

BBS briefing note

Enabling Good Member Outcomes in Work-based Pension Provision

In July 2011, The Pensions Regulator issued an initial response to the feedback it received to its January 2011 discussion paper, 'Enabling good member outcomes in work-based pension provision'.

This *BBS briefing note* summarises the key issues identified in the January 2011 discussion paper and the action the Regulator proposes taking following the feedback received.

BACKGROUND

The Regulator set out its current approach to the regulation of defined contribution (DC) schemes in 2007. Since then, the prominence of DC pension provision has been growing, with further significant growth expected following the introduction of auto-enrolment in 2012.

Recognising this growth, the Regulator felt it important to initiate a discussion with the pensions industry on its approach to DC regulation.

THE JANUARY 2011 DISCUSSION PAPER

The paper in January 2011 presented the Regulator's analysis of the effectiveness of the current DC market and invited comments from stakeholders and individuals as to whether they agreed with the analysis, and inviting them to put forward suggestions on how DC scheme regulation could be improved.

The Regulator believes that all DC schemes should provide good outcomes for members, and identified six criteria necessary to achieve this:

- appropriate contribution decisions;
- appropriate investment decisions;
- effective and efficient administration;
- protection of assets;

- value for money; and
- appropriate decumulation (i.e. securing income in retirement) decisions.

To facilitate the analysis of the risks to members' benefits, the Regulator divided the current marketplace into seven segments, covering both occupational (trust-based) pension schemes and work-based (contract-based) personal pensions.

From its analysis, the Regulator found that good member outcomes were more likely to be achieved in larger occupational schemes and work-based personal pensions where the employer was advised and engaged (i.e. it received professional advice at the point of sale and on an ongoing basis). Smaller occupational schemes and work-based personal pensions where the employer was neither advised nor engaged were less likely to achieve good member outcomes.

The Regulator considered that market forces alone will not always deliver good outcomes for members and identified nine "key challenges" that merited further attention:

- how to ensure small schemes achieve value for money and good governance;
- how to ensure non-associated multi-employer schemes achieve effective governance;
- how to ensure pension providers are encouraged to develop better products;
- how to ensure costs and charges are better communicated to members;
- how to ensure that there is sufficient understanding of the protection of assets;
- how employers could be better helped in selecting a suitable scheme;
- how effective and efficient administration could be achieved and monitored;
- how to ensure that members understand the decumulation process; and
- how to obtain clarity as to who is accountable for making important decisions on pensions.



BBS briefing note (continued)

THE JULY 2011 RESPONSE TO FEEDBACK

The Regulator received 60 responses to its discussion paper from providers, trustees, administrators, trade and industry groups, consumer representative groups and individuals.

In general, the respondents agreed with the six criteria required to achieve good member outcomes, and the Regulator proposes to use these criteria as a basis for assessing the quality of DC schemes going forwards. As a result, they should represent key considerations for anyone offering or designing a DC scheme.

A greater polarisation of responses was however received in relation to the nine 'key challenges'. The Regulator set out its next steps as being to:

- continue working with the DWP and key stakeholders about the steps necessary to reduce the risks faced by members of small schemes and to impress upon employers the importance of having an appropriate scheme for auto-enrolment purposes;
- continue gathering intelligence on multi-employer schemes and identifying ways to strengthen safeguards and governance, focusing initially on conflicts of interest between the trustee and the provider;
- discuss with key stakeholders a voluntary kite-marking standard for schemes being used for auto-enrolment and to provide more detail on what the Regulator believes good DC provision looks like;
- work with government and industry to ensure that costs and charges are clear, simple and comparable and to consider legislating;
- seek to establish an early warning system to better protect members' assets, including a review of the current whistle-blowing regime and a new DC notifiable events regime;
- issue information and guidance to support employers in the run-up to automatic enrolment, to enable them to make informed decisions;

- continue to monitor whether DC schemes have effective and efficient administration and to consider introducing a voluntary kite-marking standard;
- continue to work with the DWP, HM Treasury and the FSA in the development of decumulation options and processes; and
- consider whether a template could be used to disclose accountabilities when a new scheme is set up.

THE REGULATOR'S EXPECTATIONS

The Regulator plans to publish a more detailed response later this year together with its updated regulatory approach to mitigating risks to members.

In the meantime it expects standards to be improved by the positive engagement of providers, administrators, advisers, employers, trustees and members.

BBS VIEW

The few specifics detailed in the Regulator's response to feedback suggest that this review process still has some distance to run. However, there is a clear expectation that all parties involved should be working to raise standards and improve the likelihood of good outcomes for members of DC schemes.

As the Regulator is limited in its statutory powers, it may be that much of the standard-raising will be on a voluntary basis (e.g. the kite-mark standard). However, as has been demonstrated with regard to defined benefit schemes, the Regulator can be expected to exert significant pressure and influence (on all parties involved) in achieving its objectives.

BBS will continue to monitor developments in the Regulator's review process.

This BBS briefing note is based on BBS's understanding of the law and is provided for information only. It should not be relied upon as a definitive statement of the law and detailed legal and financial advice should be obtained on the specific circumstances before proceeding.

