



Response of Pensions Council to Pensions Authority Consultation Paper

October 2016

This is the response of the Pensions Council to the consultation paper on the “*Reform and Simplification of Supplementary Funded Private Pensions*” issued by the Pensions Authority. Rather than reply to each question individually, we have grouped our comments into themes, each covering a number of questions in the Consultation Paper.

A. General comments

- (i) In brief the Council broadly supports the thrust of the proposals outlined in the Paper, subject to the following comments.
- (ii) The raising of standards for the governance of pension schemes, e.g. in relation to authorisation and trustees, is good in itself and should lead to a substantial and desirable reduction in the total number of schemes on the market.

B. Trusteeship

- (i) The introduction of minimum competency requirements for trustees should help to increase standards of trusteeships. The fact that trustees have a degree of discretion in proper cases underlines the need for appropriate qualifications and experience.
- (ii) We agree with the proposal to enhance trustee requirements, and believe that the enhanced trustee qualification and experience requirements should apply to a trustee board collectively, as distinct from individually – with special rules for directors of a corporate trust company responsible for a master trust –see below. (We would add that lay trustees should continue to be encouraged, since they may have a useful role to play in the oversight of pension schemes.)
- (iii) Directors of a corporate trust company responsible for a master trust, or which is the sole trustee of any pension scheme, should all or very nearly all fulfil the qualification/experience requirements described in question 4. However, there may be a case for allowing a small and limited number of trustees without direct experience of pensions but with skills in, say, governance or financial control that may be useful and relevant to the board.
- (iv) The measurement of appropriate experience is not easy and cannot be prescribed in advance for every eventuality. The onus of proving

appropriate experience should be on the applicant. Nonetheless, the Authority should issue guidelines as to the application of the rules on experience. The approach adopted by Central Bank's Minimum Competence Code in relation to grandfathering of financial advisers might be useful in this task.

- (v) Although not a compulsory requirement in itself, the Authority should encourage as far as possible the growth in the number of independent trustees.
- (vi) All trustees should be subject to annual CPD – for a minimum of 15 hours, with higher requirements for directors of a corporate trust and professional trustees. In setting new and improved standards, the new regime should not over prescribe the behaviour of trustees. Trustees should have some level of discretion in proper cases, such as in relation to investment decisions.

C. Scheme authorisation

- (i) We strongly support the introduction of an authorisation system as proposed for new schemes and the progressive application of the same standards to existing schemes.
- (ii) The issues of liability or compensation if something goes wrong in an "authorised" scheme should be examined carefully before proceeding with the new regime. Members may have higher expectations for a scheme that is authorised than for one that is merely registered as at present.
- (iii) To reduce administrative burden, consideration should be given to the development of a single application to be sent online to all the relevant supervisory authorities, although each authority would then respond directly to the applicant. The same principle might apply to annual reports to the relevant supervisory bodies.
- (iv) We question the utility of including the bulk of certain one-member schemes in the current system of regulation of pensions. We refer in particular to DC schemes for the self-employed or for proprietary directors where the member is in a position to exercise a considerable degree of control over the scheme. For such people, the current system may be little more than a complicated way of telling them how to save their own money. If the purpose of the current system is mainly to facilitate tax benefits, it should then be for the tax authorities to set out the requirements for such schemes. There seems to be scope here for some deregulation.
- (v) The progressive application of the new standards to existing schemes will constitute a major challenge in terms of resources and decision-making for the Authority, at least in the early years. In later

years the number of new schemes seeking authorisation may be relatively low, in historical terms.

- (vi) We support the idea that codes of practice should be binding but whether this is the same as putting them on a statutory footing is another question. A code should include general requirements such as an obligation to act fairly in the client's interest but also sufficient specifics for increased clarity.

D. Rationalisation

- (i) We support the principles of rationalisation outlined in the Paper with the objective of achieving better outcomes for consumers, but with some reservations.
- (ii) In the first place, any process of rationalisation should include a general review of tax and Revenue practice to ensure a coherent and simpler approach across the range of different pension products, and to simplify the provision of advice and the administration, to the benefit of the consumer.
- (iii) The cessation of BOBs and RACs, leaving only the option of PRSAs and master trusts would leave many needs uncovered. For some, investment options would be reduced and costs may be increased, and neither option seems suitable for many self-employed/proprietary directors or those with deferred benefits. Those transferring (voluntarily or otherwise) out of DB and DC schemes could be especially disadvantaged, particularly with PRSAs as currently constituted. At the very least, there would need to be substantial change in PRSAs in their current form. We recommend a close examination of the outlook in the new landscape for those transferring from DB and DC schemes, and for proprietary directors and the self-employed.

E. Master Trusts

- (i) We consider that master trusts could usefully be extended to cover individual self-employed (non corporate) affinity or trade groupings (e.g. members of a professional body or trade union) wider than the current RAC Trusts.
- (ii) While supporting the proposals for master trusts, we do not believe that they will automatically deliver savings for consumers, without strong pro-competitive flanking measures. In the longer term the number of substantial master trusts is likely to be small, with the consequent danger of the emergence of complex monopolies or oligopolies. Among the pro-competitive measures we suggest the following:
 - (a) Simplification of the structure of master trusts.

- (b) Easy cost-free procedures for employers and members to switch between master trusts and for leave such trusts.
 - (c) Publication of all master trust charges, investment options and returns in a standard and comparable form on a public register, and including appropriate information on third party charges.
 - (d) The contents of the UK Master Trust Assurance Framework may provide some guidance in drafting requirements for master trusts.
- (iii) Master trusts relate to the accumulation phase of pensions. To continue the hoped for benefits of such trusts we need something similar at the de-cumulation stage. In line with our earlier position on the issue we recommend changes in regulation to permit the establishment of group ARFs.