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Better Workplace Pensions
Private Pensions and Stewardship Directorate
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Via email: reinigorating.pensions@dwp.gov.uk

Dear Better Workplace Pensions team,

Better Workplace Pensions: Banning member-borne commission in occupational pension schemes

The Pension and Lifetime Savings Association is pleased to respond to the above consultation.

The central issue in this consultation is whether or not the duty to end commission arrangements should sit with scheme trustees or with a service provider (typically, in this instance, a life assurance company). This response goes into more depth below but to summarise the Association's position, it makes much more sense to proceed with option B and impose the duty on the service provider than trustees.

Service providers have both the awareness that a commission arrangement exists and also the capacity to bring it to an end. Trustees may have neither of these things and any duty imposed on them will require them to interrogate service providers and then compel service providers to end any identified commission arrangement. This will be less direct and, potentially less effective than placing the duty on the service provider. As outlined in the consultation paper, the trustees should then have a role in certifying to the Pensions Regulator that commission payment has ceased.

OVERALL APPROACH TO THE CONSULTATION

The current consultation on banning commission in trust-based workplace pension schemes is an important step in bringing this issue to a conclusion. The Association welcomed the government's intention to ban commission in relevant schemes in its response to the "Better Workplace Pensions: further measures for savers"

consultation in 2014. The Association continues to share the government's belief that members should not bear the cost of commission paid to advisers for services rendered to scheme sponsors over which they have no control and often no knowledge. This is particularly true for those automatically enrolled into a qualifying scheme but a principle that might equally be applied across the board. While consultancy charging never reached its full potential option for remunerating intermediaries it could have gone on to cause serious member detriment. Closing it down as an option is an important piece of unfinished business.

SCOPE OF THE BAN

In general the Association feels that the description of the issue in the consultation document is accurate and the measures proposed are sensible. The consultation paper accurately describes the mechanics and timing of commission payments. It is also clear on the separation between the timing of the payment of commission to advisers and the timing of the collection of the proportion of a member borne charge intended to fund commission from members' funds. The paper correctly grasps that it is not as simple as a proportion of a member borne charge being paid to an adviser contemporaneously.

Furthermore, the Association feels that the scope of the ban is broadly appropriate and that the suggested exclusions from the ban are unlikely to lead to difficulties. That said, if the evidence shows that asset managers, as distinct from bundled providers with in-house asset management, are not involved in commission arrangements then we would not object to their exclusion from the ban. As drafted, the ban contains suitable precautions to ensure that advisory services procured by trustees are excluded from the scope of the ban. Furthermore, the scope of the ban correctly defines the members potentially affected.

PLACING A DUTY ON SERVICE PROVIDERS, NOT TRUSTEES

As noted earlier, the central issue in the consultation is on whom to place the duty to identify and subsequently unwind commission arrangements. In the view of the Association, there is little merit in placing a duty on trustees to resolve this issue. Providers who have actually set up the relevant commission agreement with advisers and who are currently paying commission are much better placed to identify and then terminate any commission arrangement. Trustees, by contrast will not be signatories to commission arrangements and are therefore poorly placed to begin the work. Placing the duty on trustees simply inserts another possible failure point into the regulations for no discernible reason. Furthermore, trustees are likely to be less well placed to interrogate any future disguised commission arrangement. Direct regulatory oversight of service providers may be the best way to deal with this issue before it occurs.

It does not follow from this, though that there is no role for trustees. The regulatory enforcement method outlined under option B in the paper seems appropriate to the

issue. The Association's main concern is that placing the duty on service providers could be seen as cutting trustees out of the regulatory loop. It is important that trustees retain oversight of all relevant aspects of the running of the scheme. For this reason, inserting them into the regulations as part of the information gathering and enforcement chain makes sense.

It would also make sense for trustees to inform service providers that a scheme is being used for automatic enrolment. Placing the relevant information on the scheme return would seem a reasonable way to accomplish this. This need not be a permanent obligation and should lapse several years after the first notification.

DECUMULATION

The consultation paper proposes that the ban on member-wide charges for advice also apply to decumulation products while permitting members to opt-in to the payment of individually agreed adviser charges, a ban which the Association supports.

NON-MONETARY COMMISSION

The Association has no information about non-monetary commission. In the absence of information about its prevalence, it would make sense simply to make it clear that non-monetary benefits are within the scope of the ban and then monitor the situation.

IMPACT ON ADVISERS

The Association has no information about the impact of this measure on advisers. Clearly, there will be an impact from this measure but advisers have had the knowledge that the end of commission is imminent for some time. The Financial Conduct Authority's Financial Advice Market Review will give the industry and government the opportunity to consider appropriate and realistic remuneration options for advisers.

Yours sincerely,

Tim Gosling

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