



THE INSTITUTE
OF CHARTERED
ACCOUNTANTS
IN ENGLAND AND WALES

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Your ref:

Tim Found
Department for Work and Pensions
Private Pensions Policy & Regulation
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Dear Mr Found

**REVIEW OF DISCLOSURE OF INFORMATION REQUIREMENTS APPLYING TO
OCCUPATIONAL, PERSONAL & STAKEHOLDER PENSION SCHEMES**

The Institute of Chartered Accountants in England and Wales (the Institute) welcomes the opportunity to comment on the consultation paper *Review of Disclosure of Information Requirements applying to Occupational, Personal & Stakeholder Pension Schemes* published by the Department for Work and Pensions in March 2009.

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

Yours sincerely

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**THE INSTITUTE
OF CHARTERED
ACCOUNTANTS**
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ICAEW Representation

ICAEW REP 55/09

REVIEW OF DISCLOSURE OF INFORMATION REQUIREMENTS APPLYING TO OCCUPATIONAL, PERSONAL & STAKEHOLDER PENSION SCHEMES

Memorandum of comment submitted in May 2009 by The Institute of Chartered Accountants in England and Wales, in response to the 'Review of Disclosure of Information Requirements applying to Occupational, Personal & Stakeholder Pension Schemes' published by the Department for Work and Pensions in March 2009.

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INTRODUCTION

1. The Institute of Chartered Accountants in England and Wales (the Institute) welcomes the opportunity to comment on the consultation paper *Review of Disclosure of Information Requirements applying to Occupational, Personal & Stakeholder Pension Schemes* published by the Department for Work and Pensions in March 2009.

WHO WE ARE

2. 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 132,000 members in more than 160 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 750,000 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. The Institute ensures these skills are constantly developed, recognised and valued.

GENERAL COMMENTS

4. We are very supportive of the proposal to simplify the disclosure regime for occupational pensions, removing much of the detail and leaving disclosures to the discretion of the trustees.
5. In particular, we support the move towards a principles based approach (but retaining prescription where required by the IORP Directive), and we consider that all disclosure requirements should be consolidated into a single set of regulations (rather than set out in more than a dozen different sets of regulations). However, we note that the current proposals fall short of this objective, because only certain regulations are to be reviewed at this stage, and so in the interim we recommend improved signposting/cross-referencing to assist trustees and preparers (for example, the audited accounts regulations should be signposted). Also, we note that where information requirements on a specific issue are embedded in a set of stand-alone regulations, the proposal is for them to be retained as separate regulations. We consider that it might be helpful for such requirements to instead be included as schedules to the new 'consolidated' disclosure regulations, rather than retained as separate statutory instruments.
6. We also have some comments on the proposed wording of the overarching principle. We believe that it should be clarified that members should be given information about the scheme to enable them to make decisions, to avoid the need for schemes to send out information regarding members' other potential benefits (eg state benefits) or otherwise tailored specifically towards certain members (see mark up below).

Members should be given sufficient scheme information that allows them to understand the benefits to which they will be entitled and any other relevant scheme information that will enable members to make relevant decisions [in their best interests].

7. We have also suggested amendments to the drafting of the first part of this principle (members to be given sufficient information about the scheme to allow them to understand their benefits) as we do not believe that trustees should be required to consider the circumstances and financial literacy of individual members when disseminating this information and, particularly in relation to DC schemes, there is a need to avoid this being interpreted as a requirement to provide information regarding the economic environment, inflation projections etc.

SPECIFIC QUESTIONS

Q1 Against the background that a streamlined set of prescriptive provisions would still be required for the purposes of satisfying IORP and in the interests of certainty for schemes, do you support the addition to the legislation of a key, overarching disclosure principle?

8. Yes, provided there are also specific disclosure requirements to cover the IORP information requirements, we believe an overriding principle would work. However, see our comments above regarding the proposed wording of such principle as care needs to be taken to ensure the introduction of an overriding principle does not give rise to more onerous obligations on trustees. We have taken reassurance from informal discussions with the DWP that this is not the intention, and that the regulations will be supplemented by DWP or tPR issuing guidance and worked examples, for example, around the types of information that should be supplied at the various different stages of membership cycle.

Q2 Do you support the consolidation of general disclosure provisions into one set of regulations, rather than the existing position where disclosure requirements affecting occupational, personal and stakeholder pension schemes are dealt with separately?

9. Yes, we consider that it would be very desirable for all disclosure requirements to be consolidated into a single set of regulations. Increasingly, members will be in more than one type of scheme and it would be helpful to have all the disclosure requirements in one place. It will also aid consistency and make it easier to compare and contrast the requirements for different types of scheme. However, as we note in our general comments above, the current proposals fall short of this objective, and so we recommend signposting/cross-referencing to assist trustees and preparers (which must be kept up-to-date if relevant regulations are re-issued or amended) , and/or the use of schedules in the new 'consolidated' regulations.

Q3 Do you consider that the proposed approach outlined in Annex C is appropriate? Detailed comments on particular requirements would of course be welcome.

10. Yes, we broadly support the approach outlined in Annex C.

Regarding the Article 9(f) IORP requirement (page 17, para 14) to ensure that members are sufficiently informed, including provision of information concerning:

“(i)

(ii) *the financial, technical and other risks associated with the pension scheme;*

(iii) *the nature and distribution of those risks”;*

we believe that (assuming the aim is to provide members with a better appreciation of the risk), in order to be meaningful, this information will need to be provided to members annually (rather than being static), and therefore that it should be included in an annual statement to members (ie the SFS or annual benefit statement). We believe that this would be a better method of communicating such information than the annual report, as this is not a primary communication tool with members and is requested/reviewed by a very low proportion of members. Furthermore, if this was required to be provided in the annual report, care needs to be taken that any such requirement would not give rise to unintended consequences (for example, we note the IORP requires members states to “*ensure that ... members are sufficiently informed*” and so the DWP should consider whether causing such information to be included in the annual report could result in schemes incurring the burden of being obliged to send the annual report and accounts to all members, rather than those who have requested them). We also consider that guidance will be needed to assist interpretation of these requirements, which could be developed by tPR or PRAG.

11. Regarding the proposals for the annual report (page 19, from para 37 onwards), we support the proposals to have some retained prescription for specified items in the IORP, with the remainder left to the trustees’ discretion. However, the annual report includes the accounts and therefore care needs to be taken with the exact wording and regarding the interaction with the SORP. We also note that some items in Schedule 3 of the Disclosure Regulations that we consider useful are not IORP Directive requirements (for example, inclusion of the names of the scheme trustees and advisers, and the number of members) and so we consider that such disclosures should still be included in annual reports. We note that there will be a further consultation on the detail and, depending on the outcome of that, such disclosures could be dealt with under supplementary guidance issued by tPR or PRAG.

12. We also note that the proposed requirement for salary-related schemes (para 23 on page 18) to provide members with “*information to enable them to understand their current position and/or likely income in retirement*” *[our emphasis]* goes further than the general principle, which would require disclosures regarding benefits to which members will in future be entitled, and the wording should also be tightened up in the same way as the general principle, to make it clear it is scheme specific information.

Q4 Do you support the proposal for regulations to require relevant information to be provided "within a reasonable period" (see paragraph 34 above) backed with a Code of Practice, replacing the existing approach where timescales are specified in regulations?

13. Yes, we support the approach that statutory requirements would be for information to be provided “*within a reasonable period*” with more detailed requirements contained in Codes of Practice, which are a ‘comply or explain’ regime and are also more easily updated. (For completeness, we note that the 7 month deadline for audited accounts should remain.)

Q5 Do you have any views on the disclosure of information by schemes in the context of the automatic enrolment requirement for employers, commencing from 2012? (Paragraph 4 of Annex C proposes a requirement for schemes to provide basic scheme information within 14 days when a new employee commences pensionable service. The draft Pensions (Automatic Enrolment) Regulations 2009 are the subject of a current consultation exercise. See <http://www.dwp.gov.uk/consultation/2009/>.)

14. In view of the timescale within which employees will be required to opt out, we support the time period of 14 days for information to be provided to new employees regarding auto-enrolment, although we acknowledge this may give rise to administrative burdens amongst employers.

Q6 Do you have views on the proposal to allow greater use of electronic communications and on how schemes could make significant cost savings from this change? (See paragraph 35 above and paragraphs 39-40 of Annex C).

15. We support the proposal to facilitate electronic communication, with schemes permitted to send information via email or websites unless members request hard copy information. Where website communication is proposed, we would support an approach akin to the default for shareholder communication under the Companies Act 2006, whereby members would receive hard copy notification when information has been provided via a website, allowing members who are not 'e-enabled' to request hard copies of such information.

16. We also support the proposal that this is an "opt in" rather than mandatory regime for schemes, because electronic communication could be expensive for some schemes (with associated passwords etc) and so some schemes may wish to continue to send information in hard copy.

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