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Pensions Consultation Team
Department for Work & Pensions
1st Floor, Caxton House
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23 June 2016

Dear Sir / Madam

British Steel Pension Scheme

The Association of Professional Pension Trustees is an organisation of over 140 individuals who act as professional independent trustees to UK occupational schemes, some as sole practitioners and some working in firms of such practitioners. Our members represent a large number of mainly larger pension funds with combined assets of several hundred billion pounds.

Our aims are to:

- encourage and promote the highest professional standards in those who practise as professional pension trustees
- promote the role of professional trustees

In preparing our response to the consultation, we conducted a survey of our members. We asked their views on the principal options for dealing with the problems of BSPS. This covered the use of a Regulated Apportionment Agreement, the disapplication of Section 67 and permitting bulk transfers without first obtaining members' consent. We then asked members which option would represent the best outcome for BSPS members.

The second part of our response is based on the results of the survey and addresses the eight questions specifically raised in the original consultation document.

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Yours faithfully,

A handwritten signature in black ink, appearing to read 'Nita Tinn', with a stylized flourish at the end.

Nita Tinn

Association of Professional Pension Trustees

Survey Questions

Paragraph 11 of the Consultation Document asks that responses from membership organisations should provide a clear indication of how the views of members are reflected in their response. APPT conducted a formal survey of all registered members. The results of that survey form the basis of our response.

We asked our members four questions. The results were as follows:

Q1: Would the use of a Regulated Apportionment Agreement adequately achieve the objectives of separating the BSPS from TSUK and guaranteeing that members' benefits, whilst reduced, would still be better than those that would be available via the PPF?

Yes	55%
No	45%

Q2 Given the circumstances, is it appropriate to legislate to permit the disapplication of Section 67 of PA95 to allow accrued rights to be revalued or indexed in line with CPI rather than in accordance with the scheme rules.

Yes	42%
No	58%

Q3 Given the circumstances, is it appropriate to legislate to permit transfers without members' consent to a scheme whose benefits are inferior to those of the BSPS?

Yes	67%
No	33%

*Q4 Which of the following options would best serve the interests of BSPS members?
(choose one)*

Allow the scheme to fall into the PPF	8%
The use of an RAA	17%
The disapplication of Section 67 to allow revaluation / indexation of accrued rights at a reduced rate?	42%
Transfer of benefits without member consent to a scheme with less generous benefits but still better than the PPF benefits for every member?	33%

Consultation

This second section addresses the eight questions in the original consultation document.

Q1: Would existing regulatory levers be sufficient to achieve a good outcome for all concerned?

55% of our respondents were satisfied that existing structures could be used to achieve a satisfactory outcome, and 17% believed that the use of a Regulated Apportionment Agreement (RAA) or Flexible Apportionment Agreement (FAA) would represent the best solution for BSPS.

This solution would require the establishment of a new entity to act as scheme sponsor, and it is difficult to comment at this stage on the new scheme's prospects for achieving self sufficiency.

Q2: Is it appropriate to make modifications of this type to members' benefits in order to improve the sustainability of a pension scheme?

A minority (42%) of respondents believed that it was appropriate to introduce legislation to permit the reduction of accrued rights. The principal danger lies in the setting of a precedent; it seems reasonable to suppose that this option could be proposed again in future.

Q3: Is there a case for disapplying the section 67 subsisting rights provisions for the BSPS in order to allow the scheme to reduce indexation and revaluation if it means that most (but not all) members would receive more than PPF levels of compensation?

Whilst 42% of respondents were opposed in principle to the idea of reducing accrued rights, the same percentage believed that this option would provide the best possible outcome for BSPS members. It would clearly be the case that benefits provided would still be a superior alternative to those provided via the Pension Protection Fund (PPF).

We also note that under the original Trust Deed and Rules of the BSPS, indexation for pensions in payment and the revaluation of deferred pensions were discretionary until overridden by statutory requirements. We therefore accept that there is a case for disapplying Section 67 of PA 1995 in this instance.

Q4: Is there a case for making regulatory changes to allow trustees to transfer scheme members into a new successor scheme with reduced benefit entitlement without consent, in order to ensure they would receive better than PPF level benefits?

67% of respondents believed that it would be acceptable for members' benefits to be transferred without consent. 33% believed that this would give the best outcome for members. It appears that this option has only been considered due to the scheme's size; as BPS has 130,000 members, it would be impossible to obtain the consent to a bulk transfer within a reasonable timeframe. Again, given the circumstances, we are satisfied that this is a reasonable proposal.

Q5: How would a new scheme best be run and governed?

We suggest that any new scheme be established a Special Purpose Vehicle and that the Trustee Board be appointed by the Pensions Regulator. We suggest that Professional Trustees, with their extensive expertise and experience, would be the most suitable candidates.

As the new scheme would keep BPS liabilities out of the PPF, it seems reasonable to suggest that its operational expenses be met by funds raised by the PPF levy.

Q6: How might the Government best ensure that any surplus is used in the best interest of the scheme's members?

It seems to us somewhat premature to consider the use of surplus at this stage. However, we believe strongly that any surplus be used solely for the improvement of members' benefits.

Q7: What conditions need to be met to ensure that regulations achieve the objective of allowing TSUK to reduce the levels of indexation and revaluation payable on future payment of accrued pension in the BSPS without the need for member consent, balancing the need to ensure that members' rights are not unduly compromised?

There should be formal recognition that no further measures would be taken that would further compromise members' accrued rights.

Q8: What conditions need to be met to ensure that regulations achieve the objective of allowing trustees to transfer members to a new scheme without the need for member consent, balancing the need to ensure that members' rights are not unduly compromised?

There should be an agreed threshold about the number of members who are contacted and who have consented to the transfer. As we have noted, it would be unreasonable to expect the BSPS Trustee to contact all of them, but setting a target of an agreed percentage would demonstrate that every reasonable effort has been made.