



23 April 2010

Our ref: ICAEW Rep 41/10

Your ref:

Bob Jackson
c/o Regulatory Policy and Programmes
The Pensions Regulator
Napier House
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Brighton
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Dear Bob

Consultation on Record Keeping: Measuring Member Data

The ICAEW is pleased to respond to your request for comments in your consultation on *Record Keeping: Measuring Member Data*.

Please contact me should you wish to discuss any of the points raised in the attached response.

Yours sincerely

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CONSULTATION ON RECORD KEEPING: MEASURING MEMBER DATA

Memorandum of comment submitted in March 2010 by the ICAEW, in response to the Pensions Regulator's consultation paper on Record Keeping: Measuring Member Data published in February 2010.

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INTRODUCTION

1. The ICAEW welcomes the opportunity to comment on the consultation paper *Consultation on Record Keeping: Measuring Member Data* published by the Pensions Regulator ('tPR').

WHO WE ARE

2. The ICAEW operates under a Royal Charter, working in the public interest. Its regulation of its members, in particular its responsibilities in respect of auditors, is overseen by the Financial Reporting Council. As a world leading professional accountancy body, we provide leadership and practical support to over 134,000 members in more than 160 countries, working with governments, regulators and industry in order to ensure the highest standards are maintained. We are a founding member of the Global Accounting Alliance with over 775,000 members worldwide.
3. Our members provide financial knowledge and guidance based on the highest technical and ethical standards. They are trained to challenge people and organisations to think and act differently, to provide clarity and rigour, and so help create and sustain prosperity. We ensure these skills are constantly developed, recognised and valued.

MAJOR POINTS

Support for the initiative

4. We concur with tPR's overall conclusions that record-keeping in many schemes is not as good as it should be, and we therefore support tPR's objective in seeking to raise the general quality of record keeping.

Role of auditors

5. We do not believe the reference to the role of the scheme auditors' reviews of internal controls in paragraph 5.2 is appropriate. Under auditing standards, auditors are only required to obtain an understanding of the internal controls to the extent that they are relevant to the figures appearing in the financial statements on which they are giving an opinion. In the case of DB schemes, member data only affects the financial statements when benefits come into payment (limited member data may also be relevant for active members in respect of contributions). The existence and quality of benefit-related member data for active and deferred members does not affect the financial statements as the liability to pay future benefits is not accounted for under the current pensions SORP.
6. For similar reasons, the auditor of a DC scheme would not need to review the general controls over member data records in any detail.
7. However, we agree that data issues encountered by advisers and service providers should be communicated to the client. Auditors are currently required to do this under their duty to communicate audit matters of governance interest to the trustees (ISA 260). We also believe it would be helpful if paragraph 5.2 referred to service providers (in addition to 'advisers').
8. We have discussed our views expressed above in meetings with tPR, and we look forward to ongoing liaison with tPR regarding these issues.

Targets

9. Whilst we are supportive of measures that will raise the general quality of record keeping, we query whether targets should be issued as to the accuracy of data, as one could argue that

'targets' should all be set at 100%, and also we are not sure how such target accuracy can or should be measured. We would suggest that tPR should instead identify these accuracy levels (eg the 95% for legacy data) as their own internal triggers for enforcement action, rather than publishing them as targets. tPR should instead articulate record keeping standards in a less prescriptive non-numerical way, such as requiring trustees to use reasonable endeavours to ensure adequacy of records as soon as practicable. This would also enable tPR to take account of the particular circumstances of the scheme. Similarly we think it may be unhelpful for tPR to articulate what they see as valid excuses for a failure to achieve 100%; tPR should form a view but not necessarily inform everyone.

10. It is also important to distinguish between the impact of missing or inaccurate data on benefits payable to members of DB and DC schemes when considering target levels for data quality. For DC schemes the conditional data relating to their contributions and benefits is critical. Poor record-keeping in a DC scheme could have a significant deleterious impact on individual members' benefits. Rectifying poor DC records going back over a period of several years can also be a complex and very costly exercise. Targets (or triggers) for DC record quality should therefore be very high.
11. In a DB scheme, we acknowledge that poor or incomplete data can impact the reported position in the sponsor's financial statements. However, it is relatively uncommon for members to suffer any loss as a result of poor record-keeping. Where errors do occur, the under or over-payment is typically small. Some uncertainties in liabilities are caused by legal uncertainty (such as the validity of a past amendment) and no amount of data can produce certainty. Some data problems cure themselves by passage of time (e.g. GMP equalisation if the scheme pension exceeds it) and resolving them at significant cost will not be in the interests of members. We are surprised at tPR's expressed view that trust law requires all benefit uncertainties to be rectified by the trustees without a cost-benefit analysis. At the time a member's benefit is put into payment, the pension administrator is normally able to investigate and fill any gaps in the member's records, and the employer picks up any cost. In their risk assessment for their schemes, trustees may – with some justification – determine that they are happy to deal with minor data issues as benefits come into payment. Where buy-out (including buy-in) is a consideration, the market copes with data issues by charging a premium, a cost that will ultimately be picked up by the employer. For these reasons, requiring DB records to meet very high levels of accuracy may represent a disproportionate cost for the benefit it provides.
12. In places the consultation document refers to the presence of data records as the objective. It needs to be clear that existence of data in a record field is not an objective in itself – which should be the presence of accurate data records.

Impact assessment

13. We also have concerns about some of the cost impact examples used in the implicit impact assessment in the consultation document. If enacted the reality will be that many schemes will feel required to enact data vetting exercises at considerable expense which, as explained above, will not actually result in any advantage merely an acceleration of action. Furthermore as there will be considerable time until many benefits are actually paid (typically for deferred pensioners) this will not be a one off exercise but one that needs repeating on a regular basis. We have not investigated any case studies but do not believe the consultation example of £60,000 for a data cleaning exercise (box page 10) would be unreasonable for a large scheme. This contrasts with the cost estimate of £40,000 to £100,000 across the industry (Appendix D). We also believe that these costs should be looked at on a per capita basis (rather than on a per scheme basis).

Changing administrators

14. We also suggest the inclusion of some provisions in standard documentation, such as the PMI model administration agreement, requiring legacy data to be considered when changing administrator.

RESPONSES TO SPECIFIC QUESTIONS/POINTS

Question 1 – do you agree that the above conclusions are reasonable?

Yes, the conclusions appear reasonable and consistent with our experience.

Question 2 – do you agree that more work needs to be done to improve record-keeping standards?

Yes. It is difficult to argue that more work is not required given the conclusion in Question 1.

Question 3 – do you agree that it is appropriate for the regulator to set specific targets for the standard of common data, and that the targets quoted above are reasonable?

Please see our general comments above suggesting less prescriptive standards and internal triggers for tPR, as opposed to setting numeric targets for the existence and accuracy of common data.

It seems reasonable to expect most elements of new data to be 100% accurate. It is notoriously difficult, however, to maintain accurate addresses for deferred members who may move without notifying the scheme. An allowance needs to be made – see response to Question 6.

A trigger for the accuracy of legacy data also seems appropriate, and a trigger of 95% accuracy may be appropriate as long as a “reasonable endeavours” test is used before taking regulatory action.

Question 4 – do you agree that a scheme specific approach is appropriate to measuring the quality of conditional member data? Should targets be set by the regulator for conditional data, and if so what would be appropriate for different scheme types?

For the reasons set out in our general comments above, the trigger for the accuracy of conditional member data in DC schemes that directly relates to the records of contributions and investments should be 100%, whether new or legacy data.

For other conditional member data, we agree that a scheme specific approach is appropriate (which would be more achievable with more generic (non-numerical) standards and tPR internal triggers, rather than published numerical targets). As set out in our general comments above, for DB schemes it may be unnecessarily burdensome to expect very high standards across the board for the quality of member record-keeping.

Question 5 – do you agree that, in the period up to the end of 2012, these targets will help achieve the higher standards that are essential in protecting members’ benefits and efficient running of schemes? What milestones might be appropriate here?

Please see our comments above regarding non-numerical standard setting and targets.

Question 6 – what reasons for not being able to resolve data problems should the regulator consider legitimate when considering whether “all reasonable endeavours” had been made?

We are aware of valid reasons for not being able to resolve data problems (see our comments below), but we think it is unhelpful for tPR to articulate what they see as valid excuses for a failure to achieve 100%; tPR should form a view but not necessarily inform everyone.

For the population of active and pensioner members, where the scheme is in regular contact with the member, there should be relatively few reasons for data problems to be incapable of being resolved.

However, we note that legitimate issues can arise where poor records have been inherited from a previous administrator, perhaps combined with a complex legacy of employer companies that limits the ability to turn to employer HR records to check data or fill in gaps. For deferred members, where maintaining current contact details can be very difficult, even tracing agencies are not always able to provide information. This can be a particular issue for members who may now live outside of the UK.

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