ASSOCIATION OF ACA CONSULTING ACTUARIES

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21st December 2006

Peter Askins
Department for Work and Pensions
3rd Floor, The Adelphi
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Dear Peter

DISCLOSURE OF INFORMATION REVIEW

Thank you for giving the Association of Consulting Actuaries (ACA) the opportunity to set out our comments on the above.

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 and are subject to the code of professional conduct of the Faculty and the Institute of Actuaries. Advice given to clients is independent and impartial. ACA members include the scheme actuaries to schemes covering the majority of members of defined benefit pension schemes.

The ACA is effectively the 'trade association' for consulting actuaries, whilst the Faculty and Institute of Actuaries are the professional bodies.

Some specimen comments on the regulations are set out in the Appendix. Our comments of principle are as follows:

- We don't have a particular problem with most of the existing disclosure requirements – they are generally well understood and are built into existing practices since they have been around for a number of years. We caution you against significant change in this area. Change in itself can be burdensome, even if the intention is for it to be deregulatory. One way to ensure that this does not happen is for you to indicate whether, on the adoption of any new rules, any ways in which disclosures that are compliant with the existing regulations need to be added to under new rules.

- We did not have a particular problem with the proposed change from explicit deadlines to reasonable periods, other than when it became apparent that only the main set of disclosure regulations was to have this change of treatment. After this was abandoned we now have the bizarre situation where pre Pensions Act 2004 requirements are subject to explicit deadlines and most requirements that came in with the Pensions Act 2004 are subject to reasonable periods.

Disclosure of Information review

- We are in broad agreement with the scope and approach to the review, but the consultation document looks rushed (for example, para 18 suggests that you are not aware of all of the disclosure requirements that your Department sponsors).

- There is no reference to the review that Alan Pickering carried out some years ago so there is some danger that you will be going over old ground.

- We suggest that the first sentence of the principle in paragraph 11 be replaced by the following – “People need clear information in order to help them understand the benefits their pension scheme provides and the way it is run, insofar as this affects or may affect their benefits." – the point is that members don't need information about quite a lot of aspects of the way the scheme is run.

- We think that your consultation document should have been far more comprehensive – listing each of the disclosure requirements in a simple to understand way so that the readers could reflect on the worth of each and comment accordingly against the questions that you pose in paragraph 14. If this was not possible at this stage then it should certainly be considered at another stage, otherwise you will be in danger of not carrying out a comprehensive review of the requirements, but just responding to issues on individual items.

- We believe that it would be worthwhile giving serious consideration to consolidating all of the disclosure requirements in one set of regulations (the apparent scattergun approach resulting from the 1997 splitting out is the source of much confusion, but there can be an argument that specific non-standard activities, such as scheme modification and winding up should be dealt with under their own set of regulations).

- We suggest that you alter the structure of the regulations so that it becomes straightforward to identify a topic area, the disclosure headings within that topic area, and for each disclosure item the trigger and conditions, the information to be disclosed, the deadline and the sanction for not meeting the requirement. The confidential drafts of the reworking of the main disclosure requirements circulated in the summer of 2006 seemed to have taken this message on board – it would be regrettable if this work was lost.

Yours sincerely

David Everett

David Everett
Deputy Chairman
Pension Schemes Sub-Committee of the Association of Consulting Actuaries

Appendix

We have the following detailed comments. This is no more than a few matters that have come to the forefront of our minds when framing our response. For a full response to paragraph 14 it would be necessary for you to supply a comprehensive list of each of the current disclosure requirements.

The Disclosure of Information Regulations (SI 1996/1655)

- Explicit confirmation of whether delivery of information by electronic means is acceptable or not. The draft regulations over the summer moved forward in this area but having been abandoned, we revert back to the wording from 1996 when e-communication was not an everyday fact of life.

- Regulation 5(5) covers the SMPI requirement. In practice, the production of SMPIs seems to require a lot of work by schemes for comparatively little result. We would like to see the SMPI requirements streamlined. This could be an area where a principles led disclosure regime would suffice.

- Paragraph 9 of Schedule 1 needs to be updated to refer to registered pension schemes rather than "tax-approved schemes" under ICTA 1988.

The Independent Trustee Regulations (SI 2005/703)

- Regulation 13(3) indicates that an independent trustee must write to every member and relevant trade union within a "reasonable period" of his appointment. We understand that the Regulator is not issuing a Code of Practice setting out this reasonable period and is instead relying on Appendix 6 of the old Opra Note 7 which makes reference to superseded regulations. This would not appear to be a satisfactory approach.

Missing regulations

- There is no reference in your review to the following:

    - The Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations 1996 (SI 1996/1975);

    - The Occupational Pension Schemes (Early Leavers: Cash Transfer Sums and Contribution Refunds) Regulations 2006 (SI 2006/33); and

    - The Occupational Pension Schemes (Modification of Schemes) Regulations 2006 (SI 2006/759).