A simpler way to better pensions

An independent report by Alan Pickering
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The concept of a pension is an inherently simple one. It is simply the means by which we secure an income stream to provide financial security in later life. Sometimes, the pension will be our only income. Increasingly, a pension will supplement income from other sources, which may include paid employment as individuals seek to mix and match work and retirement.

With the best of intentions, this simple concept has been made extremely complicated. This complication does not simply add unnecessary costs at a time when demographic trends are already re-writing the arithmetic of retirement, it acts as a disincentive to pension accumulation. Consumers are put off, employers are discouraged and those commercial providers whose products might otherwise help finance a secure old age are extremely frustrated as their pursuit of cost-effective products is hampered by intrusive and often ill-focused regulation.

Simplifying the system will not alone close the gap between the level of pension which is required and that which can realistically be expected if we carry on as before. Lack of disposable income or different preference scales are major contributors to inadequate pension saving. However, simplification can make a real difference. It can persuade existing participants in the pensions world that their commitment is well-placed and appreciated. A simpler system may be more welcoming for those who are still on the outside looking in. Simplicity is not an end in itself but an important means to a very desirable end.

I am grateful to Alistair Darling and Ian M cCartney for providing us with an opportunity to suggest ways in which the system can be simplified. Even more pleasing was their encouragement to think radically. Important political encouragement was also given by David Willetts, Steve Webb and Peter Lilley. All these politicians have been generous with their time and expansive with their ideas. This political buy-in has been critical in our desire to obtain considered input from the wider community. Although this input was always guaranteed, it has been of a much higher quality because of the visible commitment to the idea of simplification proffered by leading politicians. While pensions will always be a politically sensitive subject – politics and pensions are both about the allocation of scarce resources between conflicting priorities – those who are making a decision today to delay
consumption of wealth in order to secure a better tomorrow need confidence that the basic infrastructure is built on stable foundations. The timescales associated with pensions transcend the normal electoral cycle.

At the outset of this review, we considered whether there was actually any need for pensions regulation at all. Why not leave it to the free market? However, we quickly came to the view that regulation does serve a useful purpose, particularly because of the lack of frequency with which most consumers have to make pension decisions - unlike groceries, pensions are not bought on a weekly basis. We do not think that, in this market, it is possible to overcome the difference in knowledge between the product provider on the one hand and the consumer on the other. Therefore, in compiling this report, we have sought solutions that are both radical and workable, and we have endeavoured to weigh the risks involved in our proposals to ensure that they strike the right balance.

There are three key relationships that we have sought to balance. At the workplace, while giving employers greater control over scheme design, we need to protect members’ legitimate rights. Our proposals will lift the regulatory burden on employers, but it remains incumbent on those employers to keep to their side of the bargain with employees and meet their pension promises. In the marketplace, while ensuring that product providers can play their part in increasing saving for retirement, we need to protect consumers from bad practice. Most important of all, we need to balance the interests of those who are in pension schemes and those who are not; unduly ambitious protection for the former may raise the entry stakes for the latter.

All our proposals seek to balance these relationships, with the aim of producing a positive net outcome - more and better pension provision. Our proposals are designed as a package. We have sought to encourage employers to offer pension schemes to their employees by giving the former more control over the costs, on the one hand, and to ensure that such pensions meet reasonable minimum standards on the other. In seeking this balance, we acknowledge that, in some areas, the guaranteed future pension benefits for those in pension schemes may be scaled back somewhat in order to allow those currently without pensions into the pensions arena.
The Government will need to consider the costs and benefits of the various proposals. We have not undertaken a detailed cost-benefit analysis in this report as that is properly the business of the Government. The net effect of our proposals on the key interested parties (employers, employees, consumers, commercial providers and the Exchequer) are difficult to predict because they will depend upon the behavioural responses to the new regulatory environment. We recommend that those who carry out the cost-benefit analysis take into account the dynamic nature of the pensions world. That is to say it must be acknowledged that without change, the current trajectory suggests less private pension provision in the future. We strongly believe that the most likely net effect of our proposals will be better and simpler pensions than would be the case without change – a positive net effect, even if there are some negatives at the margins.

I am deeply grateful to all those who have helped me by making submissions or working on my team as secondees from both the public and private sectors. We received almost 100 written contributions to the review from organisations and a similar number from individuals. In addition, we have had face-to-face meetings with around 30 key organisations such as the Confederation of British Industry, Trades Union Congress and Consumers' Association to discuss our views as they emerged. Whilst not every organisation agrees with every nuance of our recommendations, we believe that there is broad support for our approach and we hope that there will be a widespread consensus that our recommendations should be taken forward.

The finest testimony that we can provide for all those who have worked so hard on this project is to take their suggestions forward and implement the necessary changes as a matter of urgency. Time is not on our side. We all need a user-friendly pension system if we are to enjoy retirement rather than simply endure old age.

Alan Pickering
July 2002
Our goal

Our overall objective in carrying out this review is to identify ways to make it easier for employers to provide good quality pensions for their employees, easier for commercial providers to sell appropriate products to appropriate people, and easier for individuals to accumulate pension benefits. We have sought to identify ways to make the private pensions framework more efficient, whilst at the same time ensuring that pension scheme members are properly protected and can have confidence in the system.

In order to implement our suggested changes, we propose a new Pensions Act which should repeal or consolidate all existing Department for Work and Pensions (DWP) private pensions legislation.

Key themes and recommendations

Three key themes have emerged during our review.

Theme 1 - A proportionate regulatory environment

We propose that four principles should sit at the top of the new Pensions Act and that future legislative changes should be judged against those principles. Our proposed principles are:

(i) each statutory requirement (whether set out in primary or secondary legislation) should include a statement of that legislation's underlying policy aim;

(ii) statutory requirements should focus on the objective to be achieved rather than the process needed to achieve it;

(iii) statutory requirements should be proportionate to the stated policy aim and should avoid unnecessary complexity; and

(iv) each new piece of pensions legislation should not be considered in isolation, but should have regard to the existing law applicable to pension arrangements.
There should be mainly non-prescriptive primary legislation underneath these principles.

We recommend some prescriptive primary legislation where that makes things clearer and simpler: where there is only one sensible course of action, it should be specified.

We propose a new kind of regulator. This organisation would be more proactive than the existing Occupational Pensions Regulatory Authority and it would act as an adviser as well as a regulator.

We think that the regulatory regime should place greater reliance on professionals exercising and backing their judgement.

There should be a small number of Codes of Practice/Guidance Notes. Most of these would be drafted by the regulator, in consultation with interested parties. A few would be drafted by appropriate professional bodies and authorised by the regulator/adviser; in a few cases, it might be more appropriate for guidance to be authorised by the Government.

We have concluded that pensions are too complex, even in our proposed simplified world, for most consumers to act as do-it-yourself regulators. They need help from a regulator, scheme professionals and organisations whose function it is to look after the interests of their members. In this context we believe too much emphasis has been placed on the disclosure of information to members. Provision of information is important but not a panacea. We recommend a much more targeted approach to communicating with scheme members that focuses more on key pieces of information and does not overload them with information that only causes confusion. But, at the same time, we think that full, detailed information should be available to those who want it, particularly those such as trade union representatives or others whose function it is to look after pension scheme members’ interests.

All trust-based schemes (apart from centralised or industry-wide schemes) should be required to have one-third of their trustees nominated by pension scheme members, ending the current opt-out. However, we will propose no legislative prescription on how schemes must bring that objective to fruition.
**Theme 2 - ‘A pension is a pension is a pension’**

We think that employers and commercial providers should be treated even-handedly by the regulatory framework: pension scheme members deserve the same level of protection, irrespective of whether their pension comes via the workplace or the marketplace.

Likewise we think that small and large employers or schemes should be treated even-handedly by the regulatory framework. Again, pension scheme members in either case deserve the same level of protection.

We think that greater streamlining of both Inland Revenue and DWP legislation should lead to a substantial reduction in the number of generic pension products, which would go a long way towards simplifying the whole pensions landscape.

We have aimed to eradicate as many differences between the rules governing occupational pensions and individual pensions as possible.

**Theme 3 - More pension/ less prescription**

**More pension**

The objective of the following proposals is to enable individuals to build up as much pension as possible during their working lives.

Employers should be allowed to make membership of their pension scheme a condition of employment if they so wish. We think this provision should include traditional occupational pensions and other employer-sponsored pensions such as stakeholders, personal pensions or group personal pensions where the employer is making a contribution of at least, say, 4 per cent of the employee's pensionable salary.

There should be immediate vesting in all types of pension arrangement (once someone becomes a member). This will be particularly beneficial for younger people who have a greater tendency than older people to change jobs frequently and who, under current rules, may work for many years without accruing any pension.

There should be much easier pension transfer rules. We offer a proposal which would enable trustees to transfer small amounts of accrued pension into ‘safe harbour’ products, where the scheme member does not object or make a voluntary transfer within a set period of time. This will alleviate the administrative implications of immediate vesting.
Modern benefits

At present, occupational pension schemes and certain elements of contracted-out personal pension schemes are required to provide very specific types of benefit. We think it is right that schemes which want to contract out should be required to provide minimum standards but we think that the existing requirements are overly prescriptive and are a contributory factor in employers switching from defined benefit to defined contribution schemes, often cutting contributions and contracting back into the state scheme. The following proposals aim to reduce prescription and to modernise pension benefits, to give more choice and allow individuals, employers and commercial providers to determine the best type of pension to meet their circumstances.

The Government should remove the requirement for occupational pensions and the protected-rights element of personal pensions to increase pensions in payment in line with prices (this would not affect those who are already drawing a pension and any benefits which have accrued but are not yet in payment would be subject to an equivalence test). In defined contribution arrangements, this does not mean a change in the value of benefits but to the ‘shape’ of the annuity that is purchased with the member’s money-purchase retirement fund, generally leaving the member with more choice. In defined benefit schemes, the reduction in cost for future accrual might persuade an employer to continue offering a defined benefit scheme, rather than switching to a defined contribution scheme and cutting contributions. Individuals should be free to determine the pension benefit – either with or without indexation – with their employer or commercial providers. Individuals should be able to shop around in the marketplace for the pension which suits their circumstances and requirements. In the workplace, the pension is part of the remuneration package and we would expect individuals considering job offers to take that into account and for trade unions and staff associations to include pension provision in remuneration negotiations with employers. We look at the possibility of retrospective changes in this area in the report.

The requirement for schemes to provide survivors’ benefits should be removed (including defined benefit and money-purchase arrangements). We think that, in the modern world, many couples would prefer to make arrangements to ensure they both have an independent income in retirement, rather than relying on derived rights (the only current requirement is in relation to spouses). Again, whether or not the pension has survivors’ benefits attached should be determined by the individual and their employer or commercial provider.
A new simplified reference scheme test should be introduced to simplify contracting out.

In occupational defined benefit schemes, we recommend the optional removal of Guaranteed Minimum Pensions and their replacement by a retrospective reference scheme equivalence test.

For other contracted-out pensions, we propose the abolition of the current distinction between the form of benefits deriving from National Insurance Contribution rebates and that derived from other contributions.

It is important that employers keep their pension promise. However, we also think it should be easier for employers to re-shape pension arrangements in the light of contemporary economic or other circumstances. This might seem to be a consumer loss but it is better than an employer faced with unsustainable costs in their defined benefit schemes having to close the scheme altogether. A careful balance needs to be struck here between giving employers the right to amend pensions in the light of changed circumstances and their responsibility to keep their pension promise. Our proposals seek to strike a fair balance.

Links to the Sandler and Inland Revenue reviews

The remit of our review was to recommend changes to the private pensions legislation for which DWP is responsible (our Terms of Reference are at Appendix 7). However, the pensions regulatory landscape is also shaped by the Financial Services Authority (FSA) and tax rules. In drafting this report, we have worked closely with the Sandler and Inland Revenue review teams and we hope that the recommendations from all three reviews will dovetail effectively.

Conclusion

It is sometimes argued that pension system efficiency on the one hand and consumer protection on the other are mutually exclusive. We do not believe this is the case. Consumers have an interest in efficient systems which do not waste money on unnecessary bureaucracy; and employers and commercial pension providers need the public to have confidence in the pension system and pension products. We believe that our recommendations strike the right balance and can make a real impact in helping to increase pension provision in the UK.
1.1 Legislation governing the operation of private pension schemes is both typical of a general UK approach to legislation and different to that adopted in some other countries. Not only is the legislation prescriptive but it is also extremely detailed. The amount of detail often serves to confuse rather than clarify. What is more, as it is often easier to legislate than repeal, each layer of legislation is imposed upon pre-existing layers. Confusion is the result. Compliance is difficult.

1.2 If our review is to do more than simplify the present system it is essential to signpost a way forward which will avoid renewed complication as our pension system evolves. While all legislation should be clear, some of it may be detailed while other components will simply set out broad principles. If all the legislation were to be based on broad principles, the desired clarity may not be forthcoming. Every attempt should be made in future to produce consolidated legislation thereby avoiding the need for a practitioner or layman to cross-refer continually between different Acts and different sets of regulations.

1.3 While acknowledging the electoral pressure which is often brought to bear on politicians, attempts to legislate in haste in areas such as pensions should be resisted wherever possible. Evidence suggests that wide-ranging legislation introduced in the wake of a high profile event normally has unforeseen consequences. Many of these effects will be unintended and counter-productive. The Irish Government uses its Pensions Board to test the need for legislation in particular areas. Consideration needs to be given to the establishment of a similar facility in the UK.

1.4 The Review Team spent much time considering the interaction (both legal and practical) between legislation, regulations, the regulator and professional practitioners. Views were received on the extent to which this interaction might be assisted or hindered by a system of Codes of Practice or Guidance Notes.

1.5 As in every other market, the consumer has a role to play in the regulatory system. In the pensions market, however, it was acknowledged that there would always be an asymmetry of knowledge between the professional and the consumer. This recognition illuminated our consideration of the role that
can be played by the provision of information to consumers by the various parties with whom they deal. In the past, disclosure has been seen as a cure-all. As a consequence, consumers may have suffered from information overload. Such information might have been ignored or could have acted as a disincentive to taking a course of action which was in the consumer’s own interest. Neither of these outcomes can have been in line with public policy. We will deal with communication with pension scheme members – a far more appropriate description than ‘disclosure of information’ – in detail in Appendix 1. For the time being, we would assert that communication with existing and potential scheme members has much more to do with consumer enlightenment than with benefit security.

The case for change

1.6 We have not set out in this report to justify the case for change. We believe that the facts speak for themselves in terms of the need for more pension saving and to slow and hopefully reverse the trend away from good workplace pension provision, whether defined benefit or money-purchase.

1.7 Complexity in the pensions system is largely a product of prescription where pensions accrued in different periods are required to be treated in highly specified ways. This prescription and complexity is one of the main factors in discouraging pension provision. It is also noticeable that, over the years, with each new pensions regime, more and more requirements have been placed on employers which add to the funding pressures. The three following examples illustrate how complex and burdensome the pensions system has become:

Defined benefit occupational pension schemes

- Pre 6 April 1988 rights – no requirement for increases to pensions in payment (unless a refund of surplus has been made on or after 17 August 1990, in which case Limited Price Indexation is required).

- Post 5 April 1988 rights – as above, except that post 5 April 1988 Guaranteed Minimum Pensions (GMPs) must increase in payment in line with the Retail Price Index (RPI) capped at 3 per cent a year.

- Post 5 April 1997 rights – all post 5 April 1997 accrual to increase in line with RPI capped at 5 per cent a year and must include a 50 per cent spouse’s pension (because of the nature of the reference scheme test).

- Except for GMPs which come into payment at state pension age, benefits may come into payment at any age from 50.
Legislating by principle

1.8 The new Pensions Act, to which we hope our report will lead, should set out some key principles which the Act is intended to achieve and, in so doing, highlight yardsticks against which future regulatory legislative proposals must be measured. Our recommendation is that those key principles should be:

- each statutory requirement should include a statement of that legislation’s underlying policy aim;
- statutory requirements should focus on the objective to be achieved rather than the process needed to achieve it;

Defined contribution occupational pension schemes

- Post 5 April 1988 protected-rights pensions must be calculated using unisex factors and must increase in payment in line with RPI capped at 3 per cent a year (in effect this reduces the headline pension, as the protected-rights fund is merely applied to purchase an increasing pension).

- Until 5 April 2002, pre-1997 protected-rights pensions must have included a 50 per cent spouse’s pension irrespective as to whether the member was married at retirement.

- All post 5 April 1997 funds must be applied to purchase a pension increasing in line with RPI capped at 5 per cent a year (again, this merely reduces the headline pension).

- Again, until 6 April 2002, they must have included a 50 per cent spouse’s pension. Since 5 April 1997, single pensioners may elect for a single-life pension in respect of post April 1997 protected-rights if single at retirement.

- Protected rights pensions may not normally come into payment before age 60 although the non-protected-rights element of the pension may be paid from age 50.

Appropriate personal pension schemes (including stakeholder pension schemes)

- Similar rules to defined contribution occupational pension schemes apply, except that only post 5 April 1997 protected-rights are required to increase in payment in line with RPI, capped at 5 per cent.
• statutory requirements should be proportionate to the stated policy aim and should avoid unnecessary complexity; and

• each new piece of pensions legislation should not be considered in isolation, but should have regard to the existing law applicable to pension arrangements.

1.9 The reason we propose these principles be part of the new Pensions Act is that we see value in setting out, in an explicit way, the general approach to pensions regulation. It may be argued that the principles are no more than common sense, but we see value in embedding such common sense in the actual primary legislation as an important signal of intent in this area.

1.10 Beyond the overarching principles, in order to provide greater flexibility, simplicity and clarity, we recommend greater use of purposive as opposed to prescriptive legislation. To this end we propose wherever possible moving away from detailed primary legislation to a structure where the primary legislation sets out the required outcome rather than the means of achieving that outcome. This approach is not the norm in UK legislation but it has been shown to work elsewhere.

1.11 Some other countries adopt this kind of approach in elements of their pension legislation. In Australia for example, the legislation on member participation sets out the requirement to have a minimum proportion of trustees drawn from the scheme membership without setting out in detail how that objective should be achieved. This contrasts sharply with the UK approach where the legislation sets out in prescriptive detail exactly how member-nominated trustees should arrive in office.

1.12 Some contributors to the review considered that there was no need to take any further steps beyond setting out principles, and that the ‘vacuum’ that this would leave in removing any prescription or guidance as to the steps required to meet the minimum requirements of primary legislation, could be adequately filled by the Courts over time. We have rejected such a proposition. A structure which only established minimum standards without provision for possible methods of complying with those standards would, in our view, lead to uncertainty and a lack of clarity.

1.13 We propose, therefore, that this ‘vacuum’ be filled by a combination of a minimum level of enforceable regulation, establishing those matters which are key to compliance, with the requirements of primary legislation being supplemented by Codes of Practice which would establish good, but not necessarily best, practice guidelines.
1.14 We envisage that the level of regulations would be kept to a minimum. Breaches of both the primary legislation and the regulations would be enforceable by the regulator, which could order a scheme to comply and impose a sanction if it failed to follow the order. Alternatively the regulator could be given powers to sanction the scheme for non-compliance from the outset. In both cases there would need to be a right of appeal (to an independent body) and, after that, any dispute could be referred to the Courts.

1.15 The Codes of Practice would be non-prescriptive and, therefore, schemes would be free to adopt their own method of complying with the requirements of primary and secondary legislation. However, whilst the Codes would not normally be mandatory, schemes would have to comply with the legislation. So if, for example, legislation provided that something be done ‘where reasonable’, the regulator could be called upon to define ‘reasonableness’ in the case of dispute. In this case, compliance with the decision of the regulator would be mandatory because failure to comply with the regulator’s decision would be de facto a failure to comply with the legislation. This example shows that care would need to be taken that the Codes did not become legislation through the back door, but as long as the regulator takes a pragmatic approach, we think this system would be more flexible and adaptive to specific circumstances than is the case at present.

1.16 Such a legislative structure would maintain a focus on the policy objective of legislation and remove layers of prescriptive regulation and unnecessary compliance requirements. An example of how this might work is the area of communication with members. Primary and secondary legislation could prescribe in detail the minimum level of information to be communicated. However, the method and timescale for communicating the information would not be prescribed other than meeting a ‘reasonableness’ criterion which would be determined on a case-by-case basis by the regulator. The regulator could then include specific examples of timescales and methods of communication in Codes of Practice which it would accept as ‘reasonable’ without precluding other possibilities being acceptable in different circumstances. The regulator might also be able to give specific guidance as to what it would accept as meeting the ‘reasonableness’ requirement in particularly difficult cases.

■ A new kind of regulator

1.17 Whatever the precise structure of the legislation, evidence from contributors to this review strongly suggests that we need a new kind of regulator, with greater scope to exercise its judgement and to offer appropriate advice. In saying this, we are not criticising the existing staff of the Occupational
Pensions Regulatory Authority (Opra). Rather, the initial role given to Opra has focused on detailed compliance and, therefore, limited its ability to exercise judgement. In particular, Opra was not set up to give advice to pension scheme professionals or to comment on ambiguities within the regulatory legislation. A number of contributors to our review commented that they would appreciate this kind of support from Opra but that Opra is constrained in the help it can give. We think this is unfortunate and means that Opra is not as effective as it might be in stewarding the regulatory framework.

1.18 Therefore, at the heart of our proposals in this area is the establishment of a New Kind of Regulator which, for the sake of brevity, we will call ‘NKR’. Some respondents suggested that the Financial Services Authority (FSA) should deal with all aspects of pension provision, rather than have two regulators as at present. However, we have concluded that there is a continuing place for two regulators: one which has the experience and knowledge-base to regulate the wide-ranging commercial retail marketplace, and one with particular expertise in work-based pensions. This means, in broad terms, that the FSA would continue to regulate various aspects of personal pensions and stakeholder schemes, including marketing, selling and product disclosure, and would continue to have its role in the regulation of rights under occupational pension schemes limited to the supervision of investment managers and advisers. There will need to be close co-operation between the two bodies.

1.19 In fulfilling its regulatory role, the NKR would, as Opra does at the moment, rely heavily on whistle-blowing by professionals. However, the focus of both regulation and whistle-blowing should be at a higher level than is currently the case. It should not be assumed that a minor error is symptomatic of a deeper malaise. On the other hand, Opra is currently constrained in its ability to get involved with schemes where there is a suspicion that things are not being handled properly. In many cases, by the time Opra becomes involved, it is too late and the damage has been done. We envisage the NKR having the authority to intervene in a pro-active way where it feels that it is necessary, and having the skills and knowledge to identify any bad practice or potentially criminal activity at an early stage. We envisage the NKR adopting a risk-based approach, similar to that adopted by the FSA.

1.20 Those involved professionally at all levels of pension provision should have more discretion to determine when whistles should be blown or when more friendly encouragement might be appropriate. In addition to its role as regulator, the NKR would fulfil an advisory role. It should not only sponsor and monitor the operation of Codes of Practice, it should provide advice and guidance on the operation of those Codes of Practice. We see nothing wrong
with the same organisation providing advice and regulation. Indeed, two of
the FSA’s four guiding principles involve awareness and regulation. In
drawing up Codes of Practice, however, the NKR should home-in on good
practice rather than best practice. It should also endorse Codes of Practice
produced by pension professionals. However, care must be taken to avoid a
proliferation of Codes of Practice or the establishment of Codes that are even
more prescriptive and potentially inhibiting than the statutory regulations
that we are trying to avoid.

1.21 One of the problems for employers, pension schemes, commercial providers
and consumers is the lack of stability in the regulatory regime that results
from the frequency of legislative change. It is this, and the past tendency to
impose new legislative requirements on top of the existing structure, that has
led to the layer cake nature of the existing regulatory structure. Indeed, the
National Association of Pension Funds (NAPF) has said that one of the key
difficulties for employers who wish to continue running occupational
schemes is uncertainty in the pensions environment and inappropriate
legislation. We believe that, following the changes which we hope will
emanate from this review, a mechanism can be put in place to increase
stability and to assist the Government to take stock before legislating in the
regulatory area.

1.22 Therefore, in addition to advising professionals and trustees on regulatory
issues, the NKR should be a source of informed advice for the Government
on regulatory matters.

1.23 We think that, in formulating future Government regulations, politicians and
civil servants alike would welcome the opportunity to put their proposals
before the NKR in advance of Parliamentary debate. Such debates would
then be illuminated by the views of the NKR and of those with whom it had
in turn consulted. In this way, we hope to provide sensible breathing space
for politicians when faced with the ‘somebody must do something about it’
syndrome, which is often fuelled by well-intentioned but in many cases
misguided lobby group pressure. In pensions, as elsewhere, hard cases make
bad law. The role we see for the NKR in this respect is similar to that which
was played by the Occupational Pensions Board which existed from 1973–97.

1.24 It is important to note that we see the NKR as a reactive adviser to
Government on work-based pension regulatory matters, not a pro-active one
or one which comments on Government policy or on matters which fall to
the FSA. It would be clearly focused on the regulation of an efficient and
consumer-friendly private pensions system, but would not have a remit to
influence Government policy on the wider issues surrounding security in
retirement. For example, had the NKR been in existence last year, we would
not see it having a role in commenting on proposals to introduce Pension Credit (which is clearly Government policy and falls within the state pension system), but it would have had a role in commenting on proposals for replacing the Minimum Funding Requirement (MFR) which is concerned with the regulation of work-based pensions. The role of the NKR might be analogous to that played by the Social Security Advisory Committee (SSAC) which likewise is often invited by the Department for Work and Pensions (DWP) to advise on proposed legislation – the added value of the NKR would be in its technical expertise in the pensions regulatory field. However, we do not think there should be a statutory requirement to seek the advice of the NKR as is the case in some circumstances with SSAC. The detailed work of the NKR falls to the Quinquennial Review of Opra, but we hope that our broad approach will be taken forward.

1.25 It is possible that the enhanced role for the regulator will mean additional costs. Again, this is a matter for the Quinquennial Review to examine, but we would suggest thought should be given to changing the way in which the regulator is funded, from the current levy basis to tax funding. Currently, the cost to business in raising the levy is disproportionate to the amounts actually collected. We would also suggest that the extra cost might not be significant since our proposals would mean the NKR doing less in some areas than Opra does at present – following up whistle-blowing on trivial matters for example.

The role of the professional

1.26 In considering the role of the pension professional within our pension regulatory framework, it must be acknowledged that not all pension professionals spend all of their time working on pension issues. We would not wish to create an artificially constrained pool of advisers. Thus, when considering the role of the professional, care must be taken not to regard such a fraternity as being homogeneous.

1.27 Even in our increasingly litigious society, we think that professionals should be willing to exercise their judgement and that society should be equally willing to allow professionals to rely on their training and experience in fulfilling a regulatory function that should, in no way, undermine the client/service provider relationship. While a good client will always be in the driving seat, such a client should expect a professional to uphold the standards of good practice. It is for the client and not the professional subcontractor to determine when the aspiration should be best practice as opposed to good practice.
1.28 We believe that Guidance Notes – which despite their name may be somewhat prescriptive – and Codes of Practice would be helpful in creating professional ground rules. On occasions, these Codes of Practice would be produced by the NKR while, in other circumstances, the professional body will be responsible for both the drafting and most of the policing of Guidance Notes or Codes of Practice. One of the NKR’s roles will be to ensure that the number of Codes or sets of Guidance Notes that have official status are kept to a minimum. Neither commercial providers nor occupational plan sponsors need to be faced by a bewildering array of Codes, Guidance Notes and checklists.

■ **Getting the balance right**

1.29 While consumers need protection, they also need cost-efficiency. Needless compliance costs ultimately eat into the money that might otherwise be available for financing pension scheme benefits. Consumers are, therefore, concerned with both security and cost-effectiveness.

1.30 Politicians and regulators alike need to be aware and, in turn, to make the public aware that totally fail-safe systems in the area of financial services are unattainable. In other areas of society some proportionality is used. For instance, in order to achieve 100 per cent road safety, everyone would have to stay at home or walk.

1.31 Proportionality should be a hallmark of a sensible regulatory approach to our pension system. There should be remedies for those who are harmed by culpable financial failure. Our regulatory approach should not be based on the advance identification of every possible adverse eventuality. In such an environment, the problem would not be that products were mis-sold, but rather that appropriate products were not bought.

■ **A partnership in pensions**

1.32 Successful pension systems are based on a multiplicity of partnerships involving the State, individual consumers (by which we mean actual pensioners, deferred members and active members), employers, commercial providers and trustees. In this report, we have sought to ensure that the right balance is struck between the rights and responsibilities within the legal framework of each of these elements.
■ **Human Rights Act considerations**

1.33 Issues relating to the Human Rights Act 1998 arise in the context of some of the options and proposals that we have set out in this report. Having taken legal advice, we have reached the conclusion that the Act’s provisions are not insurmountable barriers to the implementation of our proposals.

■ **Conclusion**

1.34 Creating a proportionate regulatory framework is dependent on getting the balance right between the various elements which make up that framework. We believe that, at present, the system is too prescriptive and inflexible, leading to less pension provision than there could be. Our proposals in this chapter will rebalance the relationships between the legislation, the regulator and pension scheme professionals in a way which we are confident will make provision of good workplace-based and marketplace pension schemes more attractive to employers whilst also ensuring proper protection for scheme members.
2.1 Contemporary pension systems in many developed countries display the characteristics of a mixed economy. Public pension systems are generally financed out of taxation while private arrangements, both collective and individual, are financed by accumulating earmarked pools of assets. Such a mixed economy approach seems to provide an opportunity for both social protection and individual enterprise. It also provides a contra-cyclical force which may have macro-economic benefits. If pension systems were to be financed entirely by the taxpayer or completely through the funded sector, greater economic strain would result than would be the case if there was pooling of risk between the two sources of finance. We advocate a mixed pensions economy.

2.2 Problems can arise when attempts are made to prescribe in detail the elements of social protection that should be delivered by the private pension system. Many of the complexities in the UK result from the social priorities of a particular decade manifesting themselves in the rules that govern the operation of private pension schemes. Even though priorities might change, the rules do not. As a consequence, prescriptive benefits that may be desirable and affordable in isolation become cumulatively over-burdensome.

2.3 A particular feature of the UK public/private partnership is the concept of contracting out. With the exception of a three-year gap in the 1970s, it has been possible for individuals and/or their employers to contract out of part of the state arrangements since 1961. Contracting out is by definition complicating. Some who have contributed to our review have suggested that contracting out may not be appropriate in the future especially if the State Second Pension becomes flat rate.

2.4 If the Government is committed to a public/private partnership based on contracting out, urgent simplification of the system is essential. This is particularly so as there is increased awareness of the risk associated with providing benefits in the private sector that would otherwise be provided by the State. The current contracted-out rebates do not include a risk margin – that is to say they have been calculated by the Government Actuary to replicate as closely as possible the value of benefits foregone in the state scheme, with no additional incentive to contract out.
2.5 In this context, unnecessary administrative complexity and cost becomes all the more important, and may lead, by default, to the ending of contracting out in practice if not in theory. Indeed, the existing rules on contracting out make this element of pensions among the most complex to administer. We do not intend to spell out in detail all the complexities involved in contracting out. However, symptomatic is the need for employers and commercial providers to undertake double record keeping because of the different rules pertaining to pension derived from contracted-out National Insurance Contribution rebates, compared with pension derived from other sources.

2.6 If contracting out were to be abolished, that would not herald the end of the public/private partnership - that can flourish even in a world without contracting out. However, contracting out is one way of nourishing this partnership, and we set out in Appendix 1 a package of measures which we believe can help to simplify contracting out.

### Scheme design and contracting out

2.7 Present legislation requires occupational pension schemes to provide very tightly defined benefits. Such prescription is excessive and can add to the pressures that drive employers to close their defined benefit schemes. One of the report’s key themes is that the regulatory framework should encourage pension accumulation during an individual’s working life, whilst reducing prescription in the way the emerging income stream has to be organised. Removing prescription will also reduce the needless differences between different types of schemes. These differences may, at the very least, lead to regulatory arbitrage or, at worst, lead to employers abandoning structured pension provision.

2.8 Our central proposal, set out in more detail in Appendix 1, is that contracted-out defined benefit schemes should provide a pension of at least 1 per cent accrual for every year worked. There would be no further prescription on the shape of the benefits. In addition, this lack of prescription should apply to all pensions, whether contracted-out or not. For example, we do not think that any type of scheme should be required to provide indexation of pensions in payment or survivors’ benefits, although, of course, schemes could provide such benefits on a voluntary basis. We acknowledge that our proposal might be seen as reducing the quality of some pensions, but we believe that the net effect will be more people with decent pensions than would be the case if changes are not made. In particular, we believe that by reducing administrative and funding pressures, more employers are likely to provide pensions, including defined benefit pensions, than would otherwise be the case. This is difficult to quantify because the net effects of our proposals will depend on the behavioural response by individuals and employers.
Indexation

2.9 Until 1997, apart from employers who took refunds from funding surpluses and contracted-out benefits, pension schemes were not required to index pensions in payment. Employers, in the case of occupational arrangements, and individuals, in the case of personal pension plans, could choose whether or not to build inflation protection into plan design. Since 1997, occupational pensions (both defined benefit and defined contribution) are subject to compulsory indexation of the lower of the Retail Price Index (RPI) or 5 per cent a year (this applies only to pension accrued from April 1997 onwards). This is known as Limited Price Indexation (LPI). Where an individual has contracted out into a personal pension, LPI applies only to the protected-rights element of the pension (i.e., that element of the pension which is derived from the National Insurance Contribution rebate).

2.10 The lack of matching assets for LPI, and the shortage of index-linked gilts, has meant that the compulsory provision of LPI is disproportionately expensive. In the case of a defined benefit scheme, this cost falls to the employer and currently has to be funded to the Minimum Funding Requirement (MFR) standard and show up as a liability in the accounts, now more transparent as a result of the new FRS17 accounting standard. This means that compulsory LPI can be one of the drivers for employers switching from defined benefit to defined contribution schemes. In a money-purchase arrangement, the cost of LPI falls on the pension scheme member. Our proposal is that the provision of LPI for the future should cease to be compulsory for any type of pension scheme (people already receiving a pension would not be affected).

2.11 What this would mean for consumers would depend on whether the occupational pension scheme concerned is defined contribution or defined benefit:

(a) **Defined contribution.** The individual would still have the option to receive LPI (but, unlike the present position for post-5 April 1997 accruals, he or she could choose not to do so). A member deciding against LPI could expect their money-purchase ‘pot’ to buy them an annuity commencing at a higher rate than if they had instead chosen (or been required to have) LPI.

(b) **Defined benefit.** The position here would be as follows:

(i) **Pensions in payment.** Our proposals do not apply to these.
(ii) **Pensions which have accrued (but are not yet in payment).** Schemes wishing to remove LPI would have to comply with the new ‘equivalent value’ test in respect of accrued benefits (see ‘Scheme reorganisation’ in Chapter 4). So compulsory LPI could be removed from accrued benefits in order to provide members with greater choice over the ‘shape’ of their pension benefits or to simplify scheme administration, but the value of accrued rights would be protected.

(iii) **Pensions not yet accrued.** Schemes wishing to remove LPI from future accruals would have to amend their rules to achieve this. In some cases the purpose of this amendment would simply be to provide greater flexibility or to streamline the benefits structure without reducing costs. However, there would also be cases where such an amendment would reduce the value of future accruals. Where this happened, it is likely that the employer would (without this option) have terminated future defined benefit accrual altogether. The ability to reduce or remove LPI for future accrual may also enable employers to continue offering defined benefit arrangements to new joiners long after they would otherwise have ceased to do so.

2.12 In short, indexation is only of use to individuals who have a pension to index; current trends for employers to cut contributions or move away from pension provision altogether mean there is a risk that compulsory indexation may have the opposite effect to that intended.

2.13 It is also worth noting that compulsory LPI only applies to occupational pensions; in personal pensions, it is up to the individual whether they want to purchase a flat rate annuity with their ‘pot’ or an indexed annuity (apart from the protected-rights element). Most people opt for the higher initial income provided by a single (no survivors’ benefit) flat rate (no indexation) annuity. According to the Association of British Insurers, over 80 per cent of people opt for flat rate annuities. Whether they are making the right choice is a moot point, but the fact is that only in occupational pensions (and protected rights element of personal pensions) does the State dictate the choice.

2.14 We need to avoid the mistakes of the past and we should therefore allow a retrospective re-arrangement of LPI value earned since 1997. This would mean that the indexation rights of active or deferred pension scheme members could be actuarially converted.
Risk, dependants’ and survivors’ benefits

2.15 Occupational pension scheme design in the UK is unusual by international standards in the way that it combines long-term retirement provision with short-term risk benefits (ill-health and death) in the same package. Such an approach has been influenced by both cultural and tax considerations.

2.16 In certain circumstances, plan sponsors may decide to retain this bundled approach. However, we suggest that they should be under no obligation so to do. It should be for employers in the case of occupational arrangements and individuals in the case of more personal products to decide the extent to which risk benefits should be built into the pension package. Adopting a voluntary approach in this area will not only result in considerable simplification but will reduce cost. Perhaps most important of all, it will produce a playing field that is much more level allowing an employer to offer a defined benefit promise to an employee without having to incur the additional cost associated with providing benefits for the employee’s dependants.

2.17 It is worth noting that survivors’ benefits are not as much a fixture of pension provision as is sometimes thought. It is only to the contracted-out element of both defined benefit and money-purchase schemes that the compulsion to provide spouse’s pension applies. If the current trend away from defined benefit provision continues, it is likely that a large proportion of the replacement money-purchase arrangements will not be contracted-out. Furthermore, evidence suggests that survivors’ benefits are not usually provided within the context of those money-purchase schemes that are not contracted-out of the State Second Pension.

2.18 Abolition of compulsory provision of survivors’ benefits may play a part in encouraging employers to provide pensions and some may choose to provide survivors’ benefits on a voluntary basis. Indeed, many schemes provided survivors’ benefits before such cover became obligatory as part of the contracting-out deal introduced in 1978. Since then, compulsory coverage in respect of contracted-out rights has been extended and has had a follow-through complicating effect on those benefits that exceed contracting-out requirements. A common theme of our report is to suggest that, for as long as contracting out exists, schemes should not have to treat contracted-out rights differently to other rights. In applying this theme here, we suggest that, whether schemes are contracted-out or not, the provision of survivors’ benefits, lump sums or pensions, is a matter which should be left to the parties to particular pension arrangements.
2.19 Plan sponsors should not be obliged to provide survivors’ benefits. Of course, if they wish to offer such benefits, they would be perfectly entitled to do so, subject, of course, to anti-discrimination legislation. Indeed, we think some employers would choose to provide a survivor’s pension voluntarily – the National Association of Pension Funds (NAPF) Annual Survey 2001 shows that almost half of their respondents have a facility for trustees to provide a pension to common-law partners, and 81 per cent said that they provide lump-sum death benefits. We think that in the modern world, it is increasingly anachronistic for the State to dictate what kind of benefits should be derived from particular types of relationships. The existing contracting-out rules provide survivors’ benefits for spouses only, excluding heterosexual and same-sex unmarried couples. This strikes us as outdated. Couples, however constituted, should be free to make arrangements which suit them. In the past, many occupational schemes provided survivors’ benefits or allowed members to assign part of their pension to a spouse before compulsion intervened. Similarly, many schemes provided indexation under their own rules or on a discretionary basis. We see no reason why such voluntary practices may not be pursued in appropriate circumstances in the future.

2.20 We do, however, acknowledge that, if our proposals are accepted, it will be important to ensure that the Government’s general programme of pensions education is amended to reflect the new circumstances and to make people aware that they need to think carefully about their own pension and not rely automatically on inheriting pension from their spouse. Indeed, the Government has already had to bite this particular bullet to some extent in publicising the reduction in the inheritability of the State Earnings-Related Pension Scheme (SERPS). In addition, we would expect the commercial sector to see marketing opportunities, particularly for stakeholder pensions.

Minimum Funding Requirement and FRS17

2.21 The level of prescription on benefit design in the UK has contributed to unintended consequences of actuarial and accountancy standards. By definition, defined benefit arrangements are affected to a much greater extent by accounting and actuarial standards than is the case with their defined contribution counterparts. As legislation increased the number of components that defined benefit schemes must contain, the impact of actuarial and accounting standards has likewise become more pronounced. Obviously, schemes that are not obliged to provide survivors’ benefits or guarantee LPI will not be affected to the same extent by either MFR or its replacement on the actuarial side and by FRS17 on the accounting side – the pensions promise is less and so schemes will not be obliged to fund to such a high level. Of course, schemes may choose to provide indexation and/or survivors’ benefits. In the case of LPI, schemes could opt for discretionary...
increases and, as a result, may not have to fund to that level, or show it as a liability in the accounts.

2.22 Because defined benefit schemes in the UK have been obliged by law to provide more benefits and more guarantees than in the rest of Europe and the US, UK plan sponsors are not only at a competitive disadvantage vis-a-vis those domestic competitors who make no pension provision at all, they are internationally uncompetitive too. This lack of international competitiveness is subject to a further vicious circle in the way that the, perhaps, unintended consequences of MFR and FRS17 limit the ability to finance pension arrangements in ways that will hopefully minimise long-term costs.

2.23 Following a wide consultation exercise, in March 2001 the Government announced its intention to replace the MFR. It is currently working closely with a consultation panel of expert representatives from the pensions industry, consumer organisations, employers and trade unions on the details of the proposals to replace the MFR, so that is outside the remit of this review. However, we believe that the abolition of compulsory LPI and survivors’ benefits will reduce costs for employers and take some of the pressure off the funding of schemes.

- **Contracting out: potential early administrative easements**

2.24 As part of this review, we asked a working group made up of civil servants and individuals nominated by the Association of British Insurers, and NAPF, to examine the way the public/private partnership worked in practice on contracting out, and suggest ways in which the processes could be improved in order to serve employers, pension providers, and pension scheme members better.

2.25 The working group’s recommendations fell into the following broad categories:

- improving communication links between government, pension providers and employers so that operational problems can be resolved more quickly;

- providing more background information with certain communications, so that pension providers and employers can resolve problems more quickly, without having to contact government in the first instance;

- identifying and resolving conflicts between the information held by government, employers and pension providers as quickly as possible; and

- redesigning government processes to reduce the risk that valid data is rejected unnecessarily and the further unnecessary work to which this leads.
2.26 In all these areas, there have been attempts made by the Inland Revenue (which administers this partnership on behalf of government) to provide a high quality service, but the working group findings suggest further improvements can be made. We are pleased to report that the Inland Revenue is already assessing the implications of implementing these recommendations, which we believe have the potential to reduce confusion for pension scheme members and costs for both government and private sector alike.

■ **Conclusion**

2.27 Contracting out is by its nature complicated, but we believe it has become more complicated than is necessary. A large part of that has been the attempt to ensure that contracted-out rights replicate state benefits in a very precise way. We believe that this is having the opposite effect of that intended, and is playing a role in the increasing tendency for contracting out to wither. Our proposals in this chapter will significantly simplify contracting out and we believe play a part in boosting the public/private partnership.
3.1 There is an unfortunate gap between consumer expectations of retirement incomes and the reality. One can debate the size of the savings gap – it depends upon the methodology used to measure it – but no one doubts that a gap exists. Evidence, from the Association of British Insurers, the latest Consumers’ Association survey and other studies show that there are a number of reasons why individuals do not save as much as they could. We deal with issues around difficulties in selling appropriate products to low and moderate earners elsewhere in the report but in this section we want to concentrate on barriers to consumers themselves.

3.2 Consumers want clarity, value for money, stability, and to have confidence in the product regardless of whether the pension comes as part of the remuneration package or from commercial providers. We believe that it matters little to a consumer how his or her pension is sourced. A pension is a pension is a pension.

3.3 The interaction of clarity, value for money and stability is not without its internal friction. Stability could result in ossification. Financial relationships that span two, three or more decades do need to have some flexibility built into them. However, too much flexibility might undermine consumer confidence if the pressure points are not identified at the outset. Paradoxically, the identification of such pressure points may act as a disincentive to enter a pension plan at all. The gap between rights and expectations is never far removed from the pensions debating table.

### Disputes

3.4 If we are to achieve the consumer’s objectives, it is essential that there are adequate safety valves built into the system, but they need to work both efficiently and effectively. For example, whilst there is an obvious need for a mechanism for resolving disputes, the current internal dispute resolution (IDR) procedure is over-cumbersome. The Pensions Advisory Service (OPAS) suffers from resource pressures. The respective roles of the Occupational Pensions Regulatory Authority (Opra), the Financial Services Authority (FSA) and the Pensions Ombudsman are neither well understood nor efficiently calibrated. In Chapter 6 we set out a proposal for simplifying the IDR procedures.
Member-nominated trustees

While member participation in pension scheme governance is generally regarded as beneficial, there is some confusion in the mind of the policymaker. Does member participation improve consumer protection or simply improve the quality of trusteeship? Are these two different? Is there a better way of achieving sensible levels of member participation in a much more flexible and less prescriptive way than at present? This too is discussed further in Chapter 6.

More pension/less prescription

At the heart of our proposals is a desire to make pension accumulation of all types and at all times as easy as possible for the consumer. Artificial barriers - whether of a calendar year or product definition nature - should be eliminated. We have identified, through our proposals on immediate vesting and the ability for employers to make membership of a pension scheme a condition of employment (Chapter 4), ways in which the accumulation process might be eased. As a corollary, we would like to remove all of the prescription on the form that the output income stream might take. We recognise the special nature of pension saving and, subject to the facility to take a tax-free lump sum at some stage, we believe that the proceeds should be taken in income stream form. It is, however, not for the authorities to determine whether such an income stream should be inflation-proofed in any way. It is for the individual consumer in the context of a personal arrangement or for the plan sponsor in the case of an occupational scheme to determine the relative merits of opting for a flat pension or one to which guaranteed increases are attached. Likewise, we would wish to end any distinction between those rights that may be financed out of any contracting-out rebates that might exist in the future and those that are purchased by other contributions. Again, from the consumer's point of view, a pension is a pension, and there is no need to compartmentalise separate elements within that overall income stream.

As we have already described, at the moment, in certain circumstances, part of the member's pension has to have a surviving spouse's pension attached to it. Again, in accordance with our pervading theme, we see no reason why the authorities should dictate benefit design in this prescriptive fashion. In fact, survivors' benefits are in decline anyway as employers move away from traditional occupational schemes towards more flexible arrangements in which there is no requirement to have survivors' benefits. We believe it should be for the individual or employer to determine the extent and form that any dependant's pension might take. In a stakeholder environment, someone who wishes to provide a pension for someone else might preferably

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use a stakeholder plan in the name of the potential recipient. In this way, such a recipient would receive a pension in his or her own right and not a right derived from a relationship with someone else.

**Disclosure**

3.8 We also believe that so-called ‘disclosure’ has been proclaimed the consumers’ friend to a far greater extent than is actually the case. We believe that pension scheme members or potential members should receive the key information that they need in order to enable them to act in their own best interests. Many contributors to our review, including the Trades Union Congress and Consumers’ Association, have promulgated this approach. In order to put this principle into practice, we need to make sure that communication (a much more appropriate word than ‘disclosure’) should be properly focused. We set out in detail our recommended disclosure requirements in Appendix 1. We have refrained from recommending timescales since we believe that the New Kind of Regulator (NKR) should be able to determine where anything more specific than ‘reasonable’ should be prescribed.

**Advisers and regulation**

3.9 We think that some changes are required in relation to independent financial advisers (IFAs). IFAs have a crucial impact on consumers’ understanding of and attitude towards saving for retirement. However, there is some uncertainty about the precise scope of the powers available to the FSA and to Opra to regulate IFAs in respect of occupational pensions and the on-going administration of group personal pensions. Opra reports that small fully insured schemes have IFA involvement and that trustees of these schemes rely very heavily on their IFAs. Opra also reports that, in some instances, this reliance is misplaced and that the standards of some advisers fall below what is required to ensure trustees of these schemes are fully compliant with legislation. These small fully insured schemes and their trustees are the subject of many reports to Opra.

3.10 The FSA’s powers under the Financial Services and Markets Act 2000 (FSMA) do not extend to the day-to-day administration of occupational pension schemes – instead some of these tasks fall to Opra and derive from the Pensions Act 1995. Opra also has a limited role to play in regulating the administration of stakeholder schemes. It also regulates employers in respect of contributions both to personal pensions and stakeholder pension schemes. The FSA’s main focus with personal pensions and stakeholder schemes is on the selling and marketing to individuals, but it does also have the powers to become involved in investigating instances of poor administration of these schemes by product providers (such as failure to record payments by
employers or to allocate these correctly to individual scheme members). The FSA also regulates insurance companies in their management of occupational pension scheme assets on a segregated basis and this would include the FSA having some oversight of the normal incidents of administration directly arising from such management activities. Pension scheme assets in life funds are not subject to any such supervision. This means that the administration of fully insured schemes (the majority of schemes and the source of the vast majority of reports to Opra) are not subject to regulation either by Opra or the FSA.

3.11 We understand that the FSA is currently considering the extent of its new powers under the FSMA, and we welcome the fact that the FSA, Opra and the Department for Work and Pensions are already discussing these administration issues with a view to ensuring comprehensive protection for scheme members. The outcome of the FSA’s current review on adviser status may also impact in this area.

# Conclusion

3.12 The consumer is the main focus of this report. Our objective is to create a pension environment where more people can build up more pension. That can only happen if employers are encouraged to provide pensions, commercial providers have the right incentives to sell pensions to the right people, and individuals can have confidence in the pension system. We believe that our proposals in this chapter can contribute to creating that desirable scenario.
4.1 Employers who contribute to their employees' pension plans are both provider and consumer. They are voluntarily providing a pension element within the employee benefit package. They are consuming technical and professional services provided by commercial organisations of various types. The term ‘pension industry’ is often used to cover both plan sponsor and commercial provider. This is misleading. Plan sponsors operate in many industries. The only employers who can legitimately be described as forming part of the pensions industry are those financial service companies who choose to enter into a pension arrangement with their own employees.

4.2 For as long as it is public policy to encourage employer participation in the private pensions field, that participation should be made as simple as possible. This does not mean that employers should not take their employees' pension rights seriously – indeed, it is essential that employers keep to their side of the bargain with employees and honour their pension promise. It does, however, mean that those who make and administer public policy should acknowledge that employers who run pension schemes have to devote the majority of their attention to running their business. Unless the business is successful, future pension contributions will be unsustainable.

4.3 At the moment, those employers who choose to make pension contributions with and for their employees face greater legislative and regulatory burdens (affecting both funding costs and administrative costs) than those who do not. For example, an employer who designates a stakeholder pension for his employees does not have to contribute to it but an employer who goes further and contributes to a group personal pension (GPP) must contribute at least 3 per cent of the employees’ salary to it. Within the firmament of contributory employer arrangements, there are further distortions. Those who contribute to defined benefit schemes face a greater regulatory burden and a higher degree of legislative interference than is the case with their money-purchase counterparts. Employers who provide defined benefit schemes carry the risk associated with uncertain stock market returns, and the costs associated with increased longevity. On top of those phenomena, regulation has placed additional risks on those employers as well. Two of the regulatory burdens placed on employers providing defined benefit pensions which do not fall on their counterparts providing defined contribution schemes are:

- more prescriptive contracting out requirements; and
- prescriptive benefit design.
4.4 Even within the ambit of money-purchase arrangements, there is scope for regulatory arbitrage. The legislative regulatory burden on employers who want to run GPPs is greater than the burden on those who just designate a stakeholder pension. Nevertheless this burden on GPPs is lighter than that applied to those who wish to run traditional occupational money-purchase pensions. Some of the growth of GPPs has been more a result of this regulatory arbitrage than any inherent qualities of that particular form of pension.

4.5 Furthermore, the frequency of the regulatory changes has meant that employers face continual demands for computer system changes and explanation to members of the new rules. The National Association of Pension Funds (NAPF) Annual Survey 2001 found growing concern amongst employers about the cost of implementing legislation - around two-fifths of those surveyed said that they were concerned about the future costs of running their schemes, and around one-third said that they were having to devote a lot more company resources to running their pension scheme compared with five years earlier.

4.6 Respondents have questioned the extent to which legislation should prescribe the form that particular benefits should take - many of the organisations most heavily involved in pensions, including NAPF, have argued strongly that such prescription results in employers losing control of their pension costs and that this is a key driver to them moving from defined benefit to defined contribution arrangements. Indeed, to what extent should there be an obligation to provide particular benefits at all in a voluntary environment? Regulatory arbitrage can influence behaviour in a way which, while rational at one level, flies in the face of public policy. Those employers who make the largest contributions or shoulder a greater proportion of the risk associated with different forms of pension provision find that they are subject to double jeopardy.

4.7 A further issue with regard to the role of employers is the extent to which they should be able to give pensions advice to their employees. Clearly, there could be significant advantage in employers being able to offer such advice to some extent, especially since a relatively small number of individuals have access to financial advice generally. However, the key risk which needs to be avoided is that of employers giving poor or misleading advice - even relatively 'safe' products may not be suitable for all individuals in all circumstances. Many employers complain that the law is unclear as to how far they can go in offering advice, and the Financial Services Authority (FSA) has recently published guidance which aims to clarify what the financial services legislation will and will not allow. We welcome this, but think more
could be done to simplify the law, consistent with protecting employees. For example, where an employer offers to make a contribution to any form of pension arrangement, it will generally be in the employee’s interest to take advantage of that opportunity. There is, therefore, a good argument that employers should be able to promote the benefits of their pension scheme and feel confident in doing so to a greater extent than at present. This issue falls to the FSA subject to it having the relevant powers under the Financial Services and Markets Act 2000 (FSMA) which currently it does not. This is beyond the remit of this review, but we would suggest that the Department for Work and Pensions (DWP), HM Treasury and the FSA establish a forum, which would include employers’ representatives, to consider what might be done in this area.

### Small companies

4.8 There are around 110,000 occupational pension schemes at present, covering a total of over 24 million members. Obviously, there is an element of double counting here as many individuals will have entitlement to benefit in more than one scheme. Our proposals elsewhere in this report on transfers and winding-up will reduce administrative costs which currently flow from the duplication of record keeping. The vast majority of schemes (over 90 per cent) have fewer than 100 members. The vast majority of members (72 per cent) are in large schemes with 10,000 or more members.
4.9 Economies of scale are evident in administering pensions schemes, and unsurprisingly, the Occupational Pensions Regulatory Authority (Opra) report that they spend a disproportionate amount of time and resource dealing with non-compliance by smaller schemes. In gathering evidence for this review, we visited Consignia, which has a very large pension scheme, and the Saffron Walden, Herts & Essex Building Society, which has a much smaller scheme. Many of the issues raised by the scheme administrators in both companies were similar, but the scale was different - the Consignia scheme, for example, has a department which is responsible for communication with scheme members; the Saffron Walden, Herts & Essex Building Society has one administrator who is responsible for the administration of the whole scheme. In this context, we initially considered whether there was a case for a two-speed regulatory system, in which a lighter regulatory touch could be applied to smaller schemes or employers (which of course would have to be defined). We find such a differentiation intellectually and politically untenable. Employees of small companies are entitled to the same balance between protection and cost-effectiveness that their peers working for larger operations enjoy. We would, therefore, recommend a more proportionate regulatory framework that should be applicable to all those who are serious about providing good quality pension schemes.

4.10 Those small employers who wish to continue providing pensions for their employees but for whom even our more proportionate regulatory environment is over-burdensome, should still be able to play an active part. We identify two ways in which this participation might be eased.

4.11 First, our current legislative and regulatory framework is built around the concept of single employer schemes (which for this purpose includes schemes in which associated employers participate) and it has offered no positive encouragement for employers to go down the multi-employer route. In refining our recommendations in this report, we have sought to take into account the effects they would have both on individual employers and on multi-employer schemes, whether employers are associated or not. We would urge those who draft subsequent legislation to do likewise.

4.12 Even where multi-employer schemes do exist, they have tended to operate only on the basis of employers in similar industries joining together. This can be a useful structure, but we would wish to encourage the establishment of multi-employer schemes for non-associated employers, for example geographically-based schemes as well.
4.13 Second, small employers for whom traditional multi-employer arrangements may not be appropriate should find it much easier than at present to sponsor stakeholder pension schemes on behalf of their employees. Because a stakeholder pension is a regulated product, the amount of paperwork involved for both plan sponsor and potential member can be very considerable. This is particularly striking in certain businesses such as the building trade where employees tend to move from employer to employer quite frequently. A stakeholder pension should be regarded as a safe product and employer and employee participation must be made much easier than is currently the case.

■ **Immediate vesting (and simpler transfers)**

4.14 In some types of pension scheme, individuals have to be a member of a pension scheme for a minimum of two years before they secure any entitlement in law. This is known as a vesting period and is the normal condition in occupational pensions. If the individual ceases to be a member of the scheme before the vesting period finishes, they can receive a refund of their contributions to the scheme (but not the employer’s contributions). By contrast, in some types of scheme (personal pensions and stakeholder pensions) the law prescribes that members gain entitlement to a pension however short their period of membership. Individuals in this type of scheme cannot receive refunds of contributions, rather the pension is preserved. In pursuit of our aim of easing pension accumulation we recommend that there is immediate vesting of all forms of pension entitlement (once the individual has become a member). However, this is subject to a powerful caveat.

4.15 A number of contributors to the review have given evidence that dealing with refunds of contributions is complicated, but that retaining small benefits in the wake of immediate vesting would be even more burdensome. Thus, before we could recommend immediate vesting, we would wish to ensure that pension scheme trustees and stakeholder providers have a default option open to them that would facilitate the transfer of cash equivalent transfer values to identified stakeholder plans as long as the scheme member did not object or make a voluntary transfer within a set period of time. To establish consistency of treatment in both defined benefit and money purchase arrangements, a de minimis transfer value may be established below which trustees could effect a transfer to a ‘safe harbour’ product. This value may be fixed at, say, £10,000 and the level should be reviewed from time to time. Whether this is the right figure is something we think the Government should consider and consult on, but we hope our broad approach will be taken forward.
Indeed, quite apart from issues arising from immediate vesting, there are advantages to enabling employers to transfer small amounts of deferred pension. An example might be a company which has just 4,000 employees but 45,000 deferred pensioners and 20,000 pensioners. Such a firm might well have a pension fund larger than the company – a case of the tail wagging the dog if investments move adversely, damaging company profits. Our proposal, allowing small deferred pensions to be transferred to a ‘safe harbour’ personal pension provider, would mean that the company could take the opportunity to offer all its small deferred pensioners the chance to have their benefits moved simply into such an arrangement.

The most appropriate product to act as this default option would be a stakeholder pension. We acknowledge that there would need to be some definition of what constituted a ‘safe harbour’ product but we do not see major difficulties with this as it sits comfortably with the concept of highly regulated products allied to light regulation of distribution channels – a balance which we believe has widespread support.

At present, trustees cannot transfer a member’s benefits into a stakeholder pension without that member’s consent. We, therefore, recommend that trustees should be given the right to transfer de minimis amounts to a default stakeholder, if the early leaver does not take a voluntary transfer to an arrangement of his or her choice within a set period, say six months.

There are some difficult issues which would need to be addressed if this proposal were to be accepted. These relate to the fact that, for transfers from defined benefit occupational schemes, the members would be losing the right to fixed or guaranteed benefits and, instead, would join stakeholder schemes, where the eventual benefits will depend on investment performance and are therefore unknown at the time of transfer. The members would be provided with suitable information about the stakeholder scheme (in the form of the key features documents required under the FSA’s rules) but would not necessarily understand the full implications of what is happening. The application of a de minimis transfer value would to some extent mitigate the financial consequences but this would not entirely obviate the potential for future allegations of ‘mis-selling’. Further discussions would be needed on this with the FSA and other interested parties. It should be remembered, however, that this proposal is the quid pro quo for immediate vesting, so at least some of the pension being transferred would not have existed in any form (defined benefit or money-purchase) without these linked proposals.

We also suggest that stakeholder providers, providers of GPPs and providers of personal pensions should also be able to transfer the de minimis amount into a default option as long as the member did not object to prevent them
having to look after small amounts of pension where no further contributions are being made. A stakeholder provider who specialised in transferring-in small pots from other providers might benefit from economies of scale. We suggest there might be a business opportunity here for appropriate providers.

### Scheme membership

4.21 A significant proportion of employees who are eligible to join their company’s occupational pension scheme choose not to do so. Figures from the 2000 General Household Survey\(^1\) show that around 16 per cent of full-time employees who have access to their employer’s occupational scheme choose not to join. Of course, many companies are very successful in encouraging eligible employees to join their pension schemes. For example, the NAPF Annual Survey 2001 shows that some 48 per cent of employers offering a final salary scheme were able to achieve 90–99 per cent membership. However, the number of individuals choosing not to join such schemes is worrying, and it inevitably raises the question as to whether there ought to be a facility for employers to be able to compel eligible new employees to join an occupational scheme.

4.22 In the 1998 pensions Green Paper\(^2\), the Government rejected the option of returning to the pre-1988 position in which employers could make scheme membership a condition of employment without the option of an employee opt-out of some sort. The reason for that decision was that short-term employees could be better off making alternative arrangements because of the vesting periods or if they already had a personal pension. However, circumstances have changed since then. First, if our recommendation on immediate vesting is accepted, the problem with short service does not arise. Second, in an era of concurrent pension scheme membership, compulsory inclusion in one scheme no longer means automatic exclusion from another. We should allow individuals to take every opportunity available to them to build up pension rights. Therefore, we recommend that we should return to the pre-1988 position for new employees. Consultation undertaken by the review team suggests that there is a desire to see the reinstatement of this facility – both the Confederation of British Industry and the Trades Union Congress indicated their support when we met them.

\(^1\) O N S. results from the 2000 General Household Survey: Living in Britain.

4.23 In addition to allowing employers to make membership of traditional occupational pension schemes a condition of employment, a similar facility should extend to any employer-sponsored pension arrangement, including designated stakeholder plans, other stakeholder schemes or GPPs where the employer is making a long-term contribution rate of at least, say, 4 per cent. We think this figure should be subject to consultation between the Government and the interested parties.

4.24 Whilst this proposal would involve compulsory membership of a regulated product, we do not see this as a barrier. Indeed, the compulsory nature of such an arrangement and the fact that there is an employer contribution, should mean that there is no risk of mis-selling. Taking this work forward will require close co-operation between the DWP and the FSA, but we have had discussions with them and see no reason in principle why this proposal should be limited to traditional occupational pensions.

■ Job-changing benefits

4.25 Notwithstanding our recommendation that, in the future, compulsory Limited Price Indexation (LPI) should be discontinued in respect of pensions in payment (not affecting those already drawing a pension), we would still advocate the compulsory protection of value for those who change jobs before they are entitled to draw a benefit. In the case of deferred money-purchase pension entitlements, no distinction should be made between the rates of return applied to the individual accounts of active and deferred members. So far as leavers from a defined benefit environment are concerned, their pension should increase during deferment and the actuarial value of such an increase should be reflected in any transfer payments that may be taken as an alternative.

■ Scheme reorganisation

4.26 Employers must not be allowed to treat their employees’ pension entitlements lightly. As a matter of general law, a power in a scheme to amend its rules must be used to promote the purposes of the scheme, and this is a significant safeguard for members against improper rule amendments. It is the reason why scheme amendments cannot normally safely be made if they would reduce members’ accrued benefits.

4.27 Section 67 of the Pensions Act 1995 was introduced to create a statutory basis for this existing protection, so far as modifications which ‘would or might affect’ entitlements or accrued rights (and now also pension credit rights) are concerned. There are two separate requirements under Section 67 for such an amendment to be valid:
• first, the trustees must approve the amendment in order for it to be effective. (This requirement applies specifically to those cases where the power of amendment under the scheme rules is exercisable by someone other than the trustees.) This is a very useful safeguard against arbitrary or unscrupulous uses of an amendment power and we are fully in support of retaining it; and

• second, an actuarial certificate is required confirming that the modification would not adversely affect any member in respect of their already acquired entitlements or accrued rights (or pension credit rights) without their consent (or, alternatively, their consent to the amendment must be obtained).

4.28 This second requirement makes it particularly difficult for sensible restructurings to take place. It is practically impossible to assess in all possible cases whether a particular restructuring would adversely affect accrued rights, and there is no clear definition of ‘modification’ or of ‘entitlements’. (There is a definition of ‘accrued rights’, but it raises as many questions as it addresses.)

4.29 If a relatively cautious interpretation of Section 67 is adopted, many wholly proper amendments, which are justifiable in terms of members’ interests and are essential to enable a scheme to adapt to changing circumstances, simply cannot be made. (Indeed, contributors to this review have pointed out that worthwhile simplification in most areas affecting benefit provision will not be possible unless there is a less prescriptive version of Section 67, since yet another set of changes for future service only will add another layer of complexity.)

4.30 A less cautious interpretation of Section 67, by contrast, runs the risk of perfectly reasonable amendments being made which turn out, many years later, to have been invalid. A scheme finding itself in this position would then have to go through the process of unravelling years of benefit payments, with the funding consequences and implications for members’ expectations that this would entail.

4.31 As a result, defined benefit schemes faced with unsustainable costs are increasingly left only with the drastic option of closing down the scheme altogether or switching to a defined contribution arrangement (often with reduced employer contributions). This was not the intention of the legislation.
4.32 These problems under the current Section 67 must therefore be addressed for two reasons:

• to allow simplification of past accruals as they stand now; and

• on an on-going basis, to allow reasonable flexibility for schemes to make justifiable retrospective changes in the future.

4.33 We, therefore, recommend that the second requirement described above of Section 67 should be replaced by an ‘equivalent value’ test. We do not suggest that, on its own, this will solve the unsustainable cost problem, but along with our other proposals, it will contribute to giving employers greater control over those costs.

■ Pensions and divorce

4.34 There are three ways open to the Courts in determining how the value of pension rights can be apportioned following a divorce:

• offsetting - this is where the value of the pension benefits is traded off against other matrimonial assets. This is simple and does not affect the pension directly. At present, this is the option chosen most frequently by the divorcing couple and ordered by the Courts;

• earmarking - this is essentially a form of deferred maintenance, where the Court issues an order requiring the member to pay part of their pension to the former spouse when the pension becomes payable. Earmarking does not provide a ‘clean break’. A number of changes in the personal circumstances of the parties may occur in the years between divorce and retirement, and in some cases, the former spouse may not benefit from the earmarking order, for example if they re-marry or the member dies; and

• pension sharing - this is a simple concept – that the value of the pension, along with the other assets from the marriage should be shared at the time of the divorce. However, the legislation in this area appears to be highly complex because of its quantity. Pension sharing is essentially a family law matter. It has been necessary to legislate to accommodate three different family law regimes in the UK as well as pensions law and to take into account Inland Revenue rules.
4.35 Ideally, we would abolish earmarking because of the uncertainties it involves, but since it comes under the jurisdiction of the Lord Chancellor’s Department, it is outside the remit of this review. Furthermore, we acknowledge that, in certain circumstances, the Courts may feel that this is the most appropriate option.

4.36 Therefore our approach is to recommend that the pension sharing rules be simplified where possible. We recommend that the conditions for receipt of benefits under the pension sharing arrangements be brought into line with those for other types of scheme member, subject to the caveat that a divorcee’s benefits should be used for the purpose of providing a pension. In line with our proposals on contracting out, we also propose that the restrictions on the share derived from contracted-out rights should be removed.

■ Conclusion

4.37 Employers are pivotal players in our pensions world. Millions of people build up their pension through work-based schemes and we want to see that flourish. However, it must not be forgotten that employers provide pensions on a voluntary basis and their needs and concerns have to be taken into account. We believe that, over the years, excessive burdens have been placed on employers, both of a funding and administrative nature. As a result, many employers are reconsidering their commitment to workplace pension provision. We believe that this is in no one’s interests. Pensions are an important part of the remuneration package helping to recruit and retain good quality staff, so pension provision is in the employers’ best interest. For employees, a pension is an important benefit and it is they who are the losers if employers are encouraged to opt out of pension provision through over-regulation. We believe that our proposals in this chapter can help to reinvigorate the enthusiasm of employers to play their role in pension provision.
5.1 The manufacture and sale of pension products is no less honourable than any other economic activity in our society. Indeed, a positive partnership between government and the private sector, in which the latter is encouraged to sell appropriate products to appropriate people, is necessary if we are to improve and increase pension incomes in the UK. When bringing forward the reforms which introduced stakeholder pensions and the new defined contribution regime, the Government made it clear that it wants to see more good quality private pension provision extended to more people in the UK. This will only be possible if there is a healthy financial services industry which, subject to proper controls to protect consumers, is free to pursue its market goals.

5.2 However, for a variety of reasons, some justified, some not, the financial services industry is not highly regarded. Saving for a pension means foregoing some consumption now, in order to be better off at a later date. Unfortunately, telling people that they should defer consumption is not an easy marketing message. Paradoxically, persuading people to make adequate retirement saving is the key added value element that the financial services industry should be able to offer. A negative public perception not only undermines the public willingness to purchase products that are in its own interest, it can have a debilitating effect on product manufacturer and distributor alike. It is important to realise, therefore, that the negative perception of the industry and the difficulties involved in the task of persuading people to save are not just commercial problems for providers, distributors and advisers, they are key impediments to meeting the Government’s aim of raising levels of retirement saving.

5.3 The regulatory framework surrounding the sale of financial products in general and pensions in particular reflects this negative attitude. If the Government is to achieve its aim of broadening and deepening the coverage of private pension schemes, then in future, the majority of consumers must be able to buy an appropriate product from an appropriate salesperson with a minimum of advice. It is important to recognise that most people do not go out and buy pensions; pensions have to be sold to them. Since pensions must be sold, it follows that some form of advice is likely to be crucial for most people. This does not, however, mean that the current system is the only or even the best way by which to achieve this aim.
Selling pensions

In the marketplace

5.4 A number of contributors to our review have made the point that ‘pensions are sold, not bought’. Selling pensions usually means overcoming customer reluctance, since most people tend not to be very interested in pensions. In addition, the financial services industry knows a great deal more about its product than its customers do - what economists call an ‘asymmetry of information’. At the moment, there are a bewildering number of pension products available, many of which are very complicated. In addition, the potential damage that could be done to an individual consumer who takes out the wrong product can be considerable. A further point is that the overly complex nature of pensions inhibits competition because it is difficult for new providers to enter the market. This is a consumer loss which our proposals will help to overcome.

5.5 It is, therefore, both necessary and appropriate, given the nature of this market, that there should be a regulatory regime designed to protect customers operating in a marketplace which they may not understand well. This is the responsibility of the Financial Services Authority (FSA) under its general duties set out in the Financial Services and Markets Act 2000 (FSMA). In exercising these duties, the FSA is under a statutory obligation to ensure that regulation is proportionate to the benefits and any proposals for new rules must be accompanied by a cost-benefit analysis and an explanation of the reasons for believing that making the proposed rules is compatible with its general duties. Despite this, in our opinion, the pendulum has swung too far away from a liberalised market towards a compliance superstructure, which was intended to protect the consumer but has instead developed into an expensive process which eats up a disproportionate amount of time and money relative to the level of protection required. The cost of this compliance weighs particularly heavily on low value sales, to the extent that some potential consumers have been priced out of the advice process altogether - in effect, they have become financially excluded.

5.6 The new Pension Credit should help in terms of making it easier to sell pension products because, by contrast with Minimum Income Guarantee, there is no cliff-edge effect whereby an individual could receive no benefit from having saved - the key message ‘it pays to save’ should be easier to get across. Even so, the savings message will only be effective when simple products are matched by a simple and proportionate sales and advice regime. This more proportionate environment would help advisers to be confident in persuading people to save for their retirement.
5.7 Such a regime should acknowledge that mistakes will be made and should not therefore pursue an environment in which every potential blemish is identified in advance and legislated against. Against this background, we fully support the FSA’s proposals to abolish the polarisation regime and also their proposals for a two-tier advice regime, both of which we believe will contribute to reducing financial exclusion among those on low and moderate earnings.

**In the workplace**

5.8 Elsewhere in this report, we deal with the increased use of stakeholder plans as repositories for default transfer payments and as the main means of offering pensions by those employers who do not wish to offer traditional occupational schemes or other types of pension arrangement on an individual or multi-employer basis. We believe that it should be much easier than it is at the moment for employers and stakeholder providers to work in concert to bring cost-effective pension provision within the scope of working people across the income spectrum. If our proposal articulated elsewhere for employers to be able to make pension scheme membership a condition of employment is accepted, this provision should apply equally to stakeholder plans as to occupational arrangements. This is in keeping with our underlying principle that a pension is a pension is a pension.

5.9 Pension providers in general have two classes of customer: employers and individuals. Most individuals who purchase pensions will buy a bundled product where the administration and the investment are included in the package offered by the provider. Many employers, particularly smaller employers will also use bundled products, again for reasons of price and convenience. Large employers may find it more economic to deal with the different components of their pension arrangements as discrete parts, perhaps purchasing legal, administration, actuarial and investment expertise separately. Alternatively, larger employers may wish to ‘unbundle’ because they prefer to offer their workforce a tailor-made solution rather than something off the peg.

5.10 We are aware that work is going on elsewhere to consider the potential for employers to provide further access to pensions information in the workplace, both about their own schemes but also about marketplace pensions. In our view, this would be a welcome development in helping to raise awareness about pensions and educating employees about the importance of pension provision.
Fewer pension products

5.11 A key complicating element within pensions is the sheer number of money-purchase products and the marketing wrappers that confuse the nature of the underlying product; this is, of course, in addition to occupational pension arrangements. There are more than 15 different money-purchase arrangements. We think this should be radically simplified to remove needless product differentiation.

5.12 Ideally we would wish to see only three generic products. These are:

- occupational defined benefit pensions;
- employer-sponsored money-purchase arrangements (traditional defined contribution or group-based stakeholders); and
- individual pension arrangements (including top-ups to occupational pensions).

5.13 We do not wish to stifle innovation – for example, provision of hybrid schemes which combine defined benefit and money-purchase elements should be encouraged as a way of sharing risk. But products which are created solely by the regulatory structure are an unnecessary complicating factor.

5.14 Yet this is not mainly for us to determine. The Inland Revenue work on the tax treatment of pensions is ongoing and we cannot anticipate its outcome. However, as it is the interaction of both the Department for Work and Pensions (DWP) and Inland Revenue regulations which creates much of the current complexity, we would hope that the future regime will be much simpler.

5.15 If DWP and the Inland Revenue play their part in simplifying the pensions landscape, it will be vitally important that the commercial providers do not complicate it by seeking to differentiate between the undifferentiable. We would urge providers who are selling stakeholder pensions for example, not to seek to suggest that their particular products are generically different to those offered by other providers. The evidence shows that potential savers are put off by complexity - too much choice which overwhelms is counter-productive. Commercial providers must work in partnership with the Government to ensure that people are not unnecessarily put off pensions. That is not to say a stakeholder provider whose product beats the minimum standard should not be able to promote that fact, just that only real differences should be advertised, rather than seeking to artificially create unreal generic products.
5.16 We would note that, whilst a reduction in the number of generic pension products would reduce the risk of pension mis-selling or mis-buying, that does not mean the need for advice on pensions will disappear, or that all consumers will then be able to decide for themselves whether a particular form of (or any) pension provision is right for them. The potential for poor advice or mis-buying should reduce if the number of pension types is minimised, but it cannot be eliminated.

■ Terminology

5.17 Those commercial providers who offer professional services to occupational scheme sponsors must play their part in simplifying the pensions regime. A reduction in the complexity and prescriptive nature of legislation should result in less need for complex and ‘jargon-filled’ pension documentation. Pension schemes and their advisers should be encouraged to use language which is plain and simple to understand, both in communication to members and in producing documents relating to the establishment, governance and operation of the scheme.

■ Providers of insured occupational schemes

5.18 There have been instances where the Occupational Pensions Regulatory Authority (Opra) has fined the trustees of occupational pension schemes, knowing that the provider is partly to blame for the breach in question. Also, in some instances Opra has had to deal with the consequences of poor administration going back many years. There is recent experience that indicates that some providers of personal pensions have failed to provide accurate reports of payment failure by employers. The quality of administration of a minority of providers gives rise to concerns, which must be addressed.

5.19 Opra is a reactive regulator and therefore deals with complaints made to it. Poor administration should certainly not be tolerated, but in the interests of balance we must remember that, by definition, Opra is dealing with the part of the pensions spectrum where things have gone wrong.

5.20 We understand that some leading providers are now providing technology-based approaches for insured pension business. This approach allows providers’ mainframe systems to link to employer payroll systems, which cuts out manual intervention and minimises the potential for error. We would encourage this type of innovation and hope to see more of it in the future. In addition, we would hope that a simpler approach to regulation would make it easier for providers to comply and allow the New Kind of Regulator to focus on cases where serious customer loss is in prospect.
5.21 We have not reached a firm view on how best to resolve this issue but we recommend DWP enter into discussion with FSA with a view to identifying an appropriate solution.

■ Conclusion

5.22 We would like to see simplification wherever it is both possible and worthwhile. We appreciate that there are limits to the effect that any simplification, no matter how radical, can have, and we do not underestimate the difficulties inherent in persuading people, particularly those on limited incomes, to save. Nevertheless we believe that simpler products, simpler distribution and the two-tier advice approach that is being proposed by the FSA, will be of benefit and will help pension providers and advisers by enabling them to focus on providing appropriate products and advice to meet customer needs.
6.1 From time to time, the suitability of using trust law as the basis upon which to build individual security within multi-billion pound financial institutions is challenged. The Pension Law Review Committee\(^3\) responded to this challenge and confirmed that they could find no preferable or more suitable alternative. This issue is outside our remit. However, if our recommendations are accepted, the role of trustee should be simplified and as a result the office should be more attractive to a wider range of committed lay people.

6.2 The Pensions Act 1995 extended the principle of member participation to those schemes that had not voluntarily embraced the concept – in fact, the majority of scheme members were already in schemes which had such participation. However, the legislation was extremely prescriptive in outlining the way in which effect might be given to the simple concept of member participation. We see no harm in extending the principle even to those schemes where the employers have chosen not so far to have this facility (with the exception of centralised multi-employer schemes). However, we think that this is an area of law that can be reduced to a set of clear principles. We are grateful to those representatives of interested parties who had been working on this issue before our review was commissioned. We think that in moving forward, the Department for Work and Pensions (DWP) should build upon the work that has already been done, but ensuring that the principle of member participation can be achieved in a non-prescriptive fashion.

### Myners

6.3 Our proposals in this area need to dovetail with the Government’s intentions with regard to implementing the proposals from Paul Myners’ review of institutional investment\(^4\). The Myners recommendations come under four generic headings:

- trustee familiarity with the issues;
- independent custodians;


6.4 We agree that the behavioural change which Myners wants to see would be desirable and we do not disagree with any of Myners’ specific recommendations. However, we would encourage those who take this work forward to keep in mind our arguments for simplification.

■ **Trustee discretion**

6.5 Submissions received from those who are called upon to resolve member grievances identify the exercise of discretion as being at the heart of many such grievances. Areas of scheme documentation that involve discretion for trustees or plan sponsors should be regularly reviewed in the interests of both simplicity and certainty.

■ **Winding up and priority order**

6.6 Pension practitioners have told us that they find the winding-up requirements complex to implement. They argue that radical simplification of the winding-up legislation would enable the process to be expedited in a more cost-effective fashion that would benefit all concerned.

6.7 Some have argued that it would be beneficial to revert to a scheme-specific approach to priorities on winding up. However, past experience suggests that this would generally mean pensions, including any indexation, would come first, often leaving no funds for deferred members. It was to create a fairer balance that the statutory priority order was introduced in the first place.

6.8 We believe that retaining a priority order set out in legislation best protects members’ interests overall and that the reasons for the introduction of a statutory priority order remain valid. However, we do recommend an extension to the routes available to schemes in buying out benefits on wind-up. We also believe that any improvements to the winding-up process must address the issue of Guaranteed Minimum Pension (GMP) equalisation. This is frequently cited as one of the major factors in delaying wind-up. Our proposals on contracting out address this issue.

6.9 Our proposals on winding up are set out in more detail in Appendix 1.
Standardisation of documents

6.10 A further source of confusion is the use of different language to describe the same set of circumstances, different drafting styles to reflect the same benefit design, and many other ways in which professional advisers seek to imprint their individuality in order to achieve differentiation within the marketplace. We would encourage professionals to adopt a more standardised approach to both terminology and the drafting of the legal documents. This is important because such documents are both the trustees’ guiding principles and members’ port of last resort in the case of a query.

Internal dispute resolution

6.11 At present, the mechanism for pension scheme members to pursue and resolve complaints is extremely detailed and is in two stages. It is right that members should have access to an effective mechanism where disputes arise, but we do not think the existing system works to their best advantage. We therefore recommend that the legislative requirement should simply be for members to be told how to raise a query if they are unclear about or dissatisfied with their pension scheme entitlement. They do not need a prescriptive internal dispute resolution procedure to help secure redress. All they need is the name of an internal contact and the details of the Pensions Advisory Service (OPAS) and the Pensions Ombudsman. We would, therefore, recommend the abolition of the current prescriptive approach to internal dispute resolution.

6.12 The general principle should be that schemes need more flexibility with the option of retaining current arrangements where they are working well, or changing them where that would be advantageous. We recommend the following minimum requirements:

- all schemes must have a published formal dispute procedure. Whether the procedure has one or two stages is for the scheme to determine;
- in all cases, the complainant must have access to the trustees or managers as part of the process;
- there is a prescribed time limit (perhaps six months) for the decision on the case to be reached, or if the scheme fails to give a decision, reference should be made to the Pensions Ombudsman; and
- the complainant should be informed that OPAS is available to help when the complaint is received, and about the role of the Pensions Ombudsman if the scheme cannot settle the dispute.
6.13 An alternative approach would be to adopt a similar approach to that set out in the Employment Bill in respect of grievance procedures in employment. In its simplest form, this operates as follows:

- **Step 1, statement of grievance** - the employee must set out the grievance in writing and send a copy to the employer; and

- **Step 2, response** - the employer must set out their response in writing and send a copy to the employee. Each step and action must be taken without ‘unreasonable delay’.

6.14 The New Kind of Regulator (NKR) would adjudicate if there was a dispute about the ‘reasonableness’ of the time taken to complete each step.

6.15 Either of these approaches would be preferable to current cumbersome procedures, and we leave both as options or indeed a combination of the two.

### Investment duties

6.16 We recommend that the legislation should simply require the trustees to have a Statement of Investment Principles, and that the NKR should issue guidance on elements that might usefully be included.

### Additional voluntary contribution schemes

6.17 Trustees of occupational pension schemes are obliged to provide their members with a facility to make additional voluntary contributions (AVCs). While this is in keeping with our desire to assist members accumulate pension benefits whenever they can, this particular obligation consumes a considerable amount of management time. However, unless or until concurrency (the ability to contribute to more than one pension scheme at a time) is extended further up the income spectrum, we believe that trustees should be obliged to offer their members an AVC facility. However, if concurrency is extended, trustees and employers should be free to decide what, if any, additional savings vehicle is offered in tandem with an occupational pension plan.
**Independent trustees**

6.18 The Occupational Pensions Regulatory Authority (Opra) has expressed some concern that it has no powers to regulate statutorily-appointed Independent Trustees (ITs), which it believes, on occasion, inflate their fees by taking longer than is necessary to resolve issues. In some cases, ITs are not appointed from Opra’s list of approved trustees. In such cases, they are not necessarily subject to regulation by any professional body and are not required to have any professional qualifications. Opra believes that it has little sanction over these ITs, apart from the power of removal which is a last resort option. Furthermore, there is no obvious manner in which concerns about excessive fees, for example, can easily be brought to Opra’s attention. The current system relies upon other trustees or members bringing complaints of maladministration to the Pensions Ombudsman, which can refer any concerns to Opra. This is a less than reliable safeguard as Opra reports that it understands one of the first acts of ITs is often to remove the original trustees from office on the ground that it has taken over their role.

6.19 For this reason, Opra suggests that it should be granted explicit powers to regulate all persons having professional or fiduciary responsibility for the scheme.

6.20 Whilst we understand these concerns, we believe it is important to look at this and other such matters in the context of our desire to see a more proportionate regulatory framework. We would not feel comfortable proposing additional powers for the regulator unless it could be shown that there was a real, and preferably quantifiable, benefit for doing so. We have yet to be convinced and, therefore, do not recommend extending regulatory powers in this area at present. In the future, the NKR should maintain a watching brief and, at the very least, publicise malpractice.

**Conclusion**

6.21 For as long as trusteeship is retained as a common form of pension scheme governance, it is essential that the office attracts a wide range of participant. Trusteeship is a team game and not an individual pursuit. Not every trustee requires the same level of knowledge or interest in each aspect of trusteeship. We believe that our proposals will make the office of trustee more attractive to a wider range of good quality people. This is in the interests of good governance and member security.

6.22 If those from a variety of backgrounds are to find the role attractive and be able to fulfil their responsibilities with confidence, a simplified regime and the use of plain and simple language will be imperative. In this and other chapters we tackle both these key issues.
7.1 Increasingly, employers and commercial product providers have an international dimension to their pension deliberations. Not only will these companies have operations overseas, they are affected, at home and abroad, by rules and regulations which have their source in Brussels or other major centres.

7.2 As the Council of Ministers continues its consideration of the European Pensions Directive\(^5\), the UK Government must use its best endeavours to ensure that excessive regulation is not imposed on any plan sponsor or commercial provider, not just in the UK but in the rest of Europe. The goal should not be uniformity of pension provision but harmonious diversity allowing provider, plan sponsor and individual alike to make the pension arrangements around Europe that suit their own taste rather than dovetail with an over-prescriptive regulatory regime. In addition, it remains important that all European pension systems, including the UK’s, abide by the agreed European policy on sustainability, ensuring that pension funds invest over the long-term with due regard to sustainable development and assisting in job creating.

7.3 Other countries do things differently. Sometimes, they do things better in some areas. For example, France has a higher savings ratio than is currently the case in the UK even though France does not have recognisable funded occupational pension arrangements. This highlights the need to ensure that a sensible regime for pensions is part of a sensible regime for savings as a whole. However, for as long as it is public policy to impose understandable restrictions of access to pension assets, saving for retirement by means of a pension should be advantaged in order to compensate for any loss of flexibility.

7.4 Recent experience in the United States has demonstrated the dangers associated with trying to fulfil too many policy objectives via a single vehicle. While employee share ownership may be a good thing in its own right, investing individual pension savings in one’s employer, directly or indirectly, may be as inappropriate as allowing heavy self-investment by company-sponsored pension plans. Such restrictions may be one area where existing limits need to be retained or even extended.

7.5 We have learned a useful lesson from Australia which uses the default option that we discuss in Chapter 4, enabling easy transfers of accrued pension rights into a ‘safe harbour’ product. These ‘Rollover Funds’ as they are called in Australia have provided the model on which we have built our proposals in this area.

7.6 In preparing our report, we had wide-ranging and useful discussions with various representatives of the pensions and wider communities in the Republic of Ireland and the Netherlands. In the Netherlands, occupational pension schemes cover approximately 90 per cent of the workforce. Notwithstanding or because of this coverage, legislative interference with scheme design is minimal. It is for the parties to a scheme to determine both the type and quality of benefits that should be offered. In the area of survivors’ benefits, for instance, while provision of the benefit itself is not obligatory, where such a benefit is on offer, anti-discrimination rules apply. Likewise, while post-retirement indexation is optional, funding standards apply once a firm commitment is made. This highlights the extent to which funding standards bite more harshly in the UK where benefits which were once discretionary have become increasingly obligatory.

7.7 In the Netherlands, multi-employer schemes are common. In the UK, while such schemes exist, many of our respondents have suggested that the legislative and regulatory framework does not fit neatly with multi-employer plans since it is designed against the background of a single employer with a single scheme. Legislative and regulatory encouragement of multi-employer schemes in the UK could be a means of ensuring that the economies of scale and access to professional services may be extended to the small firm sector in a way which is not easy at the moment.
7.8 The Irish do not face the complication of contracting out. The existence of the Irish Pensions Board combines the role of regulator and government adviser. Combining these roles seems to work well and provides an accepted method of protecting government against demands for hurried legislation. However, being close to government rather than possessing the total independence of a think-tank, might be an advantage since the Irish Pensions Board has an institutionalised relationship with government and can provide a consistent source of advice. Moreover, the most recent piece of private pensions legislation went through the Irish Parliament with all-Party support.

■ Conclusion

7.9 Around the world, pension systems are the product of local culture. It is, therefore, not sensible to suggest the wholesale transfer of one country’s pension system to another. However, there are lessons that we can usefully learn by observing the ways in which other countries meet contemporary pension challenges. In this chapter we have sought to highlight some overseas’ experiences that are relevant to our pursuit of a proportionate regulatory environment in which more people can accumulate more pension.
A. Contracting out – the package of proposals

Section 67 of the Pensions Act 1995

The existing legislation covering the modification of schemes is designed to protect members’ accrued rights. We understand that the wording and implementation of this Section cause considerable difficulties in practice, impacting on both the administration and costs of schemes. It would also prove a particular barrier to the changes to the contracting-out arrangements that are central to our proposals (although Section 67 clearly has a much wider impact than contracting-out issues). We therefore recommend that the current requirements are replaced with a statement of broad principles that allows for modification of schemes where overall replacement benefits are expected (but not guaranteed) to be equivalent in value.

Contracting-out rights and conditions

The separate identification and different treatment given to contracted-out rights compared to other scheme benefits adds considerable complexity to pension schemes. The application of different rules to different periods adds to this complexity and this applies whether the scheme is defined benefit or defined contribution.

In particular, we believe the current complexity of arrangements surrounding Guaranteed Minimum Pensions (GM Ps) places a heavy administrative burden on some schemes and makes it difficult for people to understand their overall pension rights. The issues around the equalisation of GM Ps are of general concern although we are aware that schemes in wind-up face particular issues.

Currently schemes must meet Inland Revenue and Department for Work and Pensions (DWP) criteria to gain tax relief and contracting-out approval. Inland Revenue are currently undertaking their own simplification review. In the interests of overall simplification, we recommend that any DWP simplification package should dovetail with the current Inland Revenue review.
Balanced against the need for change, we are aware that many schemes now have long-established and settled procedures in place to handle these complexities. Wholesale compulsory change might therefore bring more uncertainty and additional costs that would benefit neither members nor schemes. But we do want to introduce greater flexibility of arrangements to help make the private pensions framework more efficient and at the same time offer members proper protection.

We are therefore recommending a pragmatic approach through:

- a new, simpler reference scheme test (RST) for contracted-out salary-related schemes. This would represent the minimum standard schemes would have to meet but they could, of course, provide benefits in excess of this minimum;

- a mechanism to allow schemes to convert GMPs to RST benefit equivalents or protected-rights. This would offer broad but not guaranteed equivalence. This would allow schemes greater flexibility and overcome some of the current problems they face with GMPs;

- liberalising the choices on the type of vehicle and the form of the benefits that must be bought with protected-rights; and

- removing the remaining fetters on handling Equivalent Pension Benefits (EPBs). In particular trustees should be able to commute EPBs unless the member objects (EPBs were provided for employees who contracted out of the Graduated Pension Scheme).

### The new reference scheme test

We recommend a much simpler test with the key features set out in the following table:
As noted in the main report we also propose removing the requirement of occupational pension schemes to provide indexation of pensions in payment in the future (this does not appear in the above table since it is no longer only a contracting-out issue – since 1997, all occupational schemes are required to provide such indexation irrespective of whether or not they have been contracted-out).

In addition, we propose that the current requirement that no more than 10 per cent of pensions provided can be worse than the pensions provided under the reference scheme test (RST) be increased to 20 per cent under the new arrangements.

Schemes should be given the option to convert all scheme benefits, past or present, on an actuarial equivalence basis to meet this simpler RST. This would apply to active or deferred members but not to pensioners. Any decision to convert would be made by the trustees on a scheme rather than an individual basis. Schemes could continue to provide benefits in excess of this minimum test.

<table>
<thead>
<tr>
<th>Current test</th>
<th>New test</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pension age</td>
<td>65</td>
</tr>
<tr>
<td>Pension accrual rate</td>
<td>1/80th</td>
</tr>
<tr>
<td>Pensionable salary</td>
<td>Average qualifying earnings in the last three tax years</td>
</tr>
<tr>
<td>Qualifying earnings</td>
<td>90% of earnings between the Lower Earnings Limit and the Upper Earnings Limit</td>
</tr>
<tr>
<td>Service</td>
<td>Maximum of 40 years</td>
</tr>
<tr>
<td>Spouse's pension</td>
<td>50% of the member's pension</td>
</tr>
</tbody>
</table>
Normal pension age and lump sums

We do not believe that the current restrictions affecting when and how contracted-out benefits can be taken offer sufficient flexibility. In the face of changing labour markets and family structures, current provisions seem dated and out of line. For example, it is increasingly likely that both partners will have pension benefits in their own right and that the non-working spouse will have access to a stakeholder pension. We propose removing the constraints around contracted-out rights, including protected-rights, so that they are subject to the same scheme rules as other pension benefits. We want to see:

- the removal of restrictions around the date when contracted-out rights are payable; and

- a facility to take all scheme benefits (including contracted-out rights) as a pension and lump-sum, subject to the appropriate Inland Revenue rules, provided the pension payable is at least equivalent to an accrual rate of 1 per cent.

In the interests of coherence and practicality, these proposals may need to be reviewed in the light of any changes deriving from the Inland Revenue simplification review.

Guaranteed Minimum Pensions

We are aware that in recent years DWP has discussed in depth the concept of abolishing GMPs with pensions professionals and that this has proved a difficult nut to crack. We recognise the inherent difficulties but feel we must make every effort to resolve the GMP problem and abolish them if at all possible. We recommend therefore that a method of determining actuarial equivalence is considered.

Linked to this is the question of equalising GMPs. As an issue in its own right this continues to be problematic for many schemes, particularly in wind-up. DWP’s view is that it is the overall benefit that needs to be equalised and that it is up to individual schemes to determine how to achieve this. Indeed, some schemes have already adopted this approach successfully and others have tackled the equalisation question. In view of the difficulties involved in devising a workable mechanism, we would encourage the Government to work with the pensions community to produce a technically sound solution.
Transfers

Changing employment patterns suggest that it is likely that the average individual will have membership of an increased number of pension plans over his or her working life. We believe many of the problems surrounding transfer payments would be eased by the simplification of contracting out. Additionally we propose that transfers should be permissible between any approved schemes whether contracted-out or not. If the transfer takes place without member consent this should be backed up by actuarial certification.

Anti-franking

Current further anti-franking regulations have been put on hold pending the outcome of this review. The whole process is exceptionally complex and many schemes may not in fact be compliant. If our recommendations for simplifying contracting out are implemented, franking would disappear for those schemes which chose to convert GMPs on an actuarial equivalence basis.

Even for those who retain GMPs, we think there is scope for dramatic simplification.

Pensions on divorce

We recommend removing the restrictions on the divorcee’s share which is derived from contracted-out rights.

B. Winding up

Winding up and priority order

Many of the problems schemes encounter with the existing winding-up provisions will be removed by the wider changes to contracting out we are proposing. Some have argued that it would be beneficial to revert to a scheme-specific approach to winding up. Past experience suggests that this would generally mean that pensions, including any indexation, would come first, often leaving no funds for deferred members.

We believe that retaining a priority order set out in legislation best protects members’ interests overall and that the reasons for the introduction of a statutory priority order remain valid. However, we do need to take action to permit an extension to the routes available to schemes in buying out benefits on wind-up. We also believe that any improvements to the winding-up process must address the issue of GMP equalisation. This is frequently cited as one of the major factors in delaying wind-up. Our proposals on contracting out address this issue.
We therefore recommend:

• retaining a priority order set out in legislation but moving to the order due to come into effect in 2007. This should coincide with the introduction of the Minimum Funding Requirement (MFR) replacement;

• including a separate category in the priority order to protect the benefits of individuals nearing retirement;

• giving priority to indexation of pensions in payment at the point the scheme goes into wind up over increases for deferred members when they reach pension age (where such indexation applies given our other proposals); and

• allowing liabilities on wind-up to be discharged to a stakeholder or money-purchase vehicle provided the member does not object (i.e. schemes would no longer have to buy out with deferred annuities). We do not recommend this option, however, for people within ten years of normal retirement age where the existing annuity option should continue to apply.

■ Trustees and winding up procedure

Complaints have been made that appointing an Independent Trustee (IT) can in some cases delay wind-up unnecessarily, thus reducing the total scheme assets available. It is also argued that in some cases, although required by law, their input is negligible and the cost of compliance is often not money well spent and may directly lead to a reduction in members’ benefits.

The role of the IT is to progress the winding up of the scheme whilst protecting the scheme members’ rights. We believe that the IT can play an invaluable part in progressing wind-up. If this role were removed, there would be no independent person responsible for safeguarding members’ rights. We think it is naive to suggest that reasons for delay can be laid solely at the door of the IT and the reality is that delays can arise for a wide variety of reasons. It has been argued that the New Kind of Regulator’s (NKR’s) remit should be extended to ensure there are no unnecessary delays beyond the Occupational Pensions Regulatory Authority’s (Opra’s) current power to replace the IT. We are not yet convinced that such an extension of powers is necessary, but remain open-minded if relevant evidence were to be forthcoming.
C. Communicating with members

Our starting point is that rules governing communication with members must be based on clear principles. In our view, those principles should be:

- communication should be aimed primarily at influencing behaviour. The information should give individuals the facts they need to decide whether to join, stay in or leave a scheme;

- communication should provide members with basic information about their likely pension - including setting out (in broad terms) the risks (for example in a defined contribution scheme, a reminder that the final pension will depend on investment performance and annuity rates);

- individuals should be properly informed of major events which might affect members (for example, relevant changes to scheme design or large numbers of members taking early retirement) and their options on leaving or retiring or what will happen to their pension if they die;

- it is also necessary to provide information to protect members - for example people in defined benefit schemes should have access to information about the funding position; and

- all communication with members should be tested to see whether it is understandable and will work.

We do not believe that the current disclosure requirements meet these principles. For personal pensions, individuals must receive a Key Features Document (KFD) which is often 12 pages or more in length - some have described the KFD as being more like an ‘all features document’ - the Financial Services Authority (FSA) is currently working to reduce the length of the KFDs and to make them more consumer-friendly. We believe that DWP should adopt a similar approach in relation to information provided to new or prospective members of occupational pension schemes. For such schemes, people receive a Basic Scheme Information document which is typically 20 or more pages long. Our recommendations would reduce the Basic Scheme Information document to 2 or 3 pages. But at the same time, we believe that individuals in occupational schemes should have the right to see more detailed information (the trust documents, latest audited accounts, actuarial certificate, etc) on request, within a reasonable time period. This more detailed information would be made available in an ‘appropriate manner’, for example using electronic media where all or most employees in a company have access to the internet or an intranet. We recommend that all DWP communication requirements be set out in one place (irrespective of whether they refer to new members, schemes in wind-up, etc).
In terms of the structure of communications regulations, we believe that the regulations should normally set out the broad principles, with prescription being kept to a minimum. For example, we believe that the requirements should be to provide certain information to members of occupational pension schemes within a ‘reasonable’ timescale rather than specifying exact timescales. The NKR would produce guidance on what timescales might be reasonable and would adjudicate in any dispute.

The communication requirements to members of occupational pension schemes should be set according to the status of the scheme member as follows:

• prospective member;
• new member;
• on-going member (including those with deferred rights);
• member approaching retirement;
• post-retirement;
• leaver or member of a scheme in wind-up;
• spouse or dependant of member; and
• ex-spouse of a member following pension share on divorce.

In each case, the legislation should specify what information should be communicated and whether this communication should be automatic or available on request.

It is worth repeating at this point that we envisage a much simpler pensions landscape in the future, for example, far fewer generic pension products for people to have to choose between, so more effective communication ought to be a readily attainable goal.

**Communicating the funding position**

We support the Government’s aim for effective communication of the funding position. Details of this are being developed in consultation with the panel of expert representatives as part of the ongoing work to replace the MFR.
We are inclined to suggest that, whilst we are in favour of avoiding prescription, in this particular case, there is an argument for setting out in legislation what funding information should be communicated. However, we suggest that this information should be made available to scheme members on request, and not sent to them automatically.

**Scheme Annual Report**

We recommend that the legislative requirement should simply be to produce a Scheme Annual Report, copies of which should be available to scheme members on request. We recommend that the guidance on the contents of the Report should be set out by the NKR. We would not wish to be prescriptive on what we think the NKR guidance should contain, but as an example, we might expect to see:

- reference to the existence of the accounts, actuarial valuations and other scheme documents and how to obtain copies;
- if the audit was qualified, a report on why and whether the situation had been resolved;
- some details about the trustees; and
- names of professional advisers and others retained by the trustees.

**Statement of Investment Principles**

Many have argued that a Statement of Investment Principles (SIP) is an ideal tool to secure effective trustee control of the assets for which they are responsible. Likewise, the Myners’ principles provide trustees with further yardsticks against which to measure their own approach. Having stated that a SIP is essential, the Pensions Act 1995 as subsequently amended has been extremely prescriptive in what the SIP should contain. We would suggest that this is an area of trusteeship that lends itself to legislative principle. The legislation might simply state that trustees should produce a SIP. An appropriate Code of Practice might then spell out further but limited detail, for example, the trustees’ approach to socially responsible investment.
Methods of communication

We suggest that schemes should be required to furnish individuals with information in an ‘appropriate manner.’ For example, where all or most of the members in a scheme have access to the internet or an intranet, there is no reason why certain information could not be provided via that media. On the other hand, it would be appropriate to send information via hard copies to people who did not have electronic access (including, for example, deferred members who had left the company). We would expect the NKR, using its discretion, to be able to make judgement calls on what was ‘reasonable’ in these circumstances.

Fees

We recommend that, where information or scheme documents are provided on request, this should normally be provided free of charge to the member. Proportionality suggests that the circumstances where a fee should be levied to avoid ‘nuisance’ would be limited.

DWP/ FSA consistency

Finally, we recommend that the FSA and DWP disclosure requirements should be consistent. For example, the annual illustrations of money-purchase benefits being introduced by DWP from April 2003 and the point of sale illustrations which are under the jurisdiction of FSA rules should be on the same technical basis (and the requirements should be the same for personal pensions, stakeholder pensions and money-purchase occupational pensions). FSA and DWP are already addressing this issue. We do not think there is a need for prescriptive legislation such as exists now. The requirement should simply be to provide illustrations, with guidance produced by the NKR on what information should generally be included - this guidance should take account of attempts by the FSA to simplify personal pension illustrations. Therefore, we recommend that the illustrations should be required to show:

- the amount of contributions paid to date;
- the current value of the investments;
- a simple projection; and
- details of the assumptions made available on request.
The difference between our proposals and the current position

Our proposals in this particular area are not as radical as in some others. All the information that is currently available to members should, we believe, continue to be available. Where we depart from the current position falls into four main categories:

(i) we believe that the legislation should be much more flexible than at present and less prescriptive. So, for example, our proposal is that whilst the legislation should state that trustees must have a SIP, it should not specify what information the SIP must contain. That contrasts sharply with the present prescriptive legislation;

(ii) we do not think that specifying timescales in which particular pieces of information should be communicated is necessary. We recommend the legislation should refer to ‘reasonable timescales’ with the NKR providing guidance and adjudicating in cases of dispute;

(iii) only key pieces of information should be sent automatically to members with more detailed documents being available on request; and

(iv) in common with many contributors to the review, we believe that all the communication requirements should be set out in one place in legislation.

The following tables contain details of the recommendations and apply to occupational pension schemes only.

1. Communication – prospective member

<table>
<thead>
<tr>
<th>Information</th>
<th>Automatically or on request?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very basic scheme details: contributions, benefits, normal pension age, how to join/leave scheme (and whether you are automatically a member), where to go for help, whether scheme is contracted-out</td>
<td>Automatically</td>
</tr>
</tbody>
</table>
## 2. Communication – new member

<table>
<thead>
<tr>
<th>Information</th>
<th>Automatically or on request?</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>If an opt-out scheme, very basic scheme details as above</td>
<td>Automatically</td>
<td>Only for opt-out schemes. In opt-in schemes, a person will already have this as a prospective member</td>
</tr>
<tr>
<td>Scheme documents (SIP audited accounts etc)</td>
<td>On request</td>
<td>Normally free, but flexibility to charge a reasonable fee to prevent nuisance (regulator to issue guidance on this) We do not propose changes to the form or content of the audited accounts</td>
</tr>
<tr>
<td>Change in basic scheme information</td>
<td>Automatically</td>
<td>Only if it would ‘materially affect’ the member – for example change in benefits or contributions</td>
</tr>
<tr>
<td>Specific details regarding benefits on acceptance of transfer value</td>
<td>On request</td>
<td></td>
</tr>
</tbody>
</table>
3. Communication – ongoing member
   (including those with deferred rights)

<table>
<thead>
<tr>
<th>Information</th>
<th>Automatically or on request?</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual benefit statement</td>
<td>Automatically</td>
<td>This does not have to include transfer value</td>
</tr>
<tr>
<td>Estimate of transfer value</td>
<td>On request</td>
<td>Only one in any 12-month period</td>
</tr>
<tr>
<td>Non-payment of member and employer contributions</td>
<td>Automatically</td>
<td></td>
</tr>
<tr>
<td>Funding Report</td>
<td>On request</td>
<td></td>
</tr>
<tr>
<td>Scheme documents</td>
<td>On request</td>
<td></td>
</tr>
<tr>
<td>Transfers of accrued rights without consent</td>
<td>Automatically</td>
<td></td>
</tr>
<tr>
<td>Early leaver's rights and options</td>
<td>On request</td>
<td>Includes transfer value, etc</td>
</tr>
</tbody>
</table>

4. Communication – member approaching retirement

<table>
<thead>
<tr>
<th>Information</th>
<th>Automatically or on request?</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Confirmation that benefits will become payable, together with rights and options</td>
<td>Automatically</td>
<td>Should include information on availability of open market option</td>
</tr>
<tr>
<td>Confirmation of amount of benefit payable</td>
<td>Automatically</td>
<td></td>
</tr>
</tbody>
</table>
### 5. Communication – post-retirement member

<table>
<thead>
<tr>
<th>Information</th>
<th>Automatically or on request?</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Changes to benefit in payment</td>
<td>Automatically</td>
<td></td>
</tr>
<tr>
<td>(for example discretionary increases)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Funding Report</td>
<td>On request</td>
<td></td>
</tr>
<tr>
<td>Scheme documents</td>
<td>On request</td>
<td></td>
</tr>
</tbody>
</table>

### 6. Communication – wind-up

<table>
<thead>
<tr>
<th>Information</th>
<th>Automatically or on request?</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Notification of wind-up and progress report</td>
<td>Automatically</td>
<td>Not applicable for personal pensions. Includes information currently issued in ‘discharge notice’</td>
</tr>
<tr>
<td>Final notification of wind-up</td>
<td>Automatically</td>
<td>Not applicable for personal pensions</td>
</tr>
<tr>
<td>Estimate of transfer value</td>
<td>Automatically</td>
<td></td>
</tr>
<tr>
<td>Scheme documents</td>
<td>On request</td>
<td></td>
</tr>
</tbody>
</table>

### 7. Communication – ex-spouse of a member where there is an earmarking order

<table>
<thead>
<tr>
<th>Information</th>
<th>Automatically or on request?</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual benefit statement</td>
<td>Automatically</td>
<td></td>
</tr>
<tr>
<td>Confirmation re benefits, as the member approaches retirement</td>
<td>Automatically</td>
<td></td>
</tr>
</tbody>
</table>
8. Communication - spouse/financial dependant
(only applies when the scheme member is deceased)

<table>
<thead>
<tr>
<th>Information</th>
<th>Automatically or on request?</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Scheme documents</td>
<td>On request</td>
<td></td>
</tr>
<tr>
<td>Rights and options on death of member or beneficiary</td>
<td>Automatically</td>
<td></td>
</tr>
<tr>
<td>Confirmation of amount of benefit payable</td>
<td>Automatically</td>
<td></td>
</tr>
<tr>
<td>Changes to benefit in payment</td>
<td>Automatically</td>
<td></td>
</tr>
<tr>
<td>Funding Report</td>
<td>On request</td>
<td></td>
</tr>
</tbody>
</table>
The legal framework

1. A new Pensions Act (it would consolidate or repeal all existing Department for Work and Pensions (DWP) private pensions legislation).

2. Four principles at the top of the new Pensions Act:
   (i) each statutory requirement (whether set out in primary or secondary legislation) should include a statement of that legislation’s underlying policy aim;
   
   (ii) statutory requirements should focus on the objective to be achieved rather than the process needed to achieve it;
   
   (iii) statutory requirements should be proportionate to the stated policy aim and should avoid unnecessary complexity; and
   
   (iv) each new piece of pensions legislation should not be considered in isolation, but should have regard to the existing law applicable to pension arrangements.

3. Legislation underneath the four key principles to be mainly purposive but with prescription where that is appropriate.

4. A new regulator, which for the sake of brevity, we are calling the New Kind of Regulator (NKR). Gives advice (to pension professionals and to Government) as well as regulating.

5. Thought should be given to funding the NKR via taxation rather than via a levy.

6. Small number of Codes of Practice - some issued by the NKR, others by professional bodies and sanctioned by the NKR, some sanctioned by Government.

7. Greater reliance on pension professionals exercising and backing their judgement.
8. Even-handed regulation for small schemes and large schemes. Small schemes which cannot manage the new lighter regime to be encouraged to join multi-employer schemes or stakeholder pension schemes.

**Section 67**

9. Replace the certification/consent requirements of Section 67 so as to allow for modification of schemes where overall replacement of benefits are expected (but not guaranteed) to be equivalent in value.

**Contracting out**

10. A new, simpler reference scheme test (RST) for contracted-out salary-related schemes. Schemes should be able to convert all benefits, past or present, on an actuarial basis, to meet this new RST.

11. The Government to consult with interested parties on a workable mechanism to allow conversion of Guaranteed Minimum Pensions (GMPs) to RST benefit equivalents.

12. Amend the current requirement that no more than 10 per cent of pensions provided can be worse than the pensions provided under the RST to 20 per cent.

13. No requirement to provide Limited Price Indexation (LPI) as a precondition for contracting out and no such prescription on any form of pension.

14. No requirement to provide survivors' benefits as a precondition for contracting out and no such prescription on any form of pension.

15. Liberalise choices on the type of vehicle and forms of benefit that must be bought with protected-rights.

16. Allow Equivalent Pension Benefits (EPBs) to be commuted at the discretion of the trustees unless the member objects.

17. Remove the restriction on the date at which contracted-out rights are payable.

18. Introduce a facility to take all scheme benefits (including contracted-out rights) as a lump sum and pension, subject to Inland Revenue rules provided the pension payable is at least equivalent to an accrual rate of 1 per cent.

19. Introduce a number of early administrative easements as identified by the working group.
**Anti-franking**

20. Anti-franking would disappear for those schemes which converted GM Ps as we propose.

**Winding up**

21. Retain a statutory priority order and move to the Order due to come into effect in 2007. This should coincide with the introduction of the Minimum Funding Requirement (MFR) replacement.

22. Include a separate category in the priority order to protect the benefits of individuals nearing retirement.

23. Give priority to indexation of pensions in payment at the point the scheme goes into wind-up over increases for deferred members when they reach pension age (where such indexation applies given our other proposals).

24. Allow liabilities on wind-up to be discharged to a stakeholder or money-purchase vehicle provided the member does not object (i.e. schemes would no longer have to buy out with deferred annuities). We do not recommend this option, however, for people within ten years of normal retirement age where the existing annuity option should continue to apply.

**Transfer and default option**

25. Allow schemes to transfer small amounts of accrued pension into a ‘safe harbour’ product, where the member does not object or make a transfer within, say, six months. De minimis £10,000. Government to consult on the figure.

26. Allow a similar facility in respect of stakeholder providers and providers of personal pensions and group personal pensions.

**Trustees**

27. All schemes to have a minimum of one-third member-nominated trustees (no opt-out) apart from centralised multi-employer schemes.

28. DWP and HM Treasury should keep our arguments for simplification in mind when developing proposals for implementing the Myners recommendations.

29. Regular reviews of scheme documentation involving trustees/plan sponsor discretion.
Communication with pension scheme members

30. Communication requirements should be based on a set of principles – the main one being that communication is aimed at influencing members’ behaviour.

31. Information for new or prospective members of occupational pension schemes should be very basic, setting out the six or seven key features.

32. Only limited information should be provided automatically to members; other information should be available on request.

33. Annual money-purchase illustrations are being introduced by DWP in April 2003. We recommend that the only legislative requirement should be for these to be provided to scheme members. Guidance from the NKR should set out what should generally be included, and this should be consistent with the point of sale requirements on personal pensions for which the Financial Services Authority (FSA) is responsible. Requirements on stakeholder pensions should also be aligned. This applies also to hybrid schemes.

34. We agree with the Government’s proposals for disclosure to members of the scheme’s funding position under the proposals to replace the MFR.

35. Information should be provided in an ‘appropriate manner’ which can be electronically where reasonable.

36. Where scheme members or their representatives request information or scheme documents, this should normally be provided free of charge to the member. But schemes should have the flexibility to charge a reasonable fee to avoid nuisance – we suggest guidance from the NKR to describe what this means.

37. In the main, the legislation should simply set out principles, with the NKR or professions-produced guidance providing amplification.

38. All DWP disclosure legislative requirements should be set out in one place (irrespective of whether the requirements relate to new members, scheme wind-up, etc).

39. No timescales should be prescribed for providing information. NKR to provide guidance and to adjudicate in any disputes.
Internal dispute resolution

40. Streamline into a simpler process: two options offered.

Investment duties

41. Trustees to be required in legislation to produce a Statement of Investment Principles (SIP). Guidance from the NKR on what information should be included.

Terminology

42. We would encourage greater standardisation of terminology used in pension scheme documentation.

Pensions on divorce

43. The conditions for receipt of benefits under the pension sharing arrangements should be brought into line with those for other types of scheme member, subject to the caveat that a divorcee’s benefits should be used for the purpose of providing a pension.

44. In line with our proposals on contracting out, we propose that the restrictions on the share derived from contracted-out rights should be removed.

Other

45. Introduce immediate vesting in all types of pension scheme (once the individual has become a member).

46. Allow employers to make membership of their occupational scheme a condition of employment. This applies both to traditional occupational schemes and also to any employer-sponsored scheme into which the employer is paying a minimum contribution of, say, 4 per cent. Government to consult on the 4 per cent figure.

47. Retain indexation of deferred pensions. The actuarial value of such indexation to be taken into account in any transfer payments made.

48. Reduce the number of generic money-purchase products.

49. DWP, FSA and HM Treasury to establish a forum to discuss what might be done to make it easier for employers to promote the benefits of pension scheme membership.
50. Reduce the number of generic pension products - three only.

51. Ensure that the future regulatory framework provides encouragement for small employers to establish multi-employer pension schemes (both associated employers and non-associated employers - for example on a geographical basis).

52. Support the FSA's proposals to abolish the polarisation regime and recommendations for a two-tier advice regime.
Numbers with private pensions

• Currently 10.3 million employees are acquiring rights to occupational pensions.

• Around 7 million people are early leavers (i.e. they have built up pension rights in a scheme they have left). Some will be acquiring rights in other pension schemes.

• Two-thirds (66 per cent) of large private sector employers (with 20 or more employees) offer some form of pension provision (and all employers with 5 or more employees are required to designate a stakeholder pension if they do not provide access to an occupational scheme or a personal pension with an employer contribution of at least 3 per cent).

• Around 11 million people have personal pensions.

• Around £1,100 billion is invested in UK pension funds.

Proportions of the working age population covered by non-state pensions in Great Britain

• The table overleaf shows that 43 per cent (or two-fifths) of all employees are not currently contributing to a non-state pension.

• 37 per cent of all full-time employees are not currently contributing to a private pension.

• 54 per cent of self-employed people do not have a private pension.
### Historical numbers on membership of occupational pension schemes

- The figures show that, as a percentage of employees, membership of occupational pension schemes has been falling over the last two decades.
Appendix 4

Methodology

General approach

We have consulted as widely and openly as possible. We issued a consultation document in October 2001 to over 100 organisations, asking for written evidence to be submitted to the Review Team by 31 January 2002. The consultation has been in three phases:

- between October 2001 and December 2001, initial meetings with key organisations. At these meetings we took first thoughts and encouraged contributors to submit written evidence;

- written contributions received between November 2001 and February 2002; and

- between March 2002 and May 2002, we revisited the majority of organisations we had seen before Christmas to test our emerging proposals.
List of organisations met

- Association of British Insurers
- Association of Consulting Actuaries
- Association of Pensioneer Trustees
- Association of Pension Lawyers
- Consignia
- Confederation of British Industry
- Consumers’ Association
- Co-operative Group
- Engineering Employers’ Federation
- Faculty and Institute of Actuaries
- Financial Services Authority
- Government Actuary’s Department
- Government Departments (DWP, HM Treasury, Inland Revenue, Department of Transport, Local Government and the Regions)
- Inland Revenue Review Team
- Investment Managers Association
- The Joint Working Group on pensions
- Member-Nominated Trustees Working Group
- Merrill Lynch
- National Association of Pension Funds
- National Audit Office
- Occupational Pensions Regulatory Authority
- Pensions Advisory Service
- Pensions Management Institute
- Pensions Ombudsman
- Plumbing Pensions (UK) Limited
- Saffron Walden Herts & Essex Building Society
- Sandler Review Team
- Scottish Equitable
- SIPP Providers Group
- Society of Pension Consultants
- Standard Life
- Trades Union Congress
- Various social partners in the Netherlands
- Various pension experts in the Republic of Ireland
### Issues of concern

The table below sets out which organisations advocated reform in particular areas.

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Denton Wilde Sapte  
Faculty and Institute of Actuaries  
Institute of Chartered Accountants in England and Wales  
Lane Clark & Peacock  
Myer Brown Rowe & Maw  
National Association of Pension Funds  
Norwich Union  
Pensions Management Institute  
Society of Pension Consultants  
Standard Life  
Watson Wyatt  
William Mercer |
| Communication with scheme members | Aries Pension & Insurance Systems Limited  
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Association of Consulting Actuaries  
Association of Pension Lawyers  
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Barnett Waddingham  
BOC Group PLC  
Buck Consultants  
Consumers’ Association  
Co-operative Group  
Denton Wilde Sapte  
Faculty and Institute of Actuaries  
H & W Pensioners Action Group  
Independent Pensions Research Group/ Northern Pensions Resource Group  
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Appendix 5

List of contributors (organisations only)

1 Association of British Insurers
2 Alliance for Finance
3 Aries Pension & Insurance Systems Limited
4 Association of Consulting Actuaries
5 Association of Electricity Supply Pensioners
6 Association of IBM UK pensioners
7 Association of Members of the Thames Television Pension Scheme
8 Association of Pensioneer Trustees
9 Association of Pension Lawyers
10 Association of Royal Ordnance Pensioners
11 Association of Unit Trusts and Investment Funds
12 Barclays Bank PLC
13 Barnett Waddingham
14 BOC Group PLC
15 British Transport Pensioners Federation
16 Buck Consultants
17 Institute of Chartered Accountants in England and Wales
18 Institute of Chartered Accountants of Scotland
19 Confederation of British Industry
20 Confederation of Occupational Pensioners Associations
21 Consumers’ Association
22 Co-operative Group
23 Denton Wilde Sapte
24 Dixons Retirement & Employee Security Scheme
25 ECC Pensioners’ Association
26 Engineering Employers Federation
27 e-peopleserve
APPENDIX 5: LIST OF CONTRIBUTORS

28 Faculty and Institute of Actuaries
29 Fidelity Investments
30 Financial Services Authority
31 Gillette Pensioners Group
32 H & W Pensioners Action Group
33 HSBC
34 Imperial Pensioners Action Call
35 Inland Revenue Review Team
36 Investment Management Association
37 Independent Pensions Research Group/Northern Pensions Resource Group
38 Independent Television Commission Retirement Association
39 Investment & Life Assurance Group
40 ITB Pensioners Association
41 ITN Pensioners Association
42 Joint Working Group on pensions
43 Lane Clark & Peacock
44 Law Debenture
45 Law Society of Scotland
46 Lawson Mardon Pensioners Association
47 Legal & General
48 Lloyds TSB
49 Marks and Spencer
50 Member-Nominated Trustee Working Group
51 Merrill Lynch
52 Myer Brown Rowe & Maw
53 National Association of Pension Funds
54 Nationwide
55 NHS Pensions Agency
56 NNC Retired Staff Association
57 Norwich Union
58 NTL Retirement Association
59 O’Halloran & Co
60 Occupational Pensions Regulatory Authority
61 Pensions Advisory Service
62 Pensions Management Institute
63 Pensions Ombudsman
64 Personal Pension Management
65 Plumbing Pensions (UK)
66 Prudential
67 Railway Pension Trustees Co Limited
68 Raising Standards of Pensions Administration
69 Saffron Walden Herts & Essex Building Society
70 Sandler Review Team
71 Scottish Equitable
72 Scottish Widows
73 Serco-IAL Pensioners Association
74 Share Centre Limited
75 SIPP Providers Group
76 Society of Pension Consultants
77 Standard Life
78 Superannuation Arrangements of the University of London
79 Swiss re Life & Health
80 TGWU Southern Region Pensioners Association
81 The Adam Smith Institute
82 The Industrial Society
83 Travers Smith Braithwate
84 Trades Union Congress
85 Various pensions experts in the Republic of Ireland
86 Various social partners in the Netherlands
87 Watson Wyatt
88 William Mercer
89 Wimpey Pensioner Association (Southeast)
90 Zurich Financial Services
Review Team members

Chairman
Alan Pickering

Team members
Margaret Craig
Chris Dallard
Patrick Dowdeswell
Peter Ford
Adrian Furnell
Richard Kandler
Harry Scott

Secretary
Mark Heholt
The review was announced in September 2001. The following were the Terms of Reference that the Review Team worked to.

The simplification team will be led by a senior pensions industry figure with seconded Department for Work and Pensions (DWP) officials and outside experts in support.

The review will:

• carry out a comprehensive review of DWP private pensions legislation to identify a package of options for simplification and the reduction of compliance costs;

• consider the principles behind the legislation as well as the processes and ensure that the law is proportionate to the policy purpose;

• consider the means by which the regulatory framework is enforced;

• identify areas of simplification which can be achieved by secondary legislation and identify more fundamental reforms to be achieved by primary legislation; and

• report to the Secretary of State by July 2002 with proposals for simplifying the regulatory framework that do not compromise the security of individuals’ investments.

The review will have regard to:

• the need to maintain effective protection for pension scheme members;

• wider economic and exchequer effects;

• the links with and impacts on tax rules and the Inland Revenue Review;

• the separate work to implement the recommendations of the Myners review and to reform the Minimum Funding Requirement; and

• the work of the forthcoming five-yearly review of the Occupational Pensions Regulatory Authority.
This report is available on the internet at www.dwp.gov.uk and can be provided in alternative formats (Braille, audio tape) on request by calling 020 8867 3201 (textphone 020 8867 3217) 9am-5pm, Monday to Friday.