

## NAPF Call for Evidence on Better Regulation: Responding to the Red Tape Challenge

**February 2012**



## Foreword

The NAPF is keen to see some concrete action from the Government on its commitment to reinvigorate occupational pensions. The Government's Red Tape Challenge, which will shine its 'spotlight' on the world of pensions in the spring of 2012, presents us with a timely opportunity to reshape the regulatory landscape. Pensions Minister Steve Webb recently threw down the gauntlet, claiming that every regulation is up for discussion "from the absolutely trivial to the huge" and that "every piece of regulation will go unless we can justify its existence". Based on these comments, the challenge set down by Government to ease regulatory burdens appears to be a genuine one and gives us an opportunity to argue for a better regulatory landscape for workplace pensions.

Our Call for Evidence is a wide ranging one, asking our members, as the experts, about the challenges of running workplace pensions in the UK and where you think there is the most potential to reduce burdens. We want to hear of your experiences and the burdens the current swathes of regulation put on you, whether that is down to DWP regulation, tax administration, European regulation or just the way the Pensions Regulator and FSA go about their business. Since 1995 there have been nearly 1000 new pieces of legislation relating to pensions in some way:

- *Is all of this regulation still relevant, necessary, and fit for purpose?*
- *Where is the regulation too prescriptive about how those running pension schemes go about their business?*

There may be some areas where you think what is needed is actually more, rather than less, regulation, particularly in less established parts of the pensions landscape and we would encourage you to share views on those areas too:

- *Do we have the right regulatory framework to ensure good outcomes for pension scheme members and keep both employees and employers signed up to good quality pensions?*
- *How do we strike the right balance between member protection and security whilst bearing down on the costs of running a pension scheme?*

As announced at the NAPF Annual Conference and Exhibition 2011, we will publish the results of our Call for Evidence and use these to shape what we are arguing for in response to the Government's Red Tape Challenge. This will ensure there is a well-informed debate driven by you, our members. I strongly encourage you to respond to our Call for Evidence with some specific proposals and look forward to us working together on these issues in 2012.

We would welcome responses from both fund and business members by Friday 16 March to [better.regulation@napf.co.uk](mailto:better.regulation@napf.co.uk). Full details of how to respond are described in the 'Next Steps' section of this document. We look forward to hearing your views



**Darren Philp, Director of Policy**

## Introduction

1. With the Government launching its 'Red Tape Challenge' spotlight on pensions in the spring there is an opportunity to challenge the often highly prescriptive approach to pensions regulation in the UK. Whilst much of this regulation may be necessary, the impact of decades of legislation – often designed to fix yesterday's problems – has added significantly to schemes' running costs. The NAPF's vision for pensions, 'Fit for the Future'<sup>1</sup>, argued that there is a direct correlation between the decline of DB schemes and regulatory interventions. And whilst the Government has recently listed around 260 pieces of domestic regulation and statutory instruments that are due to fall under its spotlight, our own investigations suggest the true volume could be much higher – with nearly 1000 pieces of legislation since 1995 relating to pensions in some way and over 500 relating to occupational pensions.

## The NAPF's approach to Better Regulation

2. The NAPF has long argued for simple, suitable and risk-based regulation to reinvigorate workplace pensions. The UK needs a regulatory framework that is simple to operate and easy to understand for sponsors, trustees and members alike, cost-effective, and flexible to the environment in which it operates. It must protect members' benefits. But it must also encourage rather than discourage pension provision, and recognise that a completely risk free environment is neither possible, nor desirable.
3. The thrust of the Red Tape Challenge is on removing regulations and we would particularly like to hear suggestions from members on where existing pensions regulation could usefully be simplified and streamlined to ease the costs of running a pension scheme without placing members' security at risk. Our short survey of members in the autumn on regulatory burdens had an overwhelming response, with 185 of our members responding within just a week. The survey told us that the regulatory burdens associated with running a scheme have continued to grow in recent years:
  - 9 out of 10 respondents thought that the *time* they had spent dealing with regulatory and compliance issues had significantly increased over the last 3 years. 1 in 3 respondents thought the time spent had increased by more than 25%.
  - 8 out of 10 respondents thought that the *costs to their scheme* of dealing with regulatory and compliance issues had significantly increased over the last 3 years. 1 in 5 respondents thought costs had increased by more than 25%.
4. We believe there is significant scope to scale back the existing volume of regulation and legislation surrounding workplace pensions. The current raft of highly detailed, highly prescriptive legislation and regulation could be replaced with higher level regulations or codes that place more initiative and responsibility with the trustees and pension scheme managers charged with running the scheme. Other regulations could simply be scrapped because they are no longer applicable.

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<sup>1</sup>[http://www.napf.co.uk/PolicyandResearch/DocumentLibrary/0123\\_Fit\\_for\\_the\\_future\\_NAPFs\\_Vision\\_for\\_Pension\\_0310.aspx](http://www.napf.co.uk/PolicyandResearch/DocumentLibrary/0123_Fit_for_the_future_NAPFs_Vision_for_Pension_0310.aspx)

5. There may of course be a case, in some areas, for protecting existing regulation or suggesting carefully targeted new regulation in order to provide the legal framework within which pensions can thrive. And there may also be a case for arguing for more regulation to make your lives easier and to drive up quality and raise standards.

### **The Government's approach to Better Regulation: the Red Tape Challenge**

6. The Government has made a number of statements that highlight its approach to Better Regulation and which have shaped the development of the Red Tape Challenge. The Coalition Agreement ("The Coalition: our Programme for Government"<sup>2</sup>) published back in May 2010 stated that:

*"We will cut red tape by introducing a 'one-in, one-out' rule whereby no new regulation is brought in without other regulation being cut by a greater amount".*

*"We will impose 'sunset clauses' on regulations and regulators to ensure that the need for each regulation is regularly reviewed".*

*"We will give the public the opportunity to challenge the worst regulations".*

*"We will simplify the rules and regulations relating to pensions to help reinvigorate occupational pensions, encouraging companies to offer high-quality pensions to all employees".*

7. The forthcoming pensions spotlight focuses on the last two of these, with the Red Tape Challenge<sup>3</sup> publishing sector-by-sector lists of current regulations as a basis for public debate and input. The aim of the Red Tape Challenge is to generate practical evidence-based suggestions for simplification, streamlining or removal of all unnecessary regulation.
8. After a five week window for comments and submissions from the public, Ministers will have three months in which to accept the case for abolition or make their own case for keeping the legislation. There is a presumption that the regulations under the spotlight will be removed unless a strong enough case can be made for keeping them. The Pensions Minister, Steve Webb, reiterated these points at the NAPF's Trustee Conference on 6 December. The Government is expected to launch its Pensions Spotlight around late March/early April.

### **Scope**

9. As outlined, the main focus of the Red Tape Challenge is on domestic legislation, regulation, guidance and codes of practice. However, the Government has also indicated that it is interested in hearing about aspects of International and European legislation that are transposed into UK law and regulation, particularly where there may be evidence of gold-plating in the UK.

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<sup>2</sup> [http://www.cabinetoffice.gov.uk/sites/default/files/resources/coalition\\_programme\\_for\\_government.pdf](http://www.cabinetoffice.gov.uk/sites/default/files/resources/coalition_programme_for_government.pdf)

<sup>3</sup> <http://www.redtapechallenge.cabinetoffice.gov.uk/pensions/>

10. And there will certainly be regulatory burdens on workplace pensions that derive from aspects of the tax system and tax administration or financial services regulation. We would be interested in hearing about these too so we can make the case for change.
11. Our earlier survey with members found interest in reducing the burdens of regulation across a wide number of areas relating to workplace pensions, including: simplifying rules on communicating with members; more flexible approaches to deficit recovery plans; removing or consolidating Guaranteed Minimum Pensions; relaxing further the rules on the indexation of pensions for future accrual; stabilising the methodology for valuation of scheme liabilities; and less short-termism in risk-based regulation and accounting standards. These were just some of the areas highlighted by members in a short survey and we are hoping for a much more comprehensive response from this Call for Evidence.
12. The scale of ambition in changing existing legislation and regulation will vary. We would welcome suggestions of legislation, regulation and guidance that create unnecessary costs and burdens as a result of *the administrative and reporting requirements (i.e. paperwork) that go with running a scheme*. For example, returns and notifications that must be provided to the Regulator and Government, and communications and disclosure that must be provided to members.
13. We would also welcome views on *other operational and compliance requirements that may make it unnecessarily difficult for those running schemes to maintain the scheme, or change and restructure their scheme, to help them offer good quality pensions for their employees*. For example, the enrolment of employees into the scheme, the tPR funding regime and accounting standards, the rules around corporate restructuring and/or changes to scheme rules/winding up of schemes, and any requirements in relation to the Regulator and the Pension Protection Fund.
14. And we would welcome views on legislation, regulation and guidance that directly affects the costs of running the scheme/s as a result of *the level and structure of pension or benefits a scheme/sponsor must provide to members* at and during retirement. For example, indexation requirements, spouse and survivor benefits, and GMPs and protected rights.

## Responding to our Call for Evidence

15. The apparent appetite of the Government to cut back on Red Tape provides an opportunity for the NAPF to drive this agenda forward, but our representations need to be backed up by specific proposals, evidence of the costs and benefits, and recognition of any risks to members. This Call for Evidence to our members will run until Friday 16 March and will gather the arguments we need to persuade Government that there is a compelling case for change in many areas.
16. So we want to hear from you about what you want changed. We are keen to hear about:
  - a. Regulations / pieces of legislation that are now obsolete or irrelevant.
  - b. Changes to the pensions landscape that mean a different approach to regulation is needed.

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- c. Examples of legislation and regulations that are blocking or discouraging innovation.
  - d. Regulations that add significantly to administrative burdens and cost without demonstrably adding value or protecting the member.
17. The Call for Evidence covers all workplace pension schemes – including DB, DC and Hybrid Schemes. We would particularly like to hear from multi-employer schemes that may face particular regulatory challenges. And we would like to hear from both fund members and business members, as we are aware that business members may have useful intelligence and analysis of the impact of existing regulations across the workplace pensions landscape.
18. To be effective we will need to clearly make the case for change. Therefore, when responding we would be grateful if you could give specific examples of:
- a. What you would like to see changed.
  - b. Why you would like to see it changed, including a description of the burden and the impact on schemes.
  - c. Estimates of the additional costs associated with the regulation.
  - d. The benefits of revoking or changing the regulation, along with any risks to members of the proposed change.
  - e. Proposed alternatives (if any).
19. This approach will allow us to compile some firm evidence to present to the Government to reinvigorate workplace pensions.
20. As regulation around workplace pensions is fundamentally about protecting members' benefits and securing good member outcomes the potential risks to members of stripping back regulation must be at the forefront of our minds. We would therefore be grateful that members responding also flag where there may be risks to members of removing or revoking legislation and suggest any alternative approaches or mitigating action that might be required.

### **Next Steps**

21. The NAPF is hosting the Call for Evidence on its website: [http://www.napf.co.uk/PolicyandResearch/CFE\\_Better\\_Regulation](http://www.napf.co.uk/PolicyandResearch/CFE_Better_Regulation). Members are asked to provide specific examples of pieces of legislation, regulation, and guidance that could be revoked or changed, where possible backed up by evidence of the current costs and burdens on your schemes and the impacts on members of a proposed change.
22. We have asked Joy Moore, former chair of the NAPF's Retirement Policy Council to lead a group who will collate and analyse responses to our call for evidence and determine which recommendations the NAPF will be putting forward on your behalf.

23. **The deadline for responses is Friday 16 March. Responses should be sent via email to [Better.Regulation@napf.co.uk](mailto:Better.Regulation@napf.co.uk).** Please contact Mel Duffield 020 7601 1727 if you would like to discuss further.
24. In due course, the NAPF may ask respondents to be involved in some themed working groups after the initial Call for Evidence has closed to shape our proposals further and work with Government – please therefore indicate whether you are happy to be contacted further to discuss your response.





Securing the future of pensions

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