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SPC

Dinner 2007

Now is the time to book for the SPC Dinner, November 1 2007, The Dorchester, London W1, 7.00 pm for 7.30 pm.

Bookings are now coming in regularly for the SPC Dinner on November 1, so it is timely to issue a reminder to make your own organisation's booking if you have not already done so. To make the Dinner even more useful as a networking event, we again have an especially attractive offer for 'new blood' this year. If your organisation has never previously been represented at the Dinner, the person making the booking will benefit from a special price of just £120.00, as will one other special guest.

Feedback from previous years' Dinners indicates that, for many, the modest cost can be re-paid many times over in terms of useful contacts and strengthening of business relationships.

Your keynote speaker will be Tony King, Pensions Ombudsman – Designate. The response to the toast to the guests will be given by Dom Anthony Sutch, a Benedictine monk, former Headmaster of Downside School and contributor to BBC Radio 4's "Thought for the Day". SPC President Mark Ashworth will also give his views on your Society and trends within the industry.

Full-priced tickets are £150.00 per head. This represents exceptional value, as the price covers pre-dinner cocktails, a five-course meal, half a bottle of wine with dinner, and a liqueur with the coffee.

The closing date for applications is October 5, and tickets will be available from the third week in October. A booking form is at <http://www.spc.uk.com/2007/bookingform.doc>. ■

Leadership of pensions summit

This year's Leadership of Pensions Summit on November 27th will, once again be one of the most prestigious events of the year and will take place in one of the best central London conference venues, the Radisson Edwardian Hotel, London W1. Once again the Summit is organised in association with FT Business and the Cass Business School.

The Summit provides an opportunity to hear from, and debate with, business leaders, politicians, policymakers and leading pension specialists.

The full conference programme is available by clicking [here](#).

There is a special ticket deal for SPC members. One complimentary ticket per SPC member organisation is available, compared with the standard delegate fee of £795 + VAT.

To obtain your special ticket deal, please visit the registration area accessible from the link above. The relevant promotional code is SPC01.

We strongly encourage you to book now for the Summit. ■

SPC holds roundtables on personal accounts

SPC held Roundtables for Members in London, the Northwest, Yorkshire and Scotland on June 27, June 28 and June 29 2007. The theme was "Personal Accounts and their Impact on SPC Members".

The scene-setter in London was Duncan Howorth (Managing Director, Jardine Lloyd Thompson Benefit Solutions and a member of the SPC Council). On the other dates it was David Clare (Director and Head of Investment Practice, HSBC Actuaries and Consultants Limited and a member of the SPC Investment Committee).

Personal Accounts are likely to change the pensions landscape and in many cases to have major consequences for employers, pension schemes and their



SPC London Evening Meetings

Please put the following forthcoming SPC London evening meetings in your diary and in your colleagues' diaries.

Date	Speakers	Subject	Venue
September 19 th 2007	June Mulroy (Executive Director, Business Delivery, The Pensions Regulator)	Priorities for the Pensions Regulator	Hammonds, 7 Devonshire Square, London EC2M 4YH
October 25 th 2007	Malcolm Fitzsimons (Partner, Baker & McKenzie LLP)	Conflicts of Interest	Prudential, Governor's House, Laurence Pountney Hill, London EC4

Both meetings are preceded at 5 o'clock by refreshments before beginning at 5.30.

For a copy of the booking form, please click on the speaker's name. ■

members. They will also change the environment in which SPC Members do business, whatever their business area. The Roundtables were designed to enable Members to share views on the potential opportunities and threats.

This was the first time Roundtables were held outside London. The response was generally positive and we plan to learn from this year's experience and to repeat the exercise next year. ■

HMRC gives helpful clarification on Australian QROPS

We raised with HMRC a question regarding the tax status of Australian superannuation plans from July of this year, which might have had an impact on their QROPS eligibility.

From 1st July, in Australia both pensions and lump sums payable from age 60 are tax free. Our concern was that this might prejudice schemes' ability to meet Primary Condition 2b under The Pension Schemes (Categories of Country and Requirements for Overseas Pension Schemes and Recognised Overseas Pension Schemes) Regulations 2006 - SI 2006/206. Also, tax relief is available to some degree on member and/or employer contributions. This might prejudice schemes' ability to meet Primary Condition 2a.

In view of the numbers of Australian QROPS on the HMRC register, and the potentially high number of transfers

which might be affected, we asked for confirmation that funds could continue to be transferred as authorised payments.

In response, HMRC confirmed that to ensure that from 1 July Australian pension schemes can continue to meet the criteria to receive tax-free transfers from the UK, it would be amending UK legislation, so that an Australian pension scheme which currently qualifies to receive tax-free transfers from the UK will continue to do so.

Australian pension schemes which featured on the HMRC Qualifying Recognised Overseas Pension Schemes list before 1 July 2007 would not be removed from the list because of the changes to the Australian Pensions taxation system.

The position was confirmed in Pensions Tax Simplification Newsletter 28. ■

Links between HMRC manuals

The Registered Pension Schemes Manual refers to specific guidance, about whether contributions to registered pension schemes are an allowable expense, being in the Business Income Manual and includes a BIM page reference.

However, there is no actual link to the Business Income Manual.

We suggested to HMRC that it would be helpful to be able to click on a link in the RPSM page, which went straight to the Business Income Manual.

HMRC has explained that its policy is not to put in links in guidance manuals to other guidance manuals, because it is resource intensive to keep track of links that are linked to manuals from other business areas. Fewer links are more easily managed.

Each 'guidance manual owner' has the document and maintains the links within. When changes are made to manuals for other business units / areas the links would be broken.

This was a disappointing response,

and, trying to view the situation from HMRC's position, surprising, because it would seem inevitable that the pensions area will have to deal with queries on employer contributions, which it would not have to deal with if it provided a link straight to the Business Income Manual. At the very least, therefore, it would seem to be in HMRC's interests to include a URL reference, even if there is no actual link.

HMRC recognise that the lack of links between publications on the HMRC

SPC Annual Report 2006 now available

The SPC annual report for 2006 is now available.

It gives a comprehensive summary of SPC's activities and achievements in 2006 and is available by clicking [here](#). ■



The latest new members of SPC

- Baker Tilley Restructuring and Recovery LLP
- Abbey Financial Markets ■

website is a problem and that it makes the site harder for people to use. Unfortunately, Pension Schemes Services are subject to the same limitations as other suppliers of content to the site. However, it will be working with HMRC Online Services during 2007/08 to see what improvements can be made in pensions content.

For the short term, it might be possible to support links from the Registered Pension Schemes Manual to the index page of the Business Income Manual. ■

HMRC and ill health pensions

In correspondence with the SPC Legislation Committee, HMRC stated, as it had in a number of other instances, that paragraph 7(2) of schedule 20 to the recent Finance Bill allowed a scheme administrator the discretion to reduce

an ill-health pension in payment. We do not think that, strictly speaking, this is correct. It is, however, correct that as a result of the amendment an ill-health pension which is reduced will no longer become an unauthorised ➔

→ payment, unless the reduction is part of avoidance arrangements. If the rules provide for such a reduction to take place, the scheme administrator has no discretion in the matter.

We also note that the provision applies only if the member had originally become entitled to the pension "by reason of the ill-health condition being met". Again, strictly speaking, this might not apply to some ill-health pensions, which were in payment before A-Day, where a scheme's ill-health rule was wider than the ill-health condition in the Finance Act 2004.

Finally, the proposed new wording entirely replaces paragraph 2(4)(a) of schedule 28. Thus, a provision has helpfully been introduced, which permits the reduction of a pension in payment (without an unauthorised payment arising). This has been achieved by deleting the provision, which allows a pension to be suspended altogether as a result of recovery from ill-health. We therefore suggested that either the old wording should be reinstated, with the new wording added as a separate

subparagraph, or that the words "or suspension"; should be added after the words "the reduction".

On the issue of the post A-day treatment of ill-health pensions in payment before A-day, which were paid in accordance with the rules which applied at the time, but may not meet all parts of the ill-health condition in the new rules, HMRC noted that it had stated previously that such pensions will not be unauthorised payments as at 6th April 2006. It therefore indicated that in these circumstances such pre A-day ill-health pensions can be stopped or reduced in accordance with paragraph 2(4)(a), albeit they may not originally have satisfied all parts of the ill-health condition.

With regard to the our comments on para 2(4)(a), HMRC did not agree that the new wording in Finance Bill 2007, removes the provision for a pension to be suspended altogether as a result of recovery from ill-health. This is because paragraph 2(4A) states that all references to the reduction of a pension in 2(4) includes its cessation. ■

Draft pension schemes information regulations

At the end of June HMRC published the draft Pension Schemes (Provision of Information) (Amendment) Regulations 2007.

For a copy, please click [here](#).

Our response to these draft regulations was mainly highly critical.

Draft regulations 7 to 14 impose an unacceptable burden on registered pension schemes and should not be implemented.

The approach taken is very similar to that originally proposed in 2005, which caused considerable concern at a consultation workshop because of the administrative complexity which would be caused by the need to pass information between various parties.

It was extremely welcome then, that HMRC had regard to the concerns expressed and made the regulations in their current form.

These draft regulations effectively revert to the more complex approach proposed earlier and we consider this to be unjustified. To require additional information to be provided for all pensioners at April 5th 2006, who have had a subsequent benefit crystallisation event, is completely unreasonable, as a response to the possible non-collection of charges from a tiny minority of scheme members.

Additional scheme costs would be considerable, arising from the need to revise existing procedures, retain extra information and make extra disclosures. In particular, the requirement to amend yearly statement information will be costly and, for schemes including the information in a P60 substitute, we assume that the additional complication of obtaining HMRC approval would be involved.

For our detailed comments, please click [here](#). ■

Pensions Regulator issues first FSDs

The Pensions Regulator published determination notices, indicating the intention to issue its first Financial Support Directions (FSDs), pursuant to the moral hazard provisions under the Pensions Act 2004, on 18th June 2007. The FSDs are to be issued to Sea Containers Limited (SCL), a holding company registered in Bermuda. SCL filed for Chapter 11 bankruptcy in the USA in October 2006.

In considering the request of the trustees to issue the FSDs, the following are some of the reasons considered by the determinations panel (ie the decision-making body of the Regulator where anti-avoidance powers are being exercised) and published on 27 June 2007:

- the service company, which was also the sponsoring employer of the pension schemes, met the 'service company test', ie it was a service company of the group company
- the service company was wholly owned and controlled by the group company
- the group company had received 'benefits' from the service company (the group company received services from the service company which it did not, or did not usually, pay for. In addition, the service company's function and position within the group was designed to benefit the group, the parent of which was the group company)
- the group company was closely connected to the two relevant pension arrangements (previously had participated in one and had indicated that it was committed to the other)
- the group company had substantial assets relative to the service company, which was relatively poor
- FSDs would give the trustees of both relevant schemes a direct claim against the group company, and enable them to rank on an equal basis as other unsecured creditors of the group company; this was seen to be preferable to relying solely on the services agreement between the group and the service company. ■

Draft transfer value regulations published

DWP published draft regulations on the calculation of pension scheme transfer values, for consultation, on 6 July. For a copy, please click [here](#).

The regulations are intended to come into force in April 2008. They prescribe that the minimum approach to calculating transfer payments will be a 'best estimate' basis, derived from the investments the trustees hold underlying the member's benefits. Rather than referring to actuarial guidance (the current regulations prescribe that transfer values must be calculated following actuarial guidance note GN11), the principles underlying certain paragraphs currently contained in GN11 are to be put into the regulations. The proposed regulations will also apply to

calculations of transfer values on divorce or dissolution of civil partnerships.

Certain aspects of GN11 have not been adopted in the draft regulations. For example, they do not prescribe an approach to calculating benefits to be provided when people bring transfer values into a scheme, nor do they state how to treat transfers out for scheme members who also have transferred in benefits. The draft regulations also do not propose anything new in terms of disclosures to members, as this is being looked at separately as part of DWP's de-regulatory review.

At the time of preparing this issue of SPC News, we had the draft regulations under consideration. ■

Personal accounts: government's response to consultation

The government has published a [response to its consultation on the new Personal Accounts Scheme](#). This confirms that, from 2012, employers with workers based in the UK will be required to automatically enrol all eligible employees into the Personal Accounts Scheme or into a qualifying workplace pension arrangement.

Key features of the proposed Personal Accounts Scheme include:

- it will be a trust-based occupational pension scheme;
- workers aged between 22 and state pension age will be eligible to be automatically enrolled into the scheme by their employers;
- 8% minimum contribution (4% from member, 3% from employer contribution and 1% from the government in the form of tax relief);
- contributions will be made on a band

of earnings between £5,035 and £33,540;

- maximum member contribution of £3,600 per annum but subject to increase in line with national average earnings up to 2012;
- an eventual annual management charge of 0.3% or less; and
- personal accounts will not be able to make or accept transfers.

The Personal Accounts Delivery Authority (PADA) will be responsible for designing and building the infrastructure to underpin Personal Accounts.

PADA is being set up to engage private sector expertise to deliver personal accounts and the Government intends to appoint a Chairman and Chief Executive of PADA this summer. In 2012 PADA will hand over responsibility for running Personal Accounts to a board of trustees. ■

Pensions Regulator briefs SPC on scheme returns

The Pensions Regulator met members of the SPC Administration Committee in June to brief SPC on its plans for scheme returns and to seek their views on scheme returns generally. The meeting took place at the request of the Pensions Regulator.

An important part of the discussion was on the new requirement for earmarked money purchase schemes to include asset values in scheme returns. The difficulty is that schemes might not retain this information once fund values have been communicated to individual members. So it would not be available when the time came to complete a return. More notice would be required so that trustees could begin to retain the information previously given to individual members and not retained.

SPC enquired why the Regulator wished to have the information. The Regulator indicated that the aim was to develop a broader picture of trends within money purchase provision. The information was required to be provided as at a date within the current twelve months, but there was no requirement that it be provided as at a fixed date. Any date on which the information had already been provided for the purposes of the scheme would be acceptable. Whatever figure was quoted on an annual statement would be acceptable, i.e. the fund value or the transfer value.

SPC suggested that levels of contribution might be more relevant than asset values to forming a broad picture of the money purchase landscape. Market movements could mean that asset values remained stable while contribution levels fell. For the longer run a fall in contribution levels ought to give rise to concerns, but asset values would not indicate where contribution levels stood.

For a detailed report of the meeting, please click [here](#). ■

SPC response to Pensions Regulator on governance of work-based schemes

In **SPC News No. 2, 2007** we reported that the Pensions Regulator had published a discussion paper on the governance of work-based pension schemes.

We have now submitted a detailed response, in which we agreed that the Pensions Regulator is certainly right to place importance on the governance of pension schemes.

As the discussion paper itself recognises, it does not actually define governance. (The paper, at paragraph 2.2, does, however, quote a definition by the National Council for Voluntary Organisations, which seems a perfectly reasonable one.) This is understandable, but in drawing up a response to the paper it means that it is difficult to be sure where the Regulator sees the boundaries of governance, in terms of the subject matter which it seeks to address.

There is no material on the management of transitions between service providers. There is relatively little content on the importance of communication with members as a means of maintaining good governance and it is not immediately clear how the Regulator envisages good governance being translated into practical actions in the field of administration and investment. There is also only a small amount of material on decision making, where, as far as governance is concerned, we think an important message should be that, even if a decision is taken following the best of processes, there can be no certainty that it will produce the best results or even a good result. While we recognise that the Regulator has already published material on internal controls, we are surprised that the subject is not at least touched upon in this document.

It would be helpful to have, in what is quite a long document, a concise statement near the beginning, which emphasises that governance is important in all schemes, whether defined benefit or money purchase, and explains what really matters to the Regulator in the field of governance. The

current executive summary contains substantial amounts of information on existing and planned initiatives, but, from our reading at least, does not communicate what the Regulator's key messages are; nor was this apparent at any other point in the paper.

We suggested that the part of the discussion paper on contract-based schemes will be most useful to employers which have not yet moved away from a trust based scheme, but are planning to do so.

It is important not to lose sight of the, in many respects regrettable, truth that many employers have already moved to contract based schemes because they do not want to have the kind of involvement which the discussion paper would like to encourage. In this environment, probably the most important need is to ensure that employees are properly informed about what the scheme is designed to achieve, and whether it is doing so, and can then use that information collectively or individually in conducting their overall employment relationship. As an example, if administration costs are borne by members' accounts, they need to be kept well informed of what those costs are. On the other hand, if any commission and fees are borne by the employer, rather than by the members, there is no particular reason for them to be well informed on this subject. (In the context of information/generic advice, we expect the current Thoresen review to have an eventual impact and this will be another area where the Regulator will need to work with FSA – a need which we are pleased to note that the Regulator has strongly taken on board).

We need to bear in mind that there is downward pressure on a number of fronts on charging structures and we would be interested to know whether the Regulator considered, in drawing up its case studies on management committees, whether they could be accommodated within currently competitive charges. This would in particular be a factor where a provider's investment product is being used by a

number of contract based schemes. If each scheme had a management committee, which insisted on different approaches to how the product was run, and the product provider sought to accommodate those views, the impact on charges could be considerable.

Some employers do value governance committees, as an option for governing the risks to them in being associated with the scheme. They do not see them as a means of getting involved in the running of the scheme.

It is important to bear in mind that one of the main reasons for the growth of work-based contract-based schemes is that employers wish to continue to support pension provision for their employees, but are not willing to meet the costs and deal with the complexities of having a trust-based arrangement.

Governance (or management) committees should not be conceived as a means of seeking effectively to introduce a trustee body into contract-based arrangements. Such an attempt would be futile and could be misunderstood by members.

It would be futile because the concept of a trustee body, which has evolved to exercise stewardship over a collective arrangement as part of a triangular relationship, also involving scheme members and a sponsoring employer, is not relevant to contract-based schemes, which at root are a collection of separate arrangements between individuals and a pension provider.

Members of contract-based schemes could easily mistakenly believe that a governance committee was a body which, like a trustee body, had been set up with a view to it playing a direct role in protecting their interests when, in fact, this will often not be the case and certainly not in a fiduciary sense.

It should also not be overlooked that the role of corporate governance in contract based schemes is one which has been adopted at a provider level in relation to highly regulated products and should not therefore fall upon employers. The practical influence, ➔

→ which the employers can exert over providers is tied inextricably to the legal structure of contract based arrangements, whereby the provider owns the assets and there is no legal contract between the employer and the provider in the first place. Hence, unlike a trust arrangement, where there is at least the possibility of some linkage between legal ownership and control/direction of strategy, the practical reality in a contract based scheme is that employers are buying into a collective vehicle which is subject to regulation by FSA at a prudential level, which should satisfy any given consumer. The consumers in this case are, of course, employees and, given that employers cannot stray over the line in terms of giving investment advice, it should be inevitable that the duty of the employer stops at the level of supporting the provision of the product and contributing to it if it wishes.

This is what the stakeholder legislation provides. Section 3(8) of the Welfare Reform and Pensions Act 1999 states that an employer is not "whether before

SPC registers views on clearance

We noted from the Pensions Regulator's reminder on clearance that it intended to publish revised guidance on the subject.

We therefore thought it timely to register a couple of points with the Regulator.

Firstly, we agree with the high level principles underlying the Regulator's position on clearance.

Secondly, we suggest that it would be helpful if there was a clear split in any revised guidance between (i) guidance for companies and associated parties seeking clearance, providing clarity on when seeking clearance might be valuable and on the process for doing so; and (ii) guidance for trustees faced with a deterioration in the employer covenant, considering the factors which should be taken into account in assessing the level of mitigation which might be required and the forms of mitigation which might be appropriate. ■

designating a scheme for the purposes of sub-section (2) or at anytime while a scheme is designated by him for those purposes, under any duty-

- a) to make any enquiries, or act on any information, about the scheme for any purpose not connected with-
 - i) ascertaining whether the scheme is for the time being registered under section (2),
 - ii) ascertaining the persons to whom it offers membership, or
 - iii) enabling him to comply with sub-section (3), or
- b) in particular, to investigate or monitor or make any judgement as to, the past, present or future performance of the scheme."

Hence, there is a very wide protection already available to employers in relation to stakeholder schemes and to introduce a management committee could undermine this provision significantly.

If an employer does decide to set up such a committee (and we believe

that it is entirely valid for it to decide under its particular circumstances not to do so), we do not consider that it would be appropriate for the Regulator to seek to influence the terms of reference or the mode of operation of the governance committee, or to promulgate best practice for such committees. Employers which choose to set up governance committees typically do so because they expect them to be useful in monitoring communication by the provider with the members of the scheme and the performance of the arrangement. Governance committees are most likely to develop and work well if all these areas are left to employers.

We do believe that the Regulator could play a useful role in disseminating information about how employers, which set up governance committees, chose to use them, to assist other employers in making arrangements which might suit them best.

For a copy of our full response, please click [here](#). ■

SPC raises issues on the PPF levy details and valuation guidance

We have had a detailed exchange of correspondence with Partha Dasgupta, the Chief Executive of the Pension Protection Fund on the levy and on PPF valuation guidance.

You can view the correspondence by clicking [here](#) and [here](#).

At the time of preparing this issue of **SPC News** we had Partha Dasgupta's response under consideration. ■

Deregulatory review report published

A [report](#) on the deregulatory review of pensions legislation, commissioned by the Department of Work and Pensions ("DWP"), was published on July 25th by independent external reviewers Chris Lewin and Ed Sweeney.

The recommendations include the following:-

- Encouragement to employers to take advantage of existing flexibility in legislation, enabling them to provide schemes where some of the

risks in pension provision are shared between employers and employees. However, the reviewers recommend that PPF legislation is amended, so that the compensation available to members of risk sharing schemes is calculated appropriately and the levy on such schemes become more proportionate.

- The report suggests it should be easier for employers to get refunds of surplus in their own schemes. →

➔ Current legislation requires the scheme to have a surplus relative to an estimate of the buy out cost of the liabilities, and for the trustees to be satisfied that a refund of surplus to the employer is in the best interest of the members. The reviewers recommend instead that it should be possible to refund surplus to employers once the scheme's assets are greater than the scheme specific funding target, provided the trustees agree at that time to the payment of a refund.

- The report suggests that,
 - where a company, which participates in a defined benefit multi-employer scheme ceases to have active members participating in that scheme, but the scheme continues, the debt on the employer would not be triggered if, within a period of up to one year, the employer takes on new active members;
 - where an employer participating in a multi-employer scheme withdraws, and the trustees (having taken appropriate

advice), are satisfied that the covenant is not weakened, the debt would not be triggered, provided that the trustees are satisfied that the covenant is sufficiently strong to make it likely that the funding target will be met in due course. One of the reviewers went further, stating that the latter proviso would not be necessary.

- The reviewers believe that the requirement for trustee expertise should be placed on the trustee board rather than on individual trustees. They propose that individual trustees or trustee-directors should not be required to have particular standards of knowledge or understanding on a range of issues, but that it would suffice if the trustee board as a whole had sufficient knowledge and understanding to carry out their duties properly.
- The report suggests a rule should be inserted in all schemes, by overriding legislation, that reasonable personal legal expenses of trustees which arise from the performance of their

duties will be promptly reimbursed by the scheme, subject to the power of a court or tribunal to order the trustee to refund such expenses to the scheme.

- The reviewers recommend that DWP moves towards less detailed and prescriptive legislation, starting with simpler rules on disclosure requirements.
- The report suggests it should be made easier for schemes to change their own rules to take advantage of changes to legislation.
- One of the reviewers believes that the requirement to provide limited price indexation after retirement should be made optional whilst the other does not.

The reviewers recommend that any changes resulting from the report should not adversely affect accrued rights or pensions already in payment.

DWP will consider the recommendations and publish a response in the autumn.

We are also currently considering the recommendations. ■

Some thoughts on transfer value enhancements

This note covers transfer value enhancements (paying a higher transfer value), inducements (paying cash outside of the scheme in addition to the transfer value) and other offers (e.g. cash in lieu of future pension increases). All are referred to as enhancements for the purposes of this note.

It sums up conclusions in SPC Council and committee discussion.

Transfer value enhancements are a legitimate tool for employers seeking to mitigate risk arising from defined benefit provision. Some of that risk arises from increases in benefits, imposed by legislation, which they did not plan when they set the scheme up.

We must avoid simplistic assumptions that from a member perspective defined benefit provision is automatically low risk and money purchase provision is likewise high risk.

It is of central importance that the employer gives a clear explanation of why an enhancement is being offered. Perhaps one of the most likely potential causes of future dissatisfaction among members, who have accepted an enhancement, will be that it was not properly explained why it was being offered.

It might be difficult for members to form a view about whether to accept the enhancement and it would then be desirable for them to take independent advice. It is important that the advice

is demonstrably focused on the best interests of the member.

Guidance from the Pensions Regulator encourages trustees to take a close interest when enhancements are offered. But trustees should not allow themselves to get into a position where they are perceived as taking responsibility for the offer and/or effectively advising members on whether or not to accept it. It is important that members are aware of the importance of independent advice in assessing the offer, and it is right that trustees should aim to communicate this fact to members, but they should not be in a position where they themselves could be seen as effectively giving the advice. ■

SPC response to FSA on its training and competence sourcebook review

In February 2007 FSA consulted on proposals to introduce a more outcome focused training and competence regime.

FSA summarised its proposals as follows:-

- To introduce a new, overarching competence rule to apply to all UK

authorised firms, including wholesale firms;

- To replace the existing TC Sourcebook with a new, simpler, ➔

- ➔ more user-friendly Sourcebook, which will be around one-third of its current length. This will apply to retail business only, although wholesale firms may wish to refer to it in deciding how to comply with the high-level requirements. It will comprise a small number of (mainly exam-related) rules, plus a modest amount of more focused guidance;
- To retain the compulsory examination requirements for specified retail activities (as now) and the existing 'safe harbour' for firms who use exams taken from the Financial Services Skills Council (FSSC)'s list of 'appropriate examinations';
 - To give due recognition to exams passed by employees of firms not subject to a compulsory exam requirement (e.g. those carrying out wholesale business) where they choose to use exams approved

by the Financial Services Skills Council to demonstrate compliance with the knowledge element of the competence requirement;

- To simplify the scope provisions;
- To retain the existing record-keeping requirements (as amended to comply with MiFID); and

- To carry forward relevant transitional ('grandfathering') provisions but in a simplified form.

For a copy of the consultation paper in full, please click [here](#).

For a copy of SPC's response, please click [here](#). ■



ECJ ruling could pave the way for VAT refund to UK pension schemes

The case brought by JP Morgan Fleming investment trust concerns the application of Article 13(B)(d)(6) of the Sixth VAT Directive, which requires Member States to exempt from VAT the "management of special investment funds as defined by Member States".

In response to the question of whether the investment trust was capable of being covered by the term "special investment funds", the European Court of Justice indicated that Article 13(B)(d)(6) contains no definition of the term "special investment funds". However, it ruled that closed-ended investment funds, such as the JP Morgan investment trust, were capable of falling within the meaning of the term "special investment funds".

Further, ECJ indicated that, while Member States have the power to

define in their domestic law the funds which meet the definition of "special investment funds", this does not allow them to select certain of those funds to benefit from the exemption. When deciding which funds meet the definition of "special investment funds", this must be done in conjunction with the Sixth Directive (requirement to facilitate investment in securities by means of investment undertakings by excluding the cost of VAT) and the principle of fiscal neutrality, which prohibits treating similar goods and services, which are thus in competition with one another, differently for VAT purposes.

ECJ said that it was up to the national court to decide whether the national legislation, which was at issue in the main proceedings, complied with these requirements. ■

Update on the proposed pensions portability directive

The proposed Pensions Portability Directive (2005/0214 COD) has undergone many changes since it was first launched by the European Commission in 2002. The European Parliament made several changes to the current draft in June 2007, during its first reading of the Directive.

Among the changes made by the Parliament, rights to a pension transfer entitlement have been removed. In addition, the minimum vesting period has been increased from two to five years, and the minimum age for entry to a pension scheme has been increased from 21 to 25 years.

The Parliament's amendments have only been partially approved by the European Commission. It now reverts to the European Council to set out a 'common position', which in turn is subject to the approval of the European Parliament, when the proposed Directive receives a second reading.

The deadline for implementation of this Directive is still cited as 1 July 2008. ■

Mortality projection library

The Continuous Mortality Investigation Board (CMI) issued a draft library of possible projections to mortality tables, for consultation, on 11 July 2007. The idea for a library arose because of the rapid improvements in mortality experienced in the past 30 years, particularly amongst people born in the 1920s and 1930s. Because the rate of improvement has been so different to that experienced earlier in the 20th century, and has differed

materially by cohort, it has been difficult to be confident about methodologies for projecting improvements into the future. Consequently, rather than issuing a single estimate of likely improvement rates, CMI has decided to provide a range of possibilities.

The library will also facilitate a standard vocabulary for mortality improvements, to enable scheme funding discussions between trustees and employers, for example, to be more fruitful. ■

Top pension jobs

With effect from the end of June 2007:-

- Peter Hain is Secretary of State for Work and Pensions (and Secretary of State for Wales). He replaces John Hutton.
- Mike O'Brien is Minister for Pensions Reform. He replaces James Purnell.

Lawrence Churchill has been reappointed as chairman of the PPF for a further three years. His new three year contract started from 1 July 2007.

Tony King takes over from David Laverick as the Pensions Ombudsman with effect from 1 September 2007. King will also take on the role of Pensions Protection Fund Ombudsman. ■

Single Equality Bill

The Government published a Green Paper on 12 June 2007, entitled Discrimination Law Review - A Framework for a Fairer Future: Proposals for a Single Equality Bill for Great Britain.

This sets out the Government's proposed strategy for consolidating all discrimination and equality laws into a single Act, harmonising and simplifying the law where possible, and making a number of improvements in areas where the current law falls short.

The consultation period runs until 4 September 2007, and legislation is expected to be enacted later in 2008.

For details of the consultation document see: <http://www.communities.gov.uk/publications/communities/frameworkforfairnessconsultation> ■

Passport certificates

The Government Actuary's Department has announced that all passport certificates of broad comparability for the Local Government Pension Scheme (LGPS) issued before 26 April 2007 have been withdrawn and cease to have validity for any transfer of staff covered by LGPS in England and Wales, taking effect after that date.

GAD has said that the blanket withdrawal is necessary, as the terms of the LGPS for England and Wales have been amended. Although the terms of the LGPS are not due to change until 1 April

2008, the changes would have affected all transferring members, had they continued in public sector employment beyond that date. The principles for assessment of broad comparability set out in GAD's Statement of Practice http://www.gad.gov.uk/Publications/PPP_PFI.htm require recognition of such known future changes in the broadly comparable assessment process.

A comparison of the key features of the new and old style LGPS can be found on the GAD website www.gad.gov.uk. Further details of the LGPS changes can be found at www.lgps.org.uk. ■

Completely revised SORP issued by PRAG

The Pensions Research Accountants Group (PRAG) has issued a completely revised version of its Statement of Recommended Practice (SORP) 'Financial Reports of Pension Schemes'.

Some points to note are:

- sets out recommendations on current best practice on the form and content of pension schemes' annual accounting reports
- effective for accounting periods commencing on or after 6th April 2007 (although early adoption is recommended)
- pensions schemes falling within the scope of the SORP must state in their accounts whether or not they have followed the SORP
- any departures from recommended practice should be described and explained
- key changes from the previous version:
- investments are valued at bid value rather than mid value, in line with the changes for valuing investments under FRS17
- futures contracts and other derivatives are now valued on a fair value basis
- additional disclosures are now required in respect of derivative contracts
- direct transaction costs are disclosed separately in the notes to accounts (this requirement does not extend to indirect transaction costs included within pooled investment vehicles). ■

Consultation by the Financial Services Skills Council on national occupational standards for pensions

The Financial Services Skills Council has consulted on national occupational standards for providing pensions advice and for pensions management and administration.

For details please click [here](#), [here](#) and [here](#). 

→ In our response we recognised the considerable work which had been devoted to developing the proposed standards thus far and we wished our comments to be taken in a constructive spirit in the light of that recognition.

The Proposed Standard on Providing Pensions Advice

Our general comment on this proposed standard is that it is entirely concerned with advice to individuals and, in fact, individuals seeking relatively basic advice. It does not really cover the position of individuals who might want more complex advice, for example on derivatives. It does not seem to recognise that pension advice is also given to corporate clients.

The proposed standard also seems to leave doubt on what would actually constitute good advice and what an adviser should do to achieve it.

There also seems to be considerable repetition in the material and we think it would be helpful to look at whether the content could be streamlined.

The Proposed Standard on Pensions Management and Administration

We answered the detailed questions on this proposed standard.

QUESTION 1 – Do you feel that these occupational standards adequately cover the functions of the job roles falling within pensions management and administration?

The proposed standards are in fact really only focused on pensions administration and do not cover pensions management, i.e. essentially the role of ensuring that the processes required by a particular scheme and/or by statute are set up and operated properly.

QUESTION 2 – Are the proposed suites of units comprehensive?

As already mentioned, the units do not deal with pensions management. Also missing is material on pension payroll and fund accounting.

The NAPF Training Standards Initiative, which we supported, and the outcomes of which we understand were passed to the Financial Services Skills Council, did contain material relevant to these areas and we would have liked to have seen more of this initiative's work reflected in the proposed standards.

Our understanding is that the standards have been prepared on the basis that no distinction is required between

defined benefit and defined contribution administration. However, defined contribution administration does place particular emphasis on contribution collection, allocation, reconciliation, switching, disinvestment and lifestyling and we suggest that the standard would benefit from recognising these distinctions.

QUESTION 3 – Would you like to see core competences included for all pensions roles?

Given the number of different roles in the pensions field, and the different types of scheme within which they are carried out, it is difficult to see in practice how core competences could be established across all pensions roles.

QUESTION 4 – Would you like to see a framework of National / Scottish Vocational Qualifications and/or other qualifications for the pensions sector, based on standards such as these?

The Pensions Management Institute already offers a range of vocational qualifications and of these the Qualification in Pensions Administration and the Diploma in Pension Calculation seem to be a close match to the proposed standards and are particularly relevant to an individual working in third party administration of a defined benefit or defined contribution occupational pension scheme.

The Chartered Insurance Institute offers a pensions module (FA2) under its Certificate in Financial Administration, which is particularly relevant to back office pensions administration carried out by a life office.

We are therefore not entirely clear what in practice a formal framework would add.

QUESTION 5 – Do you see these standards being of value to your organisation and being used for purposes other than qualifications for the staff?

As a representative body, the question is not of direct relevance to us, but we would expect that many of our members offering administration services would take the view that they have devoted considerable resources to developing and testing rigorous processes for recruiting staff and for their training and development. The main value of the standards might be as a check list against which to review these existing arrangements.

QUESTION 6 – Are you happy with the proposed format and features of the draft standards?

We would welcome an introduction to the standards, spelling out the aims and objectives underlying them.

The material on "Behaviours Underpinning Effective Performance" is repeated throughout nearly all of the document. We would suggest streamlining it, so that the material appears once as a separate section at the beginning.

QUESTION 7

This question invites detailed comments on various aspects of the proposed standard. A number of our Administration Committee members have participated in workshops on the proposals and we know that numerous detailed amendments have been suggested. We do not propose to duplicate these here.

QUESTION 8 – Would you welcome additional guidance and supporting materials on how the standards might be used within your organisation?

Again, this question is not directly relevant to SPC, but we think that it is clear from some of our other answers that it would be helpful to have additional material clarifying the underlying aims and objectives, with practical suggestions on their application. ■

SPC backs pension administration standards

The SPC Administration Committee has given its strong backing to the General Statement of Administration Standards produced by Raising Standards of Pension Administration.

The General Statement has been prepared in order that both trustees and suppliers of administration services may have a statement of the standards by which they are expected to conduct business.

Commenting on the standard, Deborah Wilson, the Chairman of the SPC Committee, said

"We give this work by the Raising Standards of Pension Administration Group our strong backing. It provides in a commendably brief and well laid out way a guide to assist in providing a good standard of pension administration." ■

Actuarial Standards Board's consultation paper "Towards a conceptual framework"

In April 2007 the Board for Actuarial Standards issued a preliminary consultation paper "Towards a Conceptual Framework".

The Board for Actuarial Standards started work in April 2006 and its initial focus has been on developing a conceptual framework of the concepts and principles underlying work of actuaries. The Board intends to publish a full consultation on its framework

proposals in the Autumn of this year, but its April document aims to test some of its most important ideas.

The document is available at http://www.frc.org.uk/images/uploaded/documents/Interim_v20.pdf

SPC made a brief response to the consultation paper.

We generally found the overall direction of the paper rather difficult to follow.

For example, it was not easy to distinguish where the paper draws the boundary between actuarial techniques and advice and information.

As a general principle our preference would be for a single generic communication standard, focusing on principles, rather than a library of pro forma standard reports.

We look forward to commenting further as consultation proceeds. ■

SPC meets Treasury on annuity review

The SPC Money Purchase Committee has had a meeting with the Treasury and HMRC on the Treasury's paper reviewing the annuities market.

Discussion focused on the open market option and on mid-market products. ■

Conference discount for SPC members

SPC members are entitled to a 10% discount at the conference on Pension Fund Risk Management organised by Osney Media on October 9th and 10th 2007.

For details of the conference, please click [here](#).

To register please follow the link in the conference details, quoting reference 933SPC to claim your discount. ■

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.

The Society of Pension Consultants

St Bartholomew House
92 Fleet Street
London EC4Y 1DG

TELEPHONE: 020 7353 1688

FACSIMILE: 020 7353 9296

EMAIL: john.mortimer@spc.uk.com

WEB: <http://www.spc.uk.com>

SPC News Editorial Committee:
Chairman, Secretary,
Chris Bellers (Friends Provident)
and contributors from Mercers

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