



## **Buck Consultants Limited**

---

### **Response to DWP consultation on review of Disclosure of Information Requirements applying to Occupational, Personal and Stakeholder Pension Schemes**

#### **Introduction and overview**

We are pleased to have the opportunity to comment on this very important issue for members of pension arrangements. We welcome the review, but feel that it is woefully late in getting under way. The issues it addresses are of great importance. Although, as the consultation document states, these issues will acquire a new level of importance with the planned 2012 auto-enrolment provisions, much damage has already been done through continuing for too long with the unhelpful regulations that currently apply. The pensions industry has been calling for these problems to be addressed for many years now, and all the arguments were well represented in the submissions to the Deregulatory Review.

#### **The need to avoid further delay**

Nevertheless, the delay has already incurred, and it is important that the issues are raised and considered through this present consultation exercise, and appropriate changes effected as soon as possible. The proposed timetable is realistic in this respect, but must not be allowed to slip. Given that the next general election is less than a year away, we would not want to see the results of this exercise lost in that process and delayed for another year or more into the life of the next parliament.

Similarly, the new Code of Practice that will be required from the Pensions Regulator to support the proposed principles-based legislation must be in place as soon as possible after the new regulations come into force: without that code, the new provisions will be unworkable, and will cause considerable difficulties for trustees and managers who will not know whether the actions they are taking in the area of disclosure satisfy their legal responsibilities. Codes are required to be approved by the Secretary of State, and so there is a risk of delays resulting from the election of a new parliament.

We would therefore urge the Pensions Regulator to commence working on the drafting of the code as soon as the basic principles of the new regime are reasonably clear; the draft may be subject to change over that period, but if it is being developed contemporaneously with the final drafting of the regulations, any delay in introduction will be minimised.

#### **Support for the proposed approach**

We support the proposal that the appropriate future basis for disclosure requirements is a principles-based regime. Whilst we understand the reduction in certainty that such an approach has compared with a prescriptive regime, we believe that the resulting increase in flexibility makes it a worthwhile trade-off. Years of working with the current prescriptive regime has demonstrated that the result is expensive communication



exercises, from which members all too often fail to extract even the most basic information – as a string of surveys, and reports from the Pensions Advisory Service, regularly testify.

We would also make the point – although we are sure that it is obvious and will already have been taken on board by the consultation team – that the new regime should, as far as possible, be applied consistently to all pension arrangements. This should be made easier to achieve by keeping detailed prescriptive requirements to a minimum – which is another benefit from the proposed approach.

### **The need for wider education**

Finally, we make one generic point. Whatever the design features of pension provision in the future, it is clear that members will be required to take a more active role in their own arrangements. This requires a higher level of knowledge and understanding than is generally found at the moment. Clearly, disclosure of information by those responsible for providing and running arrangements will play a vital part.

However, that will not be sufficient by itself. There is a need for education, which for those still at school can be addressed as part of the National Curriculum; but for the generations now in the workforce there is an urgent need to provide help through other media. Pensions providers will be able to help by utilising the flexibility allowed by the proposed new disclosure regime to make their future communications more effective, and it is clearly in their interests to do so. However, where the underlying level of knowledge and understanding is poor (or even non-existent), neither employers nor providers can be expected to provide the required education themselves, at their own expense. There is a need, therefore, for a national adult financial education programme, backed by an advisory service, to provide at least basic help where needed.

The other strand of help is the need to simplify the arrangements themselves. Where it is possible to do so, those responsible for the design of arrangements should be encouraged to simplify their provisions, and review them regularly, to ensure that they remain appropriate for their customers – the members. However, the government has a role here, to continue with the deregulatory process as swiftly as possible, in order to allow those responsible for scheme design to make desired changes to this end.

### **Consultation 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?

**Buck response.** Yes, that would be useful. The example given in the consultation document is along the right lines, but needs to recognise in some way the constraints imposed by a general lack of basic knowledge, referred to in our comment above, that those responsible for running pension arrangements should not be expected to shoulder the full burden of educating the population on financial matters.

**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?

**Buck response.** Although there is some logic in placing specific disclosure requirements in the regulations where the matters they are dealing with are also found, there is a stronger argument for placing all the disclosure requirements together in one set of regulations. Support for this approach is given by the intention to move to a principles-based regime, since these principles can be more easily contained in one place. The result should also aid consistency of application across all types of pension arrangements.

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

**Buck response.** Yes broadly, subject to any comments made elsewhere in this response.

In addition, we offer the following comments on specific proposals in Annex C:

Paragraph 7. We agree that the persons entitled to receive information should be as listed, although (obviously) information that is personal must only be provided to the affected member, unless they agree otherwise. However, there is, from time to time, a shortage of general information about schemes that would be useful to have in the public arena. We suggest that consideration be given to the extent to which authorities, such as the Pensions Regulator, may be given a more general power to disclose non-confidential information on schemes more widely to other interested parties.

Paragraph 9. We do not see any justification for a different disclosure regime to apply to public service schemes.

Paragraph 11. We accept that different provisions may, at the moment, have to apply to personal pension schemes, due to the requirements of the Financial Services Authority (FSA); however, we would urge that these be reviewed with a view to trying to align the FSA's requirements as closely as possible to the general requirements, and certainly to eradicate duplication.

Paragraph 16. We agree that trustees should be required to interpret the 'basic information about the scheme' regulation in light of the general, overarching principle. This should be covered in the Code of Practice.

**Q4.** Do you support the proposal for regulations to require relevant information to be provided 'within a reasonable period' backed with a Code of Practice, replacing the existing approach where timescales are specified in regulations?

**Buck response.** Yes. In the days before the current prescriptive regime was introduced, communication with members was often not done effectively, and all too often too few resources were allocated to it. One of the effects of this was that information was provided less often than it arguably should have been.

However, things have moved on considerably, and a far greater acceptance of the need to provide good quality communication, on a timely basis, now exists. We believe that this, together with the enshrinement in regulations of the general principles proposed, will ensure that communication with members will take place on a timely basis – and moreover on a basis that is more likely to be relevant to the needs of the members of each particular scheme.

**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.)

**Buck response.** If auto-enrolment is going to work effectively and make positive contributions towards increasing overall pension provision, the disclosure of information to prospective members will be crucial.

The first 'wave' of communication needs to focus on the matters that employees will need to consider when deciding whether to remain enrolled, or to opt-out. As such, it should be as short as possible, and quite high-level, concentrating on the likely benefits of membership, together with some basic details of the arrangement(s) on offer. It is likely to be generic. We agree that this should be issued within 14 days of the employee commencing pensionable service; given its largely generic nature, it should not be unduly onerous for the employer to provide.

After the decision to remain enrolled has been taken, follow-up information containing details of the chosen arrangement, and the member's personal position, can be provided within a 'reasonable time'.

**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?

**Buck response.** We wholeheartedly support the proposal to allow electronic communications, and to extend the 'deeming' rule that a member has received the communication if it has been sent to the member's personal email address (similarly in the case of a hard copy, where it has been sent by post to the member's last known address).

However, this should only apply to communications sent directly to members; there should not be a presumption that material has been read where, for example, it has simply been posted on an intranet site to which members are given access, unless that is supported with a specific communication sent direct to each member concerned, drawing their attention to the availability of the new information.

We also agree that there should be a right for a member to receive information in hard copy form, if they so request. However, given the movement towards universal use of electronic communication media, we think it should be open to schemes to make a reasonable (provided it can be justified) charge for the provision of a hard copy in cases where the normal medium employed would be electronic.



Whatever the communication method used, it would still be governed by the overriding requirement that communication with members must allow them to understand the benefits to which they are entitled, and enable them to make decisions in their best interests.

Kevin LeGrand  
Head of Technical Services