



NEST: Evolving for the Future

ICAEW welcomes the opportunity to comment on the *NEST: Evolving for the Future* published by Department for Work and Pensions on 7 July 2016, a copy of which is available from this [link](#).

This ICAEW response of 23 September 2016 reflects consultation with the Pensions Sub-Committee of the Business Law Committee which includes representatives from public practice and the business community. The Committee is responsible for ICAEW policy on business law issues and related submissions to legislators, regulators and other external bodies.

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1. Broadly speaking we agree that the call for evidence considers the key issues facing the market and support the proposals for increasing flexibility of NEST.
2. As NEST is the only scheme required by law to accept relevant employers, it is essential that NEST is a suitable scheme for legal and regulatory purposes (at least) and we assume that Government will ensure that it is.
3. However, the legal position on liability of employers who select NEST (and advisers who recommend it) appears, from the recent [Work and Pensions Committee report](#) on auto-enrolment, to be open to question (*see in particular paragraph 36*). We would like Government to take any steps necessary to clarify that NEST would be an appropriate choice (*see also* our representation [15/16](#) on this issue).
4. Absent any such clarification, it is important that there are no obvious inherent disadvantages to selection of NEST such that employers or advisors could be exposed to claims that legal or regulatory requirements have not been met.
5. The constraints on the annual contribution limit and transfers in and out were potential disadvantages and we supported their removal (*see* our representation [07/13](#)). If, as seems likely, the market develops as regards decumulation services NEST might be seen to be inappropriate if it is unable to do so.
6. More generally, it is important that NEST is commercially sound if it is not to be a drain on taxpayers and is to be in a position to offer high quality and competitive services to its members. It therefore needs to be able to grow and achieve economies of scale. If NEST is unable to offer decumulation services, members wishing to drawdown might have to transfer the whole of their pots to another provider in order to do so and that other provider, rather than NEST, would then benefit from holding the undrawn assets, which might put NEST at a commercial disadvantage.
7. While NEST was established for auto enrolment purposes, if, in fact, it needs a broader remit to compete effectively (eg to be available to contractual schemes too), then we believe that it should be able to do so.
8. Increased flexibility for NEST may increase competitive pressures on other providers in the market and, potentially result in reduced choice, for instance if providers exit the market or segments of it and it may be that some providers would not have entered the market had they known that the remit of NEST would be broadened over time. It is, however, difficult to see how NEST can provide a competitive service to its members if it is not free to compete.