THE SOCIETY OF PENSION PROFESSIONALS
making pensions work

The Society of Pension Professionals (SPP) response to the HMRC consultation on *Raising Standards in the Tax Advice Market*

1. Introduction

1.1. The SPP shares the government's commitment to making our tax system fairer and simpler.

1.2. We also welcome proposals to monitor and enforce minimum standards for tax practitioners, to remove substandard and unscrupulous tax practitioners from the market and to provide confidence in the quality of tax advice and services that clients receive from tax practitioners.

1.3. The proposal to compel those giving such advice to be a member of a recognised professional body that supervises tax practitioner standards, may be an improvement that could prove effective, proportionate, and reasonable in raising standards. However, although we note the consultation document states, *"The government wants to avoid increasing burdens on professionals that are already robustly regulated,"* as currently outlined, these proposals present a very real prospect of unintended consequences for pension professionals.

1.4. Pension schemes and pension professionals already operate in a tightly regulated environment and SPP does not consider the operation of mainstream pension schemes to represent a risk of anything like the nature being described for the broader tax advice industry being targeted in this consultation. It would therefore make sense if a distinction could be clearly drawn between proactive tax advice and "business as usual" pensions administration which interacts with HMRC on various reporting and compliance matters.

2. Executive summary

2.1. **There is a tangible risk of pensions professionals, who are not the intended target audience for these proposals, being inadvertently captured by the proposed new regulatory regime.**
With around 35 million pensions (23.5m[1] DC and 10m DB[2]) being administered in the UK, the potential impact of unintended consequences here is considerable.

2.2. **SPP urges HMRC to discuss these proposals with The Pensions Regulator (TPR) and Financial Conduct Authority (FCA) to better understand how the pensions landscape is currently regulated.**
SPP was surprised to learn that such discussions had not yet taken place (please see below at 3.4).

2.3. **SPP recommends that HMRC consider granting an exemption to pensions professionals on the basis of any work carried out for or on behalf of a registered pension scheme, undertaking disclosure of information statements and other clearly defined work as covered by existing legislation.**
Please see below at 3.9.

2.4. **Requiring the controller or controllers of a firm (for example, the principal or director) to be a member of a professional body and to be accountable for ensuring their staff are complying with professional standards, may appear sensible but in certain circumstances will present sizeable challenges.**
Please see below at 3.17-3.18.

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[1] **TPR Scheme Return Data, 2022-2023:**
https://www.thepensionsregulator.gov.uk/en/document-library/research-and-analysis/dc-trust-scheme-return-data-2022-2023
[2] **DWP Committee, March 2024:**
https://committees.parliament.uk/publications/44037/documents/218270/default/

3. Consultation response

3.1. Pension professionals

3.2. The consultation response refers to *"professionals who are regulated in accordance with the Pensions Regulator"* being exempted from these proposals.

3.3. However, The Pensions Regulator (TPR) does not regulate professionals, it regulates pension schemes (and employers in areas such as auto-enrolment).

3.4. When SPP discussed this consultation with HMRC on 9 May 2024, we were surprised to learn that HMRC had not yet held any discussions with TPR about any of its proposals in this area and we again urge it to do so as a matter of urgency.

3.5. In addition to TPR references, the consultation document indicates that members of the Institute and Faculty of Actuaries could also be exempted. Although this may be welcome, it should be noted that whilst most DB (Defined Benefit) schemes will have an appointed scheme actuary (as required under section 47 Pensions Act 1995), the majority of active pension scheme members are now in DC (Defined Contribution) schemes which do not require the appointment of an actuary.

3.6. Further, actuaries are not normally involved with the actual online interactions with HRMC through, for example, the Managing Pension Scheme service or Pension Schemes Online. Therefore, for such an exemption to be meaningful it would need to be carefully framed to include work carried out under the (indirect) supervision of an actuary. Even then, it is worth noting that actuaries do not supervise the general administration of a pension scheme in practice. Furthermore, many pension schemes are administered "in-house" rather than by a third-party administrator – and even some third-party administrators are not attached to a consultancy with actuaries. In summary, being supervised directly or indirectly by an actuary does not appear to be a desirable outcome for these purposes, something that members of the IFoA have made clear to us during this consultation period.

3.7. Policymakers might consider exempting those who have successfully gained a suitable advanced qualification from the Pensions Management Institute (PMI), which would cover many more professionals working for pension schemes, but this is another approach with potential difficulties.

3.8. For example, this would likely have significant and disproportionate costs and impacts if it were to apply at the ordinary administrator level and would likely be irrelevant in many cases if applied at the "principal" level this consultation document suggests be regulated. It may be more appropriate if applied to those operating at a senior level who deal with relevant pensions tax matters (as SPP suggests at 3.18 below) but consideration would have to be given to transitional arrangements and to behavioural impacts i.e. would long serving staff leave if compelled to gain new qualifications and so on. Again, what may initially appear a straightforward solution is anything but.

3.9. Tax is often an ancillary activity for pension schemes rather than a central directing concern, and having tax advice compliance intervening in ordinary working processes can be deeply problematic. It might therefore be easier and more effective to consider a broader carve out relating to any work carried out for or on behalf of a registered pension scheme, undertaking disclosure of information statements and other clearly defined work as covered by the Finance Act 2004[3], The Occupational & Personal Pension Schemes (Disclosure of Information) Regulations 2013[4] and The Registered Pension Schemes (Provision of Information) Regulations 2006[5] . Such an exemption would certainly be supported by SPP members.

[3] **Finance Act 2004:**
https://www.legislation.gov.uk/ukpga/2004/12/part/4
[4] **The Occupational and Personal Pension Schemes (Disclosure of Information) Regulations**
https://www.legislation.gov.uk/uksi/2013/2734/contents/made
[5] **The Registered Pension Schemes (Provision of Information) Regulations 2006:**
https://www.legislation.gov.uk/uksi/2006/567/contents/made

3.10. Scope

3.11. Although many pension schemes are administered by third parties such as Aon, Barnett Waddingham, Capita, Hymans Robertson, LCP, Mercer, XPS and so on, there are also many other schemes that are administered in-house by the employer and this needs to be fully considered by HMRC.

3.12. Advice/Guidance

3.13. Ultimately, although pension professionals are likely to deal with many tax-related matters e.g. lump sum allowances, tax free allowances, death benefits etc. these almost exclusively fall into either giving information, i.e. communicating entitlements and broadly explaining the implications in terms of key facts etc., or processing an event, rather than the advice category rather than offering individualised advice.

3.14. That said, given the often sizeable sums of money involved and the fact savers will frequently rely on the information provided to help inform their decisions, clear definitions as to what constitutes tax advice precisely where the tax advice/guidance boundary falls will be essential. The FCA advice/guidance boundary may prove to be a helpful model here, particularly as it is currently being reviewed – a review to which SPP responded and called for greater clarity[6].

3.15. Firm vs individual

3.16. Whilst SPP's favoured position would be an exemption for pensions professionals as set out at 3.9 above, if HMRC insists on proceeding as proposed, the question about whether regulation should apply to the firm or to individual tax practitioners, is an important one.

3.17. Requiring the controller or controllers of the firm (for example, the principal or director) to be a member of a professional body and to be accountable for ensuring their staff are complying with professional standards, may appear sensible but in certain circumstances will present sizeable challenges. For example, where the firm is either very large or/and multidisciplinary in nature, the principals or directors will often not be qualified or have sufficient understanding of tax matters that another part of the business is undertaking where this is not its primary function.

3.18. This issue could perhaps be resolved by requiring a senior level "tax supervisor" who deals with the relevant tax matters to be responsible instead of the principal or director.

4. About The Society of Pension Professionals

4.1. Founded in 1958 as the Society of Pension Consultants, today SPP is the representative body for a wide range of providers of pensions advice and services to schemes, trustees and employers. These include actuaries, accountants, lawyers, investment managers, administrators, professional trustees, covenant assessors, consultants and pension specialists.

4.2. Thousands of individuals and pension funds use the services of one or more of the SPP's members, including the overwhelming majority of the 500 largest UK pension funds.

4.3. The SPP seeks to harness the expertise of its 85 corporate members - who collectively employ over 15,000 pension professionals - to deliver a positive impact for savers, the pensions industry and its stakeholders including policymakers and regulators.

[6] SPP response to the FCA discussion paper "DP23/5: Advice Guidance Boundary Review – proposals for closing the advice gap" February 2024:
https://the-spp.co.uk/wp-content/uploads/Advice-Guidance-SPP-Response-Feb-2024-FINAL-27.2.24.pdf?v=5673

5. Further information

5.1. For more information about this consultation response please contact SPP Head of Public Policy & PR at: phil.hall@the-spp.co.uk or telephone the SPP on 0207 353 1688.

5.2. To find out more about the SPP please visit the SPP web site: https://the-spp.co.uk/

5.3. Connect with us on LinkedIn at: https://www.linkedin.com/company/the-society-of-pension-professionals/

5.4. Follow us on X (Twitter) at: https://twitter.com/thespp1

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