached is not clear. Is it the cost within the scheme of providing the benefits, a cost on a section 143 valuation basis or the cost on a buyout basis? It is debatable whether or not large scheme benefits simply falling due for payment (without requiring any type of “decision” by trustees) under the scheme rules are notifiable because the wording of this notifiable event is ambiguous;

- Decision not to achieve full debt recovery – Given the plethora of mechanisms that have been available since 6 April 2008 to meet a section 75 debt in addition to the liability share, it is not clear whether invoking any of these alternatives is regarded by the Pensions Regulator as not achieving a full debt recovery and so is potentially a trustee notifiable event as well as being an employer notifiable event.

In April 2013, as part of the Coalition Government’s Red Tape Challenge, you indicated that you intended to “improve” the notifiable events regime. However, a consultation paper has yet to be produced setting out precisely what you have in mind. We suggest that you shortly address this, including whether there remains a need for this legislation.

I. Preservation, revaluation and anti-franking

We ask you to examine this area in order to clarify some important points without which there may continue to be significant variations in member outcomes.

The preservation, revaluation and anti-franking requirements set out in Chapter IV of the Pension Schemes Act 1993 contain numerous uncertainties, particularly in relation to anti-franking. These have long been a cause for concern as they have resulted in potentially significant variations in practice from scheme to scheme.

It may also be necessary to resolve some of these uncertainties ahead of any action by schemes to address GMP inequalities, whether through GMP conversion or otherwise.

This is a potentially sensitive area. We accept that clarifications have the potential to upset practices that have quite reasonably developed over the years and so it would be important to ensure that schemes are not unduly exposed to additional liabilities or required to revisit past decisions.

The more significant issues include the following:

- Uncertainty over the definition of "normal pension age" in section 180 of the Pension Schemes Act 1993, which is critical in terms of assessing whether and how the preservation, revaluation and anti-franking legislation impacts on the benefits due to an individual. Although the definition uses the term "entitled to receive benefits" which implies that one is solely looking at entitlement and are not concerned whatsoever with whether benefits are reduced or not, we are aware that there are some who hold the view that this entitlement must be to unreduced benefits. It would be useful to remove this uncertainty.

- There is some uncertainty over the interpretation of Section 84(5) of the Pension Schemes Act 1993, which provides that if a scheme is granting either increases in line with the percentages specified under section 151(1) of the Social Security Administration Act 1992 or full indexation in line with changes to the general level of prices on the whole accrued pension from leaving pensionable service to normal pension age this "does not in itself result in conflict" with the revaluation requirements.

  Opinions we are aware of include the following:

  - such schemes are exempt from the anti-franking requirements;

  - in such schemes the statutory minimum pension should ignore statutory revaluation on that part of short service benefit not comprising GMP between termination of pensionable service and normal pension age;

  - in such schemes, such revaluation means that the statutory revaluation requirements are fulfilled and the only impact on the anti-franking test is that where revaluation goes beyond the statutory minimum the excess provides scope for a franking source.

  Given the significant range of opinion, it would be useful to gain clarity on how exactly this part of the revaluation legislation should be interpreted and, in particular, how it then interacts with the anti-franking legislation. This could be a vital point when it comes to determining whether such schemes, including those in the public sector, have a GMP inequality issue.

- Section 86(2) of the Pension Schemes Act 1993 Act provides that “the same money” cannot be treated as providing both the revaluation required and any benefit under the anti-franking requirements. This is usually interpreted to mean that the statutory revaluation requirement must build on top of the anti-franking requirement to pay at least the “relevant aggregate” when calculating the statutory minimum pension. However, we understand there are also those who interpret this to mean that the statutory revaluation sits within the “relevant sum” component of the relevant aggregate. It would be useful to have more certainty on this.

- The legislation appears to be silent as to whether once contracted-out employment ends the trustees could, in the absence of permissive scheme rules, switch the method of GMP revaluation from fixed to section 148 or vice-versa. Also, how this legislation works where contracted-out employment ceases before pensionable service does. Although it appears that this will be less of an issue once new legislation around the cessation of salary related contracting out comes into effect in April 2016, it would be useful to clarify the position for contracted-out employments ceasing before then.

- The anti-franking test set out in sections 87 to 92 of the Pension Schemes Act 1993 is more complicated where a member’s “pension shall accrue after the cessation date”, thus bringing into play the “later earnings addition”. However, “pension shall accrue” is an undefined term leading to a potential multiplicity of interpretations. In particular, it would be useful to resolve the uncertainty around whether if pensionable service ceased, but salary linkage remained, pension nevertheless continues to accrue.

- There is uncertainty over quite how the “cessation date” (as defined in section 87 (1) (a) of the Pension Schemes Act 1993) and consequently whether and when the anti-franking requirements are triggered is determined in cases where a contracted-out salary related scheme switched to being either a contracted-out money purchase scheme or a contracted-out mixed benefit scheme. It would be useful to resolve this.

- There is uncertainty over the potential for benefits accrued after 5 April 1997 to be franked against to provide GMP increases. Although the anti-franking legislation appears permissive, this potential franking source must surely not be in accordance with the intention of the legislation. This issue was acknowledged by paragraphs 14 to 17 of Schedule 5 to the Child Support, Pensions and Social Security Act 2000, which was intended to bring in alternative anti-franking rules which were intended to prohibit, inter-alia, trustees from using post 5 April 1997 pension accrual as a franking source.

We suggest that a small group of stakeholders is convened to examine these and other issues and assess how they may best be tackled. In particular it would be useful to come to some consensus on whether any changes to legislation are required or whether some formal guidance might suffice.

m. Transfer values

We ask you to health check the changes that were made at some speed in 2015 in order to facilitate freedom and choice, in order to iron out any technical difficulties.

The cash equivalent legislation was significantly amended with effect from 6 April 2015 in order to cater for the Government's freedom and choice agenda. This has given rise to a number of technical difficulties:

- Uncertainty over the definition of "normal pension age" which is a key consideration in whether a transfer close to retirement (expected to become much more prevalent) takes place under the cash equivalent legislation (with the associated statutory discharge), or under scheme rules.

  The definition, at section 100C of the Pension Schemes Act 1993, is similar (as it applies to occupational pension schemes) to that in section 180 of the Pension Schemes Act 1993. Section 100C has been introduced just for the cash equivalent legislation. It uses the term "entitled to receive any of those benefits" as against the section 180 definition ("entitled to receive benefits"), which seems to reinforce the idea that one is looking solely at entitlement and are not concerned whatsoever with whether benefits are reduced or not. Since section 180 continues to exist and purports to apply to the whole Act it is not clear which definition has primacy in its application to the cash equivalent legislation.

  The issue is further complicated by a further definition of "normal pension age" that has been introduced in section 76 of the Pension Schemes Act 2015. Unlike the two above, this requires the benefit to be unadjusted. This definition is said to apply to Part 4 of the Pension Schemes Act 2015 which means that it applies to section 67 which introduces Schedule 4. Does this mean that it applies to Schedule 4 which introduces the changes to the Pension Schemes Act 1993? If it does it means that we then have three potentially competing definitions applying to the cash equivalent legislation.

  There is also the potential for a fourth definition – if and when the risk sharing part of the Pension Schemes Act 2015 gets turned on.

- Uncertainty over the interpretation of the phrase "no longer accruing rights to benefits…" (section 93(4) and (8) of the Pension Schemes Act 1993) which again is a factor in determining whether or not a proposed transfer falls within our outwith the cash equivalent legislation.

  It is not always clear when "there are no longer arrangements in place". Does stopping paying contributions into a money purchase AVC vehicle count, or is it necessary for the member to not be able to recommence them? In relation to defined benefit accrual is it good enough to opt out? And are rights continuing to accrue if there is no further pensionable service, but benefits are being uplifted by more than the statutory minimum – in particular if they retain a salary-link?

A further area of uncertainty has been allowing for options that reduce the value of benefits (commutation typically). The regulations are silent on this point, but statements from the DWP and the Pensions Regulator support not taking them into account.

We suggest that you consult with a small group of stakeholders to examine these and other issues and assess how they may best be tackled.

Chapter 3: Changes to the Occupational Pension Schemes (Scheme Administration) Regulations 1996 and the Occupational Pension Schemes (Charges and Governance) Regulations 2015

We have chosen not to answer any of the questions under this Chapter.

Chapter 4: Changes to the Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations 1996

6. Do you agree or disagree that the AA regulations need amending? If you disagree please say why. If you agree, are you content with the proposed approach as set out in Option 3, or would you prefer an alternative approach?

Given the introduction of FRS 102, we can see the need to amend the regulations. We are content with Option 3. We agree with the drawback you have identified in relation to Option 1 and can understand why you do not wish to remove all of the disclosures in the Schedule that Option 2 implies.

7. Do you agree or disagree with the investment information that would be prescribed under Option 3? If you think additional information should be prescribed, could you please say (i) what this information is, (ii) why it should be prescribed and (iii) what the impact that prescribing this information would have on scheme costs (i.e. would there be a further reduction, or an increase, in scheme administration costs as a result).

We are content with your proposal.

8. Do you have any comments on the estimated savings? If you think the cost savings would be higher or lower could you please provide your estimate of the impact that the proposed changes would have.

We are not able to comment on estimated savings in this area.

9. (i) Do you agree that large multi-employer schemes should be exempt from the requirement for an auditor's statement?

We appreciate the logic put forward for exempting such schemes, but feel that you need to state why this reform cannot be made available to all schemes given the mitigations that you list in paragraph 20.

We would expect the value of the auditor's statement to be greatest for smaller schemes where internal controls and contribution monitoring may not be as developed compared with larger schemes that tend to have greater governance resources. A limit based on the size of the scheme – perhaps by the value of its assets at the start of the year – might be a better measure than the number of employers. This would also reflect the concern in paragraph 18 that the difficulty arises with large multi-employer schemes. We note that the change would not preclude trustees from requesting an opinion on contributions from their auditor on a voluntary basis.

(ii) Is at least 20 participating employers the right number on which to base this exemption?

We have no view on this matter.

(iii) Can you provide any information on likely savings from this change?

We are not able to comment on estimated savings in this area.

10. Do you have any comments on any aspect of these draft regulations?

No.

Chapter 5 - Investments: Government response and call for evidence

11. To what extent do trustees and scheme managers currently make the information on selection, monitoring, retention, stewardship and realisation of investments and selection, appointment and monitoring of investment managers and other agents available to beneficiaries on request?

This information is generally available, on request, in the format of the statement of investment principles and the annual trustee report and accounts. Requests for information from beneficiaries are rare and more detailed information than that currently contained in the above two documents is sometimes included in scheme newsletters. Stewardship information, for example, would be difficult to provide in a format understandable by most beneficiaries and due to the lack of requests data in this format is rarely produced.

12. What are the challenges trustees and scheme managers might face in accessing this information including how it may be affected by different investment approaches?

Now that trustees state their policies in their statement of investment principles, and increasingly investment managers are producing detailed governance reports, the information is relatively easy to obtain. However, as per comments in question 11, the information is unlikely to be in a format that most beneficiaries can understand.

13. Do you have any information on the costs involved in disclosing this information to beneficiaries where such information is requested?

We are not able to comment on estimated costs in this area.

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