Response to The Occupational and Personal Pension Schemes (General Levy) Regulations review 2023

Introduction

This document contains responses to the questions posed by the Department for Work & Pensions ("DWP") within their October 2023 review in relation to the proposed options for increasing the levy rates passed on to pension schemes.

These responses are provided by Enhance Support Solutions Limited, a specialist consultancy providing regulatory and technical support to administrators of personal pension and small self-administered schemes. Our clients range from 'traditional' SIPP and SSAS (relevant small schemes) providers through to Fintech based 'direct-to-consumer' propositions. For the avoidance of doubt, Enhance does not administer schemes – it is our clients who do this. Consequently, our responses are primarily focused on the impact we perceive on relevant small schemes, commonly referred to as small self-administered schemes ("SSAS").

Any questions arising from this response document can be addressed to
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Enhance Support Solutions Limited
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Responses:

Q1: Which option do you prefer?

Enhance response:

Option 2 is the preferred option, although none of the options seem to adequately and/or fairly address the funding requirements.

Firstly, we are surprised that such a large deficit has been allowed to build up and can see no justification as to why fees have not increased previously. While any organisation or pension scheme is no doubt happy not to see an increase in fees, a government body surely has a responsibility to plan for the future and collect fees accordingly. It is not a commercial decision; rather, it should be prudent governance and a financial planning decision to collect ongoing fair but realistic fees, especially where the alternative is what we now see in a cliff-edge deficit resulting in fee options that either fail to eradicate the deficit, and/or are untenable.

We also think that, as set out on para 17 of the review, while the existing fee model is simple (and we agree it is), given the funding challenges, there is merit in re-examining the funding model. This is because there are two fundamental components to pension schemes – membership and assets. By reference to Figure 3 of the Independent Review of DWP undertaken in the Summer of 2023[1], over the past ten years [2012 to 2022], DB active membership has more than halved from

[1] Link here: https://www.gov.uk/government/publications/independent-review-of-the-pensions-regulator-tpr/independent-review-of-the-pensions-regulator-tpr

2.1m to 0.93m, whereas DC membership has increased tenfold from 0.98m to 11.18m. This however has not been reflected in scheme assets where DB scheme assets are up by around 60% [£1,027 billion in 2012 to £1.667 billion in 2022] compared to DC assets that have increased by around five times [£23 billion in 2012 to £143 billion in 2022].

In other words, over the past decade, DB schemes have half the members but 1.5 x the assets; and, DC schemes have 10 x the members but only 5 x the assets. We wonder therefore whether there is some form of fee model that can be a function of both membership and assets? This feels a fairer way of distributing the fee burden, especially where DC schemes are striving to provide cheaper access to pensions, reflected in their high membership and low asset value.

Q2: In respect to your answer to Question 1, why do you support your preferred option?

Enhance response:
Option 2 is preferred on the basis this appears to the fairest of the three options covered insofar this applies equally to all schemes, insofar the percentage increase is constant across all categories of scheme.

Q3: What is the impact on your scheme/business of raising the levy under Option 2?

Enhance response:
Given the recent high-inflation environment, most business and enterprises, including the administration of pension schemes, have become quite used to seeing reasonably high fee increases (often double-digit) for the services they procure. Consequently, we are of the view that a 6.5% increase would be seen as reasonable and probably could be absorbed. That said, we do need to be mindful of the impact of other regulatory developments that will potentially result in additional costs to some schemes over the next 1-2 years, most notably system enhancements linked to connecting to the Pensions Dashboard. That said, the Annex B: Proposed ley rates look to be manageable in our view.

Q4: What is the impact on your scheme/business of raising the levy under Option 3?

Enhance response:
This option is manifestly unfair to the point of being irrational. We also think there are potential flaws in DWP's rationale for Option 3 which undermines the review procedure. At its most basic level, the proposed £10,000 premium will be hugely impactful on relevant small schemes (SSAS) which comprise the majority of smaller scheme caught by the premium. While we do not have evidence-based figures, anecdotally most SSAS comprise an average of 3-4 members, with many schemes comprising two members. Consequently, the per-member impact of the £10k premium is high.

We further do not see that any sound rationale has been provided for the imposition of a premium for smaller schemes, comprising as they do, mainly small relevant schemes/SSAS. The following points expand on this contention and why we think this option is both flawed and predicated on incorrect assumptions.

- For example, para 38 refers to TPR's contention (via a blog as opposed to anything more official) that the pensions market will benefit from having "fewer, larger, well run-schemes". While the sentiment may be correct, this fails to recognise that SSAS are typically exclusively member-trustees, plus their status obviates many TPR requirements.
- Furthermore, arguably TPR's primary function is to regulate on behalf of members who have little control over their pension scheme/fund. TPR's funding levy should reflect this.

- Para 39 makes the point that schemes of 2-11 members have lower governance standards, however the research cited for this statement [footnote 3 in the consultation] excluded SSAS, so while it may have reflected occupational DC schemes (not SSAS) with 2-11 members, this is not indicative of the 21,000+ SSAS in existence. Therefore, if SSAS is intended to be included in the £10k premium, this para is fundamentally flawed and misleading.
- The consultation contends that the impact of the premium in 2026/27 will result in a 50% reduction in the number of smaller schemes. Assuming that DWPs figures include SSAS (which we think they do) then: a) there is no rationale as to why 50% has been selected; b) if less than 50% exit then this provides a windfall to the TPR et al; and, c) in our view, the figures are unsound (see following bullets).
- Will 50% of SSAS simply wind-up and/or transfer to an alternative scheme and if so, where will they go?
- We know that due the nature of a relevant small scheme, legislation prevents them from becoming a larger scheme on the basis that a relevant small scheme is defined as *inter alia "a scheme with fewer than 12 members […] any decision made by the trustees is made by the unanimous agreement of the trustees who are members of the scheme"*[2].
- This therefore means the argument that smaller schemes should consolidate to larger schemes is impossible for a SSAS in its current form.
- As many SSAS are set up to hold commercial property, the alternative option is presumably a Self-Invested Personal Pension ("SIPP"). However, we contend that this is not necessarily an economically viable option. The next bullet explains.
- Let's assume that a four-member SSAS is faced with the prospect of a £10k premium. They have a choice; either pay the £10k or transfer to a SIPP. A property SIPP is probably going to charge say £800 to run the property so that's 4 x £800 = £3,200, compared to a SSAS fee of say £2k pa. There is then the hassle factor and cost of re-registering the property, so suddenly the prospect of winding-up the SSAS to avoid the additional TPR fee doesn't look so attractive when faced with a potentially ongoing more expensive pension option. This of course assumes the £10k premium is a one-off fee.
- Either way, we are unconvinced that 50% of SSAS will call it a day and move to other schemes. And furthermore, as mentioned before, we have no idea on what basis the DWP have decided that 50% of small schemes will call it a day. There simply is no rationale provided by the DWP for this assumption.
- Neither is there any commentary within the option 3 fee model as to what happens if either more than 50% of smaller schemes cease to be; or, the impact if more than 50% of smaller schemes remain – for example, does this mean the additional fee will be reduced from £10k if the reduction is only, say 20%?
- [There is potentially an unintended consequence that we do not think has been considered by the DWP insofar that smaller SSAS may simply look to move to a series of one-member SSAS, whereby say four members of a SSAS transfer their benefits to 4 x one-member SSAS, where each holds a percentage of the assets (say a property). This has the double whammy of a) avoiding the additional premium; and, b) removing the requirement for the individual schemes to be registered with TPR.]
- Against a backdrop of Consumer Duty and fair value assessments and the like, it seems an irrational notion that a scheme with 2 members pays the same £10k premium as a scheme with 9,999 members. It patently runs counter to fair value where two members in scheme A have to pay a fee of £5,000 per member, compared with the 9,999 members of scheme B who have paid £1. This is a perverse option. It should be remembered too that many firms who professionally administer SSAS are also FCA regulated through their personal

[2] S.1(2ZB) The Occupational Pension Schemes (Scheme Administration) Regulations 1996

pension activities. As such, matters such as FCA Principles, including the recently introduced Consumer Duty Principle (of which one strand is fair value) will come into play. The proposed fee premium runs counter to those principles.

There are a number of other reasons why the inclusion of relevant small schemes within Option 3 is flawed. When thinking about the bodies that the levy funds, we have the following observations:

The Pensions Regulator ("TPR"):
We have no issue with the role TPR performs, which we think is both generally relevant and well delivered. However, when looking at TPRs role in relation to relevant small schemes/SSAS, we question the ratio of funding to that of TPR's involvement with such schemes. For example, taking the TPR bullet points from the DWP review document [para 21] the following are cited, with our comments in italics:

- AE membership has grown – *this is irrelevant to SSAS*
- New schemes such as master trusts – *as above, this is irrelevant to SSAS*
- Duties for trustees – climate change – *again, this is not applicable to SSAS as this is aimed at larger schemes or master trusts*
- Reducing liability driven investments – *these types of investments rarely, if ever, are held within a SSAS*
- VfM work for savers - *relevant small schemes/SSAS are excluded from these requirements*
- Best possible outcomes for savers – *while we agree this is a relevant aim, arguably given the nature of a SSAS where the members are also trustees, they are by their very nature engaged with the scheme investments (plus often, they are the business owners of the sponsoring employer)*
- Pension dashboards – *this is currently not applicable as SSAS are not initially included in Pensions Dashboard*
- TPR's regulatory grip – *we have no issue with TPR looking to expand its regulatory grip save for the fact that relevant small schemes/SSAS are exempt from elements of pensions regulations hence require a lighter touch regulation by TPR – we would contend this is reflected in the current fee model*
- Upgrade IT systems – *there are no issues with this albeit if the Government's IT system has not been adequately maintained or updated, is it fair that small schemes should carry the financial burden for this?*

The Pensions Ombudsman ("TPO"):
There are two main points cited in DWP's review relating to the funding position:

- Increased use of the TPO – *while this may be true, it is not being used by the members of a SSAS. A quick search of the decision database, using the keyword "SSAS" reveals just 40 cases out of a population of 6,135 decisions, so less than 1%.*
- Upgrade of IT systems – *see same point above.*

MaPS:
We agree that MaPS is providing a valuable service and have little to add other than to say we feel that in general terms, we suspect that SSAS members are probably less likely to use PensionWise on the basis that SSAS members are typically engaged with their pension benefits, particularly given the often close-connection between the members and the scheme assets, more so than many alternative pension scheme members.

Taking the above into account, it seems perverse that SSAS should be expected to contribute a disproportionately large amount in the 2026/27 fee year – in short, relevant small schemes/SSAS are expected to contributed circa 50% of that year's fees through the additional fee, for services that they arguably have the least impact on

Q5: How will your scheme respond to a levy increase and/or premium? (For example: would it be absorbed by the scheme, passed on to members, or employers?)

Enhance response:
While we have no evidence to support this, our feeling is that for SSAS, it will be the scheme that pays the premium, hence will come out of the member-trustees' fund.

Q6: If you were to consider passing on costs to employers to absorb the levy increase, what is the size composition of employers using your scheme? (For example: are they mainly small, with less than 50 employees or larger employers?)

Enhance response:
Typically, within SSAS there is a close relationship between the sponsoring employer and the member-trustees of the SSAS, who are often the business owners. Given this close-connection, we suspect that in most cases it will be the SSAS who pays the additional premium, however if the sponsoring employer does pay, most SSAS sponsoring employers are family owned small to medium sized companies with less than 50 employees.