



THE INSTITUTE
OF CHARTERED
ACCOUNTANTS
IN ENGLAND AND WALES

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Your ref:

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Dear Ms Robinson

RECORD-KEEPING: A CONSULTATION DOCUMENT

The Institute of Chartered Accountants in England and Wales (the 'Institute') is pleased to have the opportunity to comment on the consultation paper on *Record-keeping* published by The Pensions Regulator (TPR) in July 2008.

The Institute 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, the Institute provides leadership and practical support to over 128,000 members in more than 140 countries, working with governments, regulators and industry in order to ensure the highest standards are maintained. The Institute is a founding member of the Global Accounting Alliance with over 700,000 members worldwide.

The Institute's Pensions Sub-Committee is responsible, on behalf of the Business Law Committee, for reviewing the legislative, regulatory and practical changes in relation to matters which have a direct or indirect impact on pension schemes, particularly occupational pension schemes and which are of professional concern to members in practice and business. This involves liaising with the regulators, government departments or other official bodies, professional and trade associations and others outside the profession whose activities, rules, procedures or requirements affect the scope or technical performance of members' professional work in relation to pensions issues. The Committee is supporting TPR in its work on record-keeping by organising a round table meeting of representatives from key organisations to discuss the points raised by Chapter 6 of the consultation document.

General comments

We welcome the opportunity to respond to this consultation. We agree that good record keeping is vital to the proper administration of pension schemes, and support TPR in its efforts to address the problem areas it has identified in the course of its regulatory activities. The main part of our response deals with question 15, because paragraph 6.14 discusses the possibility of requiring an annual statement by trustees about key risks and internal controls in the context of engaging with the audit profession.

In our view many of the current problems with legacy data arise from past failings on the part of administrators, although of course we accept that scheme Trustees are ultimately responsible for ensuring good data control and record-keeping. Relatively few of the current issues have arisen because of changes in legislative requirements that could not have been anticipated by administrators, the one example we can think of being that most schemes did not keep a record of which companies in a group the members worked for and when, because this was not always relevant. Lack of this information can now cause severe problems in debt apportionment in final salary schemes for s75 purposes.

A point that needs to be considered, which does not appear to be covered under any of the specific questions, is the question of record retention. The statutory minimum period is 6 years, but this is clearly inadequate in the context of pension schemes: the period should cover the length of the employee's service. Trustees need to ensure that records are available to enable them to deal with claims by former employees that in some cases can emerge 20 years or more after the employee left. We recommend, therefore, that legislation be put in place to ensure records are retained for each employee for the entire period they belong to a given scheme until some time defined period has elapsed after pension benefits have been put into payment. This will enable trustees to deal with any claims made and any subsequent queries about the amount of claims.

Another aspect of record-keeping that needs to be taken into account is the accuracy and timeliness of information provided by service providers, for example for annual reports.

Enabling measurement and improvement of record-keeping

Question 15: *Should an annual statement by trustees about key risks and internal controls be included in the code of practice on internal controls?*

We are concerned that the penultimate sentence in the second bullet point in paragraph 6.14 is misleading in suggesting that if trustees are required to report on key risks and the effectiveness of internal controls in their report, these matters will "fall within the general review of auditors". The introduction to Auditing Practices Board Practice Note 15 (PN15), *The audit of occupational pension schemes in the United Kingdom (Revised)*, explains the role of pension scheme auditors and in particular states that "Scheme auditors' statutory responsibilities under the PA 1995 do not require them to undertake work to determine whether the trustees' report or other sections of the scheme's annual report are properly prepared." (However, a breach of requirements relating to the annual report may give rise to a statutory duty to report directly to The Pensions Regulator).

Neither does the auditor's role of reporting on contributions involve reporting on record keeping and controls. PN15 again: "The Audited Accounts Regulations require the scheme auditors to provide a statement as to whether or not in their opinion contributions have been paid in accordance with the schedule of contributions (as certified by the scheme actuary) for defined benefit schemes or payment schedule for defined contribution schemes. The work undertaken by scheme auditors in respect of contributions takes into account both their obligation to report their opinion on the financial statements and, separately, to report whether contributions have been made in accordance with the schedule of contributions or payment schedule". The practical effect of the legislative requirements is that a 'clean' audit opinion can be given even if there is not an adequate controls environment.

Having expressed our reservations about the detail of the current proposals, we agree that it is essential to get trustees to recognise the importance of good record-keeping. Trustees cannot fulfill their obligations to members without good data. We support a move towards a formal consideration of risks along the same lines as is required of charity trustees in their annual report, but we recommend that this be effected through the pension scheme disclosure regulations (which in any case need to be revised and simplified) rather than in a Code of Practice. It is worth pointing out that there is already a legal requirement for the trustees' report to contain a statement of investment principles: there could be an equivalent statement of scheme administration principles, covering matters such as the contract with the Administrator (and any other service providers) and measures for monitoring the Administrator's work.

It is important that trustees, who are ultimately responsible for past and present record-keeping, ensure that they have a clear relationship with their administrators including allocation of responsibility for each aspect of good record-keeping. A key element of scheme trustees' monitoring of service providers might be for them to require these organisations to provide an assurance report under AAF 01/06 or SAS70, and possibly ITF 01/07, and for the trustees to review such report carefully. If the service provider refused to obtain an assurance report unless the trustees paid for it, then the trustees could arrange for their own auditors to attend the service provider and so obtain assurance specific to their scheme (as a separate assurance engagement with the scheme auditors). Other practical measures might be for trustees to visit administrators' premises.

The first bullet point in paragraph 6.14 refers to Assurance reports on Internal Controls of Service Organisations made available to third parties (AAF 01/06). The Institute has also published guidance ITF 01/07, *Assurance Reports on the Outsourced Provision of Information Services and Information Processing Services*, which should be included in this context. It is essential that IT systems are properly evaluated and set up. Electronic auditing can identify flaws or errors, although manual intervention will be needed to correct these.

Another point that needs to be considered is arrangements when trustees change administrators. For example, it is advisable for trustees to appoint a project manager for the change. They need to ensure the completeness and quality of the data transferred, so that in a DC scheme, for example, the past history and analysis of individual members' funds are available for future reference, and not just the value of the fund on the date of the transfer. It would be sensible for contracts with administrators to provide for continuing obligations such as assisting with record

cleansing after a transfer, and for such ongoing obligations to be included in the standard agreement published by the Pensions Management Institute if this is not already the case.

Answers to other consultation questions

Question 1: *Do you agree that record-keeping is central to all aspects of the administration of a pension scheme?*

Yes. As we have stated above in our response to question 15 above, trustees cannot fulfill their obligations to members without good data. We believe that data must be accurate as well as complete, available wherever and whenever needed. Record-keeping itself should cover procedures and controls, for example the integrity of calculations as well as the accuracy and completeness of the data used in performing those calculations.

Question 2: *Have we correctly identified the costs of poor record-keeping and the benefits of good record-keeping?*

Yes. We also believe that there is a less tangible cost of poor record-keeping, which is a loss of confidence on the part of scheme members. Poor records may be symptomatic of inadequate governance or lack of awareness on the part of scheme trustees.

Question 3: *Do you agree that more standardised ways of providing and transferring data could help with record-keeping?*

More standardised ways of providing and transferring data will certainly lead to greater efficiency, because these enable greater use of IT. However, as we explain in more detail below in our answer to Question 8, there needs to be better software and a greater understanding on the part of those using it of the reason for certain processes and the need for manual intervention.

Question 4: *Do you agree that, while there are schemes and providers that achieve high standards, there is also evidence of problems with record-keeping?*

Our members have encountered evidence of problems with record-keeping, for example in relation to scheme transfers or winding up, but TPR is likely to have a better view than the Institute of the extent and gravity of shortcomings through its regulatory activities. Auditors come across extensive problems caused by poor records and poor controls over records such as

- failure to reconcile membership numbers, leading to membership database errors (e.g. actives per payroll not tying up with actives per scheme records);
- failure to reconcile investment records, leaving assets unallocated or unaccounted for;
- failure to retain records (mentioned in the introduction), including membership data, deeds and rules, minutes, membership announcements and payroll data important for determining earnings and contributions. We are not just referring to member records here but scheme records generally.

Question 5: *Do you agree that record-keeping problems, where they exist, are greatest with legacy data?*

We agree that problems are greatest with legacy data, because by definition they arise from past events and can be costly to sort out, with a risk that the costs of catching up could fall on scheme members. However, there are still record keeping issues arising from current data, particularly for DC schemes, because internal controls are weaker than they should be.

Question 6: *What are your views of the proposed definition of core data?*

We recommend the inclusion of four further fields - last address, other contact information (ie email), last date of confirmation for deferreds and pensioners, and next of kin.

We attach the list of core data items from Appendix 1 to the consultation paper, which we have highlighted with queries or notes on suggested improvements to the proposed tests.

Question 7: *What are your views of the proposal that every item of core data should be present in all schemes?*

This appears reasonable: the requirement will act as a control to ensure that any gaps are checked and explained or the missing data found.

Question 8: *Do you agree that the list of additional data is illustrative of the sort of information required for effective administration?*

Yes. We should add that we consider that reconciliations are essential to good record-keeping, especially in the case of DC schemes: that is, processes are important, not just data. Reconciliations to check the accuracy of data must be performed regularly, and although many processes can be carried out automatically, there needs to be human intervention to ensure that all variances or other indications of errors are identified and resolved.

Question 9: *Do you agree that it is reasonable to recommend that providers and trustees measure the presence of the additional data required for effective administration?*

Yes. However, as we explain in our response to question 10, the method and timing of this exercise are matters for the trustees.

Question 10: *Is it appropriate to set a timescale for when the presence of additional data should, if necessary, be improved? If so, what would you suggest?*

We consider that core data needs to be checked and cleansed if necessary, as well as additional data.

The timescale for improving the presence of additional data needs to be considered in relation to three stages. Firstly, starting from this point forward, trustees should be able to ensure that new data is correct and proper controls are in place to secure continuing accuracy/reliability, i.e. data problems should not arise going forward, akin to 'drawing a line in the sand'. Secondly, there is a transitional period for existing data which may be incomplete in some respects, and there is software already that can identify gaps: it is not expensive to capture the big picture for a scheme. It

should be relatively quick to check and fill in missing data. The most difficult area concerns legacy data, for which there is a balance to be struck between the cost of cleansing/completing the required data, and the speed with which it can be done for an entire scheme.

So far as legacy data cleansing is concerned, the trustees should identify as soon as possible what problems exist in their scheme (for example using interrogation software to identify the areas where data is incomplete or inaccurate) as part of their risk analysis. It is for the trustees then to decide how those problems should be sorted out, and in what timescale. However, this in turn means that trustees need to understand what the data and processing needs of their scheme are, so that they can appreciate any legacy data problems: it might be helpful to provide examples in this respect.

Complete, accurate data are more important to DC than to DB schemes, because the member's pension depends on the value of the investments purchased by the member's and the employer's contributions. The work on DC scheme data needs, therefore, to be started as soon as possible. The time needed for data cleansing will depend on the size of the scheme and the quality of prior record-keeping, but in the experience of our members it could take at least three years to correct/reconstruct the data. Administrators are likely to be unwilling to carry out the cleansing/reconstruction without charging for the work, but trustees should be encouraged to make them do so, to avoid the cost falling on scheme members. In principle, administrators should not charge for their time unless they are not responsible for the data deficiencies, for example, because they 'inherited' the records on a scheme transfer or on taking over the administration from another service provider (without having agreed to carry out a validation exercise to assess/correct the records).

Question 11: What are your views on the possibility of the regulator providing benchmarks, for different sorts of scheme, of additional data?

The current scheme administration regulations which set out what records must be kept are poor: they are neither principles based, nor do they cover in sufficient detail what records should be kept. We believe a mixture of principles-based legislation and some detail set out in a code of practice is the right approach. There is already a legal requirement for the trustees to maintain a statement of investment principles. There could be an equivalent statement of scheme data and record keeping principles.

We suggest that the regulator has discussions with the following organisations to find out more about benchmarking core data for long-term records.:

- ICSA –Institute of Chartered Secretaries
- Local government re their standards
- The National Archive
- European Commission Model Requirements for the Management of Electronic Records (MoReq2)

We agree that it will be helpful if TPR provides benchmarks for different sorts of scheme – in particular, DC and career average. However, the benchmarks will need to cater for a large number of permutations within types of schemes. Whilst in some schemes the existence of correct transfer in data is important, in other, similar

schemes closed to transfer in this item would be irrelevant. Some items in the illustration of additional data would be more appropriate as core items in some schemes. For example, part time hours/ratio/pay are key items when calculating member benefits in some schemes whereas in another scheme these data may be irrelevant.

Question 12: *Do you agree that the following events give rise to an immediate requirement for data cleansing?*

- *Wind-up*
- *Entry to Pension Protection Fund assessment period*
- *Buy-out*

We agree that these three events give rise to an immediate requirement for data cleansing, but we consider that bulk transfers are also critical events.

Question 13: *Do you agree with the proposal to report numerical information about membership records at the same time as the presence of core and additional data is measured?*

The proposal appears sensible.

Question 14: *Do you agree that this is an appropriate aim for the regulator? (To ensure that the records of every work-based scheme are such that the benefits due to each member at any point in time and in any circumstances can be calculated accurately)*

Yes. However, we consider that the proposals for responsibility for record-keeping in paragraph 6.3 need to be tightened up. The term “provider” should be amplified – it will usually be the insurance company. Whilst the insurer does have responsibility for maintaining records in relation to individual contracts, these can only be maintained if the insurer receives accurate and timely information from the employer and the member. Insurers often have problems reconciling contributions and data. This is common to all money purchase schemes, and the Regulator needs to emphasise the role of the employer and its payroll department in making sure that they calculate the contributions accurately, remit them on a timely basis and retain the records.

The proposals need to distinguish between provisions for personal accounts and money purchase schemes. In our members’ experience, in contract-based schemes, insurers do have problems with employers whose cheques do not match the schedule of contributions.

In our view the obligation to reconcile the payments lies with the employers because they have calculated the amount sent. The employer should then be obliged to deal with queries from the scheme provider / trustees about any payment received within a stated time scale (say 1 to 3 months). This should ensure that scheme and individual records are always accurate and up to date.

It should be pointed out that there is an obligation on the employer to provide the trustees of an occupational pension scheme with information. The TPR website, under the heading ‘The employer role’, states “As an employer, you need to ensure that trustees have sufficient information about your company to be able to provide up-to-date, accurate details to the regulator. You must continue to provide the trustees and their advisers with any information they reasonably need to carry out their duties.”

We believe that is constructive for the Pensions Regulator to continue to engage with software suppliers with a view to encouraging and facilitating the production of software that will further improve the quality of record-keeping in the pensions industry. We nevertheless consider that the main driver of such improvement will be demand from the customers, which is most likely to be stimulated by a strong and clear lead from the regulator about the records that need to be (a) kept and (b) regularly checked, regardless of the perceived ease or difficulty of doing so, by trustees, administrators and providers.

Question 16: *Do you think that education and enabling will be effective in improving standards of record-keeping?*

Yes. Trustees need to understand their responsibilities and the importance of good data control and record-keeping, but they also need to be confident, through the support of legislation, in securing and enforcing contracts with service providers that enable them to monitor (and correct if necessary) data control, record-keeping and reporting.

Question 17: *Do you agree with the assessment that, although measuring and improving data may lead to additional cost, it is a question of timing rather than of the cost not otherwise arising, and that good records can save costs?*

Yes. We have dealt with this point in more detail in our answer to question 10.

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

Yours sincerely



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Appendix 1: Core data

A list of the core data items, together with the tests that we propose should be carried out, is given below.

Core data tests

Test Type/applicability		Brief test description eg	Reason for test
Unique ID	Status validation	Check that a Unique ID is present for each member and return duplicates [and investigate gaps???	Ensuring a valid status exists for each individual. Where more than one record exists, that this is for a valid reason and each is unique to a period of membership.
Status	Status validation	Check that the system holds a current status for each member and that each status code is valid	
Active record	Status validation	Check that an active member has an active record only	
Deferred record	Status validation	Check that a deferred member has a deferred record and active record only [NB ??? is that right]	
Pensioner record	Status validation	Check that a pensioner member has a pension record and pension has not ceased	

Surname [Surely it needs a forename(s) test as well? And "title" – see note re test description under "Sex" below]	Basic details	Check that a surname field has been populated	Ensuring member identity and basic details are held.
National Insurance number	Basic details	NINO is 9 characters in a standard format or is a valid temporary NINO consistent with sex and DOB	
Sex	Basic details	Check that a sex is present and that the code is valid (and is consistent with the title) What title?	
Date joined scheme		Check that the DJS is present and consistent (more than say 16 years and less than say 60 years >DOB, <DJC), or is a recognised false date	
Date of birth		Check that DOB is present and consistent (<DJS, DJC, DOR, DOL; also < current year – say 16 and > current year – say 60, for an active member; 100 for a pensioner: reported discrepancies can be manually checked for validity), and is a valid date or is a recognised false date.	

Salary history	Active details	Check that there is at least one salary within the last 12 months That does not provide any check of history.	For actives, checking that contributions are being posted to members' records.
Contributions (DB)	Active details	Check that a total-to-date contribution (either derived or explicit) is present [That does not check that contributions <i>are still being</i> posted; only that they <i>have been</i> posted]	
Contributions (DC)	DC fund details	Check that a contribution exists for each period in the current scheme year	Evidence that contributions are being posted and investments made for appropriate periods.
Transactions	DC fund details	Check that there is an equivalent transaction for each contribution	
Switches	DC fund details	Check that switch sells and buys balance (eg to within £1)	

Date of leaving (DOL)	Deferred details	Check that a DOL has been populated and is after DJS	Checking for gaps/inconsistencies which can lead to error.
Total pension – basic	DB deferred details	Check that a total deferred pension is present (either derived or explicit)	
Date of retirement (DOR)	Pensioner details	Check that a DOR has been populated and is after DJS [is that a sufficient test?]	
Total pension - basic	Pensioner details	Check that a total pension is present (either derived or explicit)	