Editorial: Pensions compliance

I was delighted to be asked by Henry Stewart Publications to act as Guest Editor for this special edition of the *Journal of Pensions Management*. It carries papers from the one-day conference on 18th July organised by Henry Stewart Conference Studies on Pensions Compliance. This is a subject of great and growing significance for pensions professionals. Compliance issues have grown noticeably even in the two years since I became the chairman of the Society of Pensions Consultants (SPC).

SPC members provide professional services, consultancy and advice on pensions. So we follow compliance issues with close attention. Everyone involved with pensions, from the Government down, is committed to the principle of simplification. But the body of legislation and rules to be complied with nevertheless grows inexorably.

The Government is committed to reverse the roles of the public and private sector in retirement provision. It wants the private sector to bear 60 per cent of this burden instead of 40 per cent at present. It is introducing the Stakeholder pension to help this process along. At the same time, most predictions say that much higher contributions will be needed to provide future pensions at today's levels. This is likely to result in pensions becoming a subject of increasing controversy and concern. The volume of pensions legislation and regulation is most unlikely to diminish. Compliance will become more of an issue than ever.

You might think that pensions professionals would be delighted at the prospect of more complexity, resulting in more demand for their services. That would be highly cynical, and in practice nothing could be further from the case. Pensions professionals are emphatically not concerned to see an increasingly complex market in which they have unique expertise. Rather, their main concern is to keep the market sufficiently simple and transparent for people to be able to make an important lifetime investment with clarity and confidence.

Our members are therefore highly concerned about the proliferation of pensions regimes and rules. We constantly strive for more simplicity, transparency and the removal of anomalies and ambiguity. A large part of the SPC's activity consists of providing a forum in which professionals exchange views, discuss problems, resolve doubts and promote solutions to technical problems. Much of our work involves dialogue with Government Ministries and with the regulatory bodies to ensure that new legislation and rules achieve their intended purpose.

In the last three years we have been engaged in a major consultation exercise with the Government over its new approach to pensions and the introduction of stakeholder. In addition, Opra has been refining its powers and the FSA has been set up. There has been legislation on pensions sharing on divorce, a lively public debate on the FRED 20 accounting standard, an

ongoing dialogue about ethical or socially responsible investment, and a continuing discussion on 'best practice guidelines', just to list a few of the more obvious issues. And now we have the Myners review, which is concerned about low investment by pension scheme trustees in venture capital, and which may re-open the role of trust law in safeguarding pensions, and is questioning the role of consultants in advising pension schemes. Soon, too, there will be a major debate about the future of the MFR. We eagerly await the Government's word on the report it commissioned from the Society and Faculty of Actuaries.

All the above issues have important compliance angles.

Then there are the new requirements arising from decisions by the Ombudsman or the Courts — including the European Court of Justice at Luxembourg and the European Court of Human Rights at Strasbourg. A major new legal dimension has been added by the decision to incorporate the European Human Rights Convention into British Law. This has already taken effect in Scotland. The legal profession in England and Wales is bracing itself for the impact. This development has wide-ranging compliance implications for almost everyone, and not least pensions professionals. This is just one of a number of non-pensions-specific measures which require close attention from compliance officers. Another is the law on data protection, which affects pensions professionals importantly, along with everyone else.

The European dimension is important for the pensions industry. The decisions of the ECJ are in effect part of our own law. Their compliance consequences are frequently wide-ranging. In addition we have to monitor EU legislation. In fact, we ought to do more than that: we

should be concerned to make a positive input. This needs to be done at the formative stage. It is no good waiting until the outcome, and then complaining at the result. The UK accounts for the major part of all the funded pension provision that exists in the EU. So EU rules on pensions regulation need to be compatible with UK practice. Ideally they should reflect it, and UK principles should be the model. This would bring many advantages, not just on compliance. Attention is currently focused on the Commission's draft directive on pension scheme regulation. It will be a key element in the drive to create a level playing field for non-state pensions in Europe. This is currently stalled, but once the Commission submits its draft to the Council, a lively debate can be expected. The British interest will be to see a balance struck between opening up the European market for British pensions products, while at the same time ensuring enough regulation in all European countries to prevent abuse — for instance, the evasion of safeguards by moving pension schemes to jurisdictions with slack regulation. Once this debate is properly joined, there could be major compliance implications for British pensions professionals.

So compliance looms larger in the lives of pensions professionals than ever before. All the topics mentioned above were covered in more or less detail during the 18th July conference. The overriding message was that compliance burdens will continue to grow. Compliance is dynamic, not static. Only the complacent can think they know it all. There will be a constant demand for fresh expertise.

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