



**THE NEWSLETTER OF
THE SOCIETY OF
PENSION CONSULTANTS**

contents

PAGE 2 SPC Dinner: November 6th 2013, Dorchester Hotel, London W1

SPC contacts

A round up of to whom SPC has been speaking

PAGE 3 SPC London Evening Meetings

What's being read on the SPC website?

PAGE 4 Who's writing about SPC?

New Member

SPC on-line poll result

Our latest SPC on-line poll question was: *"Pension Liberation activity is reportedly on the increase. What do you think are the main reasons for liberation activity?"*

Backdating of lifetime annuities

Following discussion in the SPC Administration Committee, we have written to HMRC

PAGE 5 2013 Budget summary

PAGE 6 Adjusting for the effects of unequal GMPs: Proportionality – follow up to meeting with Pensions Minister

When we met the Pensions Minister in November 2012, we referred to suggestions that, under certain circumstances, trustees might be able to conclude that action, if any, to adjust for the effects of unequal GMPs would be disproportionate and that they could therefore justifiably take no action. We have had further correspondence on this with the Minister.

Pensions Regulator: Ensuring good governance and administration in work-based defined contribution pension scheme

We have responded to the Pensions Regulator's consultation on governance and administration in work-based defined contribution schemes.

PAGE 7 DWP Consultation: Abolition of Contracting Out – Statutory Override for Protected Persons Regulations

PAGE 8 DWP Consultation on the Transfer of Employment (Pensions Protection) (Amendment) Regulations 2013

PAGE 9 DWP Consultation on the Pensions Disclosure of Information Regulations

Treatment of guarantors in a last man standing pension scheme: correspondence between SPC and PPF

PAGE 10 SPC responds to FSA on FCA's use of Temporary Product Intervention Rules: Consultation Paper 12/35

SPC responds to FSA consultation on inflation-adjusted illustrations

New IMA investment management agreement



SPC Dinner 2013

November 6th 2013, Dorchester Hotel, London W1

The SPC Dinner promises to provide excellent food and entertainment and, in keeping with one of SPC's key roles, represents a peerless networking opportunity to meet with fellow industry professionals.

Key information is:

➤ **Principal Speaker**

Principal guest and speaker will be Michael O'Higgins (Chairman of the Pensions Regulator)

➤ **Presentation of the "SPC Journalists of the Year Awards"**

These awards will recognise one journalist from each of the national press and pensions trade media, who has made an outstanding contribution to pensions journalism in 2013, as voted by SPC Members.

➤ **Sponsorship**

This year, we are again offering SPC Members the opportunity to associate themselves with the prestige and success of the Dinner, through sponsorship.

We would welcome your sponsorship of one or more of the following:

- The printed list of those attending, available to the 300+ diners on arrival
- The menu at each place at the Dinner
- The SPC National Pensions Journalist of the Year Award
- The SPC Pensions Trade Journalist of the Year Award

The sponsorship amount for each is £1,500 (VAT is not chargeable). Please contact John Mortimer as soon as possible to seize the remaining opportunities.

Tickets are available at £180.00 per head and feedback from previous years' Dinners indicates that this is a modest cost, which can be repaid many times over in terms of the useful networking opportunities, which exist to strengthen your business relationships. The price includes pre-dinner cocktails, a five-course meal, half a bottle of wine with dinner, and a liqueur with coffee.

As ever, we are keen to encourage "new blood" at the Dinner and to ensure that it continues to offer the broadest possible range of networking opportunities for those attending. To that end, if your organisation has never previously been represented at the Dinner, the person making the booking will benefit from a discounted special price of £145.00, as will one additional guest.

The closing date for applications for tickets is **October 9th**.

For a booking form [CLICK HERE](#) .

SPC contacts

- SPC was represented by members of the Administration Committee at meetings with HMRC in December and February.

The December meeting focussed on the reduction in the Annual Allowance and Lifetime Allowance, announced in the Chancellor's Autumn Statement, and the proposed Annual Allowance Charge (Amendment) Order, whose main purpose is to simplify the administration of the annual allowance in respect of deferred members.

The February meeting was devoted to discussion of personalised protection, proposed in conjunction with the Autumn Statement.

- The SPC Administration Committee has met Pensions Regulator officials for an update on its thematic review of its common data guidance and a general informal discussion on conditional data
- Representatives of the SPC Legislation Committee have met DWP officials to discuss our letter on automatic enrolment transitional provisions reported in **SPC News no. 1, 2013**.

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SPC contacts

- Representatives of the SPC Defined Contribution Committee have met OFT officials, following OFT's announcement on January 17th 2013 that it had launched a workplace pensions market study.

The intention of the study is to assess whether competition would work in the best interests of those auto-enrolled into pension schemes, to deliver low cost, high quality schemes.

The study is planned to focus on value for money and the size of the pension pot available to savers at retirement.

It will look at:-

- How pension providers compete with each other and how the market might develop over time.
- Whether there is sufficient pressure on pension providers to keep charges low, and the extent to which information about charges is made available to savers.
- Whether smaller firms face difficulties in making pensions decisions in the interests of their employees.
- Whether smaller firms receive appropriate help and advice in setting up and maintaining workplace pension schemes.
- Barriers to switching between schemes and a potential lack of on-going employer engagement in setting up and managing pensions.

The study is concerned with both trust and contract based provision and could include analysis of the effects of the distinctions between the two.

- We have had a meeting with the Chief Executive and other officials from PPF for an update on PPF activity and an exchange of views on current issues.
- SPC was represented by a member of the Investment Committee at the UK Debt Management Office's annual meeting with a Minister from its sponsoring department – The Treasury – this time the Economic Secretary to the Treasury.

Discussion covered:-

- Continuing demand for CPI-linked gilts
- The government's attitude to the prospect of gilts losing their AAA status.
- Duration of gilt issues and whether any shortening in overall duration would send a signal about the financial/economic strength of the UK.

SPC London Evening Meetings

Hand outs for the April London evening meeting are available and can be obtained by clicking on the name of the speaker.

Date	Speakers	Subject
24 April 2013	Mark Dowsey [Towers Watson]	The Review of the IORPS Directive

The above meeting was kindly hosted by Towers Watson.

What's being
read on the **SPC**
website?

[CLICK HERE](#)  for the latest summary of hits on the SPC website, presented to the SPC PR Committee.

Who's writing about SPC?

[CLICK HERE](#) 

for the latest summary of SPC press coverage, also presented to the PR Committee.

New member

The latest new Member of SPC is **Chantrey Vellacott DFK**, London WC1.

SPC on-line poll result

Our latest SPC on-line poll question was:-

"Pension Liberation activity is reportedly on the Increase.

What do you think are the main reasons for liberation activity?"

1	The current difficult economic climate
2	Early access to pension savings has become more restricted (now only from age 55)
3	Insufficient regulation against previous pension liberation activity
4	People don't understand the consequences and can easily be misled
5	Other (please specify)

The three most suggested reasons were, in descending order:-

- The current difficult economic climate
- People don't understand the consequences and can easily be misled
- Insufficient regulation against previous pension liberation activity

Backdating of lifetime annuities

Following discussion in the SPC Administration Committee, we have written to HMRC. In many cases, the funds to purchase an annuity are passed to the annuity provider after the member's actual retirement date, due to the need to obtain illustrations from annuity providers, to offer the member the option of selecting the annuity provider and, in respect of active members, to ensure that the final month's contribution has been received and can be included in the funds being used to purchase the annuity.

Annuity contracts will generally require an annuity to start from the member's normal retirement date (or early or late retirement date), which might well have passed by the time the funds to purchase the annuity have reached the provider.

The Members of our Committee had understood the Registered Pension Schemes (Arrears of Pension) Regulations 2006 to apply equally to scheme pensions and lifetime annuities and therefore to encompass the payment of a backdated annuity.

These Regulations provide that a payment of arrears of pension, which have accrued, to which the member is entitled at the time when the pension begins to be paid, is an authorised payment for the purposes of Part 4 of the Finance Act 2004. The term 'pension' is not defined within these Regulations. However, as they are issued under powers contained in Section 164 (f) of the Finance Act 2004, which falls within Part 4 of that Act, the term 'pension' must, in our view, take the same meaning as used for that Part.

As confirmed in Section 165 (2) of the Act (which also falls within Part 4) "In this Part "pension", in relation to a registered pension scheme, includes (a) an annuity..." Therefore, our understanding is that the "Arrears of Pension" Regulations apply equally to both scheme pensions and lifetime annuities.

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Backdating of lifetime annuities

We were surprised that HMRC apparently considers that legislation requires a different treatment of a pension paid in the form of an annuity, in comparison to one paid as a scheme pension. The annuity in the situation in question is being purchased by the trustees to secure a pension with funds from the scheme, of which the individual is a member. This contrasts with the situation where an individual makes his or her own purchase and there is no connection between the trust based scheme and the annuity contract.

As far as we can see, there is no exchequer risk to HMRC in parity of treatment and the administrative consequences of requiring a different treatment can be significant. In the case of defined contribution schemes operating a GMP underpin, the implication would seem to be that the GMP element would have to be administered as a scheme pension, with the remainder treated as a lifetime annuity.

We await HMRC's comments.

2013 Budget summary

This article is derived from Mercer Select, Mercer's subscriber service offering news and analysis of UK pension developments on-line and by email. For further information please [CLICK HERE](#). This article was correct on March 20th 2013, and was written by Teresa Preece of Mercer's UK Retirement Resource Group.

As was the case last year, the 2013 Budget was described by George Osborne as fiscally neutral. Many of the pensions announcements were confirmation of what we already knew. The main points of note for those running or sponsoring pension schemes were as follows:

- The Pensions Regulator (TPR) will be given a new objective to support scheme funding arrangements that are compatible with sustainable growth for the sponsoring employer. The proposed wording of the objective is set out in the Pensions Bill introduced into Parliament on May 9th 2013 and its implementation will be reviewed after six months. TPR will revise its Code of Practice on funding to reflect the new objective as soon as possible in 2013. The Chancellor also confirmed that the call for evidence on smoothing assets and liabilities had not shown a strong case for changing legislation and so this will not be pursued.
- SPC did not support earlier DWP proposals, either on a new statutory objective or on smoothing.
- It was confirmed that the lifetime allowance will reduce from £1,500,000 to £1,250,000 with effect from 6 April 2014. At the same time, the annual allowance will reduce from £50,000 to £40,000.
- To help individuals affected by the reduction in the lifetime allowance, two types of protection will be available. A new version of fixed protection (called fixed protection 2014) will be available, together with a new type of protection called individual protection. The Government will consult on the details of this protection in spring 2013.
- Measures will be introduced to enable those individuals who have primary or enhanced protection, but no tax free cash protection, to retain a right to maximum cash of 25% of £1,500,000.
- The increase in capped drawdown from 100% to 120% of the value of an equivalent annuity came into effect on 26 March 2013.
- The General Anti-Abuse Rule has been introduced in the Finance Bill 2013, as has legislation to ensure that arrangements where an employer pays a pension contribution into a registered pension scheme for an employee's spouse or family member as part of the employee's flexible remuneration package cannot be used to obtain tax and National Insurance Contribution advantages for the employer or employee.
- As announced on 19 March, the state pension will become a flat £144 per week with effect from April 2016. Contracting out for all defined benefit schemes will cease from that date.

Other points of note are as follows:

- The personal allowance will be increased to £10,000 for the tax year 2014/15.
- Corporation tax will be reduced from 21% to 20% for the financial year commencing 1 April 2015.

Adjusting for the effects of unequal GMPs: Proportionality – follow up to meeting with Pensions Minister

When we met the Pensions Minister in November 2012, we referred to suggestions that, under certain circumstances, trustees might be able to conclude that action, if any, to adjust for the effects of unequal GMPs would be disproportionate and that they could therefore justifiably take no action.

We sought the views of a number of pension lawyers on the SPC Council and the consensus was that the degree of flexibility, which trustees might have in adjusting for the effects of unequal GMPs, depends on the processes eventually required for adjustment, assuming that there is an obligation to adjust.

The governing principle must be that the trustees are under an obligation to pay the correct benefits under the scheme rules. However, if, for example, it could be concluded that, overall, members would be worse off under an adjustment process (even if a minority of members might be marginally better off) it could be argued that there should not be a requirement to equalise GMPs regardless of the consequences for benefits.

Furthermore, if trustees were able to apply a one off value test for the purposes of GMP conversion, it might be possible to ignore small adjustments, to the extent that they do not materially affect value over the member's assumed lifetime. Also, in the context of a scheme wind-up, if a scheme's rules allow the trustees to secure benefits "as far as may be practicable", there might be some scope for flexibility.


The more detailed the calculations required as a preliminary to equalisation, the less relevant would be any scope not to equalise on proportionality grounds, since actually arriving at the position where one could form a view on whether action to equalise would be proportionate would itself be a significant undertaking.

There would inevitably be calls for clarity on what could be viewed as disproportionate. This would be understandable, but the more statutory definition, the more likely it would be that any latitude on account of disproportionality would in practice be unworkable.

The Minister agreed that the governing principle is that the trustees are under an obligation to pay the correct benefit under the scheme rules. He commented that payment of the correct benefit includes the requirement in pension legislation to provide equal treatment for scheme members (for example, by not treating one sex more favourably than the other).

He indicated that DWP had sought Counsel's advice on the matter we raised. The conclusion was that a scheme could not decide to not equalise if the costs outweighed the benefits. Whilst this is the Department's position on this issue, he indicated that there is nothing in legislation to prevent schemes from taking this course of action. Ultimately, it would be for the courts to decide whether such an approach was correct and proper.

Pensions Regulator: Ensuring good governance and administration in work-based defined contribution pension schemes

The Pensions Regulator has consulted on governance and administration in work-based defined contribution schemes. For a copy of the consultation material please [CLICK HERE](#) .

We met Pensions Regulator officials for preliminary discussion and have submitted a formal response, which is available [CLICK HERE](#) .

Our general comments were:-

- It is in many respects helpful to have all the relevant material drawn together in one place, but it does result in documents, which, when taken together, are lengthy and in places repetitive and illustrate the extent of the growing regulatory burden associated with defined contribution provision.
- Significant parts of the material envisage trustees taking on roles typically associated with the sponsoring employer and it is questionable whether there is a proper basis upon which the Regulator should effectively seek to redefine the role of trustees of defined contribution schemes.

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Pensions Regulator: Ensuring good governance and administration in work-based defined contribution pension schemes

- The inclusion of some guidance within the draft code of practice and some in regulatory guidance is confusing. Our understanding is that the guidance within the draft code is not intended in itself to be regarded as code of practice material.

We suggest that all guidance is set out in a single document, separate from the code of practice.

- The conclusion that the Impact Assessment Statement indicates no extra regulatory burden or costs for trustees is misconceived.
- When considering investment, the consultation material relies significantly on section 35 of the Pensions Act 1995. It should be recognised that section 35 was drafted with defined benefit, not defined contribution, schemes in mind and it would be more appropriate to review section 35 for compatibility with defined contribution investment, rather than seek to build this area of the consultation on a foundation not intended for defined contribution schemes.
- The consultation material gives insufficient weight to the fact that, if a provider driven master trust is effectively already subject to requirements of FCA and the Pensions Regulator, there is already a strong regulatory framework.
- The consultation material goes too far in suggesting that it is likely that a scheme will need to be large to deliver a good member outcome. In terms of scale, insufficient recognition is given, for example, to the fact that a scheme need not be large, as defined by the Pensions Regulator, to have access to the benefits of scale of investment.
- There needs to be a clearer indication of the Regulator's expectations of pure defined contribution provision, with hybrid schemes being dealt with separately.


It is helpful, however, to have confirmation that the Regulator regards defined contribution schemes with a GMP underpin as falling within the scope of the consultation, although, strictly speaking, such schemes are not defined contribution schemes.

- Given that the Regulator recognises that conflicts of interest are a narrower concern under defined contribution schemes, than under defined benefit schemes, there is a surprisingly large amount of coverage of this aspect and a misleading impression that, where there are conflicts of interest, they are likely to be heavily concentrated in master trusts.
- Considerations differ, depending on whether a master trust is provider-driven or non-provider driven. It would therefore be helpful if the code of practice covered master trusts in a separate section, dealing with the differing types.
- Scale is one of the expected beneficial factors associated with master trusts, but the size of a scheme will also be a crucial factor in the level of employer engagement and interest. At one end of the range, extreme size might be a barrier to engagement.

In contrast, the operation of scale outside the boundaries of a scheme, e.g. in investments, is a more efficient means to deliver its benefits, while allowing for an engagement and connection by the employer to a smaller scheme and the benefits it provides.

DWP Consultation: Abolition of Contracting Out – Statutory Override for Protected Persons Regulations

DWP has published a consultation document on a statutory override for Protected Persons Regulations in the light of the proposed abolition of contracting out.

The consultation document is available [CLICK HERE](#) .

In the light of the abolition of contracting-out, as a result of the introduction of a single tier State Pension, the government intends to give powers to employers to change scheme rules, without trustee consent, to facilitate changes to scheme design to off-set the extra National Insurance costs for schemes, which can no longer contract out.

Some former nationalised industries, now in the private sector, are limited in their ability to change scheme rules, by legislation made at the time of privatisation. The legislation is specific to a number of industries and is collectively referred to as the "Protected Persons Regulations" (PPRs). In broad terms the PPRs require the new private sector employer to continue to provide

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DWP Consultation: Abolition of Contracting Out – Statutory Override for Protected Persons Regulations

pension benefits for employees, who were employed at the time of privatisation, which are at least as good as those they were receiving in the public sector, and prevents the employer or the scheme from making changes which reduce future pension accruals or increase employee contributions.


This consultation is concerned with whether Government should permit employers, which sponsor schemes which have 'protected persons', to override the protected persons rules. The draft legislation is framed so that it could be used either to override the protected persons rules, or not, depending on the outcome of this consultation.

If the PPRs are not overridden, such employers would face the additional cost of paying full-rate NI contributions, without being able to make a corresponding change to reduce their pension scheme liabilities.

In our response we suggested that it would be appropriate for the government to place these now long privatised employers on the same footing as private sector employers generally.

DWP Consultation on the Transfer of Employment (Pension Protection) (Amendment) Regulations 2013

We have responded to DWP's consultation document on The Transfer of Employment (Pension Protection) (Amendment) Regulations 2013.

For a copy of the consultation document, please [CLICK HERE](#) .

The Transfer of Employment (Pension Protection) Regulations 2005, were intended to ensure that, where an individual becomes the employee of a new employer as a result of a transfer to which the Transfer of Undertakings (Protection of Employment) Regulations 1981 (as amended) apply, and had rights in relation to an occupational pension scheme immediately before the transfer, the new employer (transferee) will ensure that the employee is, or is eligible to become, an active member of an occupational pension scheme.

To comply with the 2005 regulations, the transferee's occupational pension scheme must meet prescribed standards.

A defined benefit scheme must satisfy the Reference Scheme Test provided for in the Pension Schemes Act 1993 or the value of the benefits should be at least 6% of pensionable pay for each year of employment in addition to any employee contributions. The scheme will qualify if the transferee makes 'relevant contributions' as defined in the 2005 Regulations.

For a defined contribution or stakeholder scheme, the transferee is required to make 'relevant contributions'. It was intended that the employer contributions should match the rate of contributions chosen by the employee, to an upper limit of 6% of basic pay.

The original policy intent was that 'relevant contributions' must be made in respect of each period, for which the employee contributes to the pension scheme, and that the amount contributed must equal the employee's contributions, subject to a maximum of 6% of basic pay.

DWP believes that the wording of the 2005 Regulations does not clearly and unambiguously set out the original policy intent, as there is nothing which explicitly gives the member the right to choose their rate of contribution.


The main purpose of the amending regulations was to rectify the problem identified by DWP.

In our response we indicated that we were not sure that the purpose would be achieved, because it seemed that the employee's right to choose a rate of contribution (up to 6%) could be fettered by scheme rules.

For a copy of our full response, please [CLICK HERE](#) .

DWP Consultation on the Pensions Disclosure of Information Regulations

DWP has published a consultation document on the regulations governing disclosure of information by occupational and personal pensions.

For a copy of the consultation document, please [CLICK HERE](#) .

Our detailed response is available [CLICK HERE](#) .

We welcomed the explicit extension of the use of electronic communications to the disclosure requirements in certain other sets of regulations, as covered within Part 10 of the draft regulations.

We suggested that the new regulations refer to “communication” rather than “disclosure”. The former implies the provision of information to members in a form useful to them and which, therefore increases their engagement with their scheme, which should increase the likelihood of good member outcomes. The latter suggests the grudging supply of information.

We are again very disappointed that the opportunity is not being taken to consolidate in one set of regulations all the pension scheme disclosure requirements which are currently scattered throughout secondary legislation (or at least those relating to preservation and transfers). The current approach can easily mean that scheme trustees might inadvertently fail to provide information required by legislation. Indeed, rather than keeping track of the required disclosures being ‘onerous’, as suggested by DWP we believe in reality it is virtually impossible. Indeed, based on past evidence, we believe that DWP itself might have sympathy for this view. Without such a full consolidation of all disclosure requirements, we believe the current exercise will generally be of limited positive value to schemes.

We disagreed with the proposed approach regarding Statutory Money Purchase Illustrations (SMPIs), namely the complete removal of the specific annuity requirements. Particularly with automatic enrolment in mind, individuals are likely to have in future a number of separate defined contribution arrangements, as they move from one employment to another. If the providers of each arrangement arrive at different decisions on whether or not to allow for increases in payment and/or a dependant’s annuity, this lack of consistency will make it increasingly difficult for members to plan for their retirement, defeating the rationale for SMPIs. Indeed, we note that the consultation paper states that it is important that consistent information is given by all pension schemes if this information is going to support people in taking personal responsibility for saving and planning for later life; in our view, the removal of specific annuity requirements for SMPIs runs counter to this. We strongly suggested, therefore, that a consistent annuity approach is maintained, but that the annuity should be on a single life basis for all SMPIs: as recognised by the recent White Paper on the new single-tier State pension, there is now less need to provide a joint-life pension, given the greater proportion of females in the workplace than historically was the case.


Treatment of guarantors in a last man standing pension scheme: Correspondence between and PPF

SPC has had some helpful correspondence with PPF on the treatment of guarantors in a last man standing pension scheme.

For a copy, please [CLICK HERE](#) .

SPC responds to FSA on FCA's use of temporary product intervention rules: consultation paper 12/35


We have responded to FSA's consultation paper on The Financial Conduct Authority's use of temporary product intervention rules.


For a copy of our response, please [CLICK HERE](#) .

The consultation paper is available [CLICK HERE](#) .

SPC responds to FSA consultation on inflation-adjusted illustrations

We have responded to FSA on its consultation paper on inflation-adjusted illustrations.

For a copy of our response, please [CLICK HERE](#) .

The consultation paper is available [CLICK HERE](#) .

New IMA investment management agreement

The new IMA Investment Management Agreement is now available at

<http://www.investmentuk.org/policy-and-publications/industry-guidance/>.

Through the SPC Investment Committee, we suggested ways in which the previous agreement could be updated and improved and many of the suggestions are reflected in the new document.

About SPC

SPC is the representative body for the providers of advice and services needed to establish and operate occupational and personal pension schemes and related benefit provision. Our Members include accounting firms, solicitors, life offices, investment houses, investment performance measurers, consultants and actuaries, independent trustees and external pension administrators. Slightly more than half the Members are consultants and actuaries. SPC is the only body to focus on the whole range of pension related functions across the whole range of non-State provision, through such a wide spread of providers of advice and services. We have no remit to represent any particular type of provision.

The overwhelming majority of the 500 largest UK pension funds use the services of one or more of SPC's Members. Many thousands of individuals and smaller funds also do so. SPC's growing membership collectively employ some 15,000 people providing pension-related advice and services.

SPC's fundamental aims are:

- (a) to draw upon the knowledge and experience of Members, so as to contribute to legislation and other general developments affecting pensions and related benefits, and
- (b) to provide Members with services useful to their business.

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