

## **ShareAction's Response to FCA Consultation CP14/16: Proposed Rules for Independent Governance Committees**

### **Overview**

ShareAction would like to respond to the FCA's Consultation on Proposed Rules for Independent Governance Committees. We would also like to register our interest in engaging with the FCA on the points set out below at any roundtables or meetings.

ShareAction (formerly FairPensions) is a registered charity established to promote transparency and responsible investment practices by pension funds and other institutional investors. We are a member organisation and count amongst our members a growing number of NGOs and trade unions, as well as over 24,000 individual supporters. We are interested in the FCA's work because of its oversight of key players within the pensions sector.

We applaud the government's commitment to raising governance standards in workplace pension schemes and intention to deliver equal standards of protection for savers whether they are in trust, contract or master trust-based schemes. We welcome the decision to introduce governance committees within contract-based providers, something that ShareAction has called for since our 2012 report ['Whose Duty? Ensuring effective stewardship in contract-based pensions'](#) The proposals in their current form, however, will not achieve the desired results as IGC's will lack independence, will not ensure accountability of the provider to members themselves and their remit is too narrow.

We are also deeply concerned that, despite the fact that IGCs are meant to represent members, current proposals do not envisage a role for members on the IGC itself. The experience of member nominated trustees (MNTs) on the boards of trust-based pension schemes shows that there are numerous benefits to including member representatives in pension scheme governance. The 1993 Goode Report into Pension Law Reform found that:

*'There are many reasons why it is desirable to have member trustees. They impose the discipline of another view, bringing to the trustee board a different experience and perspective, and helping to ensure that the interests and views of scheme members as potential beneficiaries are constantly kept in mind'* (4.5.24)

The report also concluded that fears relating to the competency of MNTs had been 'exaggerated' (4.5.20).

We encourage the FCA to rethink its proposals on the composition and appointment mechanisms of IGCs. We are concerned at the prioritisation of 'independence' at the expense of stakeholders, such as employers and members, playing a role in governance of their own schemes. Furthermore, we do not think that genuine independence will be achieved if providers control the appointment process and select candidates from what they already predict will be a very narrow pool.

As IGC's are meant to represent scheme members' views, there must be firmer requirements around the mechanisms that providers can use to communicate with scheme members. The proposals in this area are underdeveloped. As a minimum, the contact details for the IGC need to be clearly available to members and the provider should hold an AGM at which scheme members can question the IGC and the company board. We would be happy to share with the FCA further details of our work facilitating communication between members and their pension scheme, and the benefits of this to all parties.

**Q1: We would welcome views on the likely equality and diversity impacts of the proposed rules.**

The current proposals are likely to result in IGCs lacking in diversity in terms of age, gender and professional background; paragraph 3.17 says that firms expect to draw candidates from a 'limited pool'. This is problematic because IGCs are meant to represent diverse memberships of workplace pension schemes.

Also, it is widely acknowledged that diversity is necessary on committees or company boards to foster a culture of lively debate, robust decision making and willingness to challenge suppliers. The Government's own review of 'Women on Boards' in February 2011 led by Lord Davies of Abersoch concluded that

'it is clear that boards make better decisions where a range of voices, drawing on different life experiences, can be heard'.<sup>1</sup>

The Association of Member Nominated Trustees<sup>2</sup>, the UNPRI and the Dutch pensions supervisory authority, De Nederlandsche Bank<sup>3</sup> have all recently called for trustee boards of pension schemes to become more diverse for these reasons. We consider their comments on the need for diversity on pension trustee boards applicable to IGCs.

As such we think that members and employers should be able to put themselves forward for roles on IGCs. Members and employers should also have the right to select or elect their own representatives to sit on the IGC. The regulators should provide training materials for (prospective) IGC members from outside the financial services industry so that they can develop the necessary skills and knowledge, as The Pensions Regulator does through its Trustee Toolkit.

Diversity is important not just for achieving a balanced and effective board but also so the interests of different scheme members are taken into consideration. ShareAction has collected testimonies from member nominated pension trustees (MNTs). We have heard from several MNT's that they were instrumental in securing equal pension rights for same

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<sup>1</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/31480/11-745-women-on-boards.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/31480/11-745-women-on-boards.pdf)

<sup>2</sup> 'Does your trustee board have a women problem?', Pensions Expert, 2/09/2014, <http://www.pensions-expert.com/DB-Derisking/Does-your-trustee-board-have-a-women-problem>

<sup>3</sup> 'PRI calls for trustees to be 'brave' and consider long-term investing', Investment and Pensions Europe, 5/06/2014, <http://www.ipe.com/10002088.article>

sex couples long before this was a legislative requirement, or fair treatment of (mainly female) part-time workers.

### **Requirement to establish an IGC**

#### **Q2: Do you agree that deferred members of workplace personal pension schemes should be within the mandatory scope of IGCs?**

Yes. IGCs have the potential to significantly improve outcomes for active and deferred members in contract-based schemes if they are designed well; with necessary resources, genuine independence, and clearly defined roles and responsibilities. As employers have less motivation to scrutinise the quality of pension provision for ex-employees than for current employees, it is essential that deferred members' interests are also protected by the IGC.

The numerous recent scandals that have hit the financial services industry, for example the mis-selling of payment protection insurance, and the mis-handling of compensation for this, show that the FCA's 'Treating Customers Fairly' programme is not sufficient to protect consumers in markets characterised by wide asymmetries of information.

#### **Q3: Do you agree that individual personal pensions, other than those that originated as workplace personal pensions, should not be in the mandatory scope of IGCs?**

Yes. Although there are concerns about the governance of individual personal pensions, it is not appropriate to expand the scope of IGCs until it has been shown that they can work effectively.

#### **Q4: Do you agree that individual personal pensions should not be in the mandatory scope of IGCs even where the employer contributes or facilitates payments?**

Yes

#### **Q5: Do you agree with our proposals for which firms will be required to establish and maintain an IGC?**

Yes

#### **Q6: Do you agree that IGCs may be established at a group level?**

Yes, we recognise that good quality governance entails a cost and that this cost will ultimately be borne by members. As such it is appropriate to have a single, well-resourced IGC to oversee numerous schemes. Nevertheless, the FCA must monitor the situation to make sure the interests of different scheme members are sufficiently taken into account by the IGC.

### **Establishing and maintain an IGC**

#### **Q7: Do you agree that an IGC must have a majority of members independent of the firm and that the IGC Chair must always be independent?**

ShareAction is in full agreement that ‘an IGC’s independence is crucial to its ability to challenge the firm effectively on value for money issues’ (3.34). In light of this we do not think it is appropriate that almost half of IGC members can be employees of the provider itself or that all of committee members are dependent on the provider for their appointment and reappointment.

Although genuine independence from the provider is an important feature of these governance bodies, we are also concerned at the proposal’s prioritisation of ‘independence’ at the expense of fund members themselves, or representatives that they have chosen, having a role in the governance of their own pension schemes. The definition of independence proposed may achieve independence on paper but this is no guarantee that the committee will actually exercise objective, non-conflicted governance in the best interests of the members when the recruitment process is so beholden to the providers and the recruitment pool is apparently so narrow.

Member representatives should take a third of positions on the IGC and employer representatives should also make up a third. Member and employer representatives should either be elected or appointed by Unions or appropriate employer associations. This structure would mirror more closely the structure of pension fund trustee boards and therefore would better achieve the government’s stated aim of levelling up governance standards so that members in contract-based schemes enjoy the same level of protection as those in trust-based schemes.

Although the trustee governance system does receive criticism, such criticism is overwhelmingly levelled at the trustee boards of small pension schemes which can lack the resources and expertise to adequately fulfil their governance role (see for example the Office of Fair Trading’s 2013 report into the workplace pensions market). IGCs would sit with large, well-resourced providers and would oversee large numbers of member contracts, so should not be subject to the problems faced by small trust-based schemes.

ShareAction is very concerned at the prospect of all IGCs being staffed by a narrow pool of the same individuals with similar backgrounds. We have been conducting extensive research on pension scheme governance for a forthcoming report, including conducting research interviews with a range of actors in the pensions sector. We have heard repeatedly that trustees who have worked for years in the financial services industry are often the least likely to challenge the status quo, particularly with regard to questioning the fees paid to service providers.

As member representatives are not professionals, many MNTs have told us that they are more able to ask certain questions and challenge providers without the fear of appearing ‘stupid’, unlike independent professionals who have a reputation to uphold. For example, one MNT said that their scheme received advice from lawyers and administrators that they could not recover VAT on scheme services when the scheme went into administration. This did not seem logical to the MNT so they wrote to HMRC. As a result, they recovered the VAT and the administrators acknowledged that they had given the wrong advice. Other examples of MNTs making a difference to outcomes include:

- initiating the formation of sub-committees, for example on audit, investment or administration
- fighting for cost savings resulting from scheme mergers to be passed on to members
- initiating regular ‘beauty parades’ of professional advisors, resulting in fee savings
- acting as an approachable point of contact for other members, who were nervous about asking ‘silly’ questions to professional representatives of the scheme.

As trustee boards reach decisions via voting or consensus, it is difficult to prove decisively how the presence of employer representatives, member representatives or independent experts changes outcomes. MNTs repeatedly say, however, that even though they are not experts, their presence on governing bodies tends to result in outcomes that are fairer for members than would be the case without them. As such the onus should be on the industry to prove they can be trusted with pension governance, given their conflicted interests and previous governance failures, rather than for members and employers, to prove they have a right to be involved.

The Australian Superannuation system provides evidence that representative governance models are more successful at protecting scheme members' interests than models where commercial providers appoint trustees. In Australia, all pension schemes are governed by trustees; for-profit retail schemes appoint two thirds of their trustees internally, or appoint trustees through executive search or personal contacts. Less than 5 per cent are elected by employers and none are elected by members. In the not-for-profit corporate, public sector or industry schemes, however, the majority of trustees are elected by employers or members or appointed by Unions or employer groups. Small proportions are appointed through executive search. The McKell Institute has provided comprehensive evidence that in Australia's Superannuation system:

*'the not-for-profit representative trustee model has outperformed its for-profit appointed trustee competitors on virtually every important criteria of superannuation performance over a long period. Although there may be scope for further improvement of the representative governance model, it promotes higher levels of diversity among trustees, more effectively minimises conflicts of interest and, importantly, has continually outperformed the for-profit model over the past decade, generating higher net returns for fund members.'*<sup>4</sup>

Using the latest data from the Australian Prudential Regulation Authority they show that the not-for-profit schemes with representative governance models generated risk-adjusted returns that were on average 2.4 per cent higher than the retail funds over the last decade.

Alongside Australia, the Dutch pension system is consistently ranked as amongst the best in the world by respected sources such as the OECD and the Melbourne Mercer Pensions Index. In the Dutch system, the majority of occupational pensions are delivered through industry funds whose boards comprise of equal numbers of employers and employees. Governance is not controlled by commercial providers.<sup>5</sup> ShareAction's report 2013, 'Our Money, Our

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<sup>4</sup> 'The Success of Representative Governance on Superannuation Boards, The McKell Institute, June 2014

<sup>5</sup> 'The Dutch Pension System: An overview of Key Aspects', Federation of Dutch Pension Funds, Jan 2012

Business' also noted that member representation in pension scheme governance is mandated at fifty per cent in Belgium, the Netherlands, Norway, Sweden, Italy, South Africa and Japan.

The provider should be able to appoint independent experts to the IGC, but no more than a third. So if there are five IGC members, one should be an independent expert appointed by the provider, two would be member representatives, either elected by the membership or appointed by Trade Unions, and two would be employer representatives, either elected by the employers or appointed by employer associations. All members of the IGC should have a legal duty to prioritise savers' interests over their duties to other parties. The regulator should provide training to IGC members from non-financial backgrounds to allow them to develop the necessary skills and knowledge. This could be similar to TPR's Trustee Toolkit.

**Q8: Do you agree that an IGC should have at least five members?**

Yes, as noted in our response to question 1, IGCs should be composed of a diverse group of individuals so that they can represent their diverse memberships and effectively challenge the provider. This will not be achieved if there are less than 5 members.

**Q9: Do you agree with our proposed definition of independence that would allow trustees of a firm's mastertrust to be independent IGC members?**

It is only appropriate for a trustee of the provider's master trust to also sit on the IGC if they have been elected by the membership or the employers. As the proposed recruitment mechanism for IGC members is beholden to the provider there is a risk that providers could select individuals who they know will not 'rock the boat' or persistently challenge them.

**Q10: Do you agree that we should not require firms to indemnify IGC members?**

No, firms should indemnify members as a lack of indemnification will be a barrier to individuals coming forward for these roles.

**Q11: Do you agree that members of the IGC, including the IGC Chair, should not be approved persons at this time?**

Yes. Introducing an 'approved persons' requirement would further restrict the pool of candidates that IGC's could draw from.

**Q12: Do you agree that we should require firms to recruit independent IGC members through an open and transparent recruitment process?**

It is clearly essential for the recruitment process to be open and transparent, but this will not be achieved under the current proposals which allow the provider to have control over the appointment of candidates.

ShareAction proposes that the majority of IGC members should be elected or appointed by appropriate representative bodies, scheme members and employers each having equal numbers of representatives. This would bring governance standards in contract-based schemes in line with those of trust-based schemes. The provider could have a role in filtering candidates before an election to ensure quality of candidates. Scheme members should be able to put themselves forward for election.

We acknowledge the point made in paragraph 3.37 that elections could have a low level of engagement by scheme members. Yet it is not suggested that democratic process should be abandoned due to low voter turnout in elections for the European Parliament or the Mayor of London, for example, which both had turnouts of around a third of voters in their last elections<sup>6</sup>, or for elections of company directors by shareholders. Elections with low turnouts will still result in IGCs that are far more independent and robust than if the provider controls the appointment process as proposed. We also encourage the FCA to also take note of the Australian experience in this regard, where member interest in and engagement with their 'supers' has steadily increased since saving became compulsory and the amount of money in savers' pension pots has grown.

**Q13: We would welcome views on the proposed duration of appointment of IGC members.**

Membership of a committee should be subject to a limit of three years, with the possibility of one re-election or reappointment. It is not appropriate for an IGC member to serve multiple terms if they are appointed by the provider, rather than being elected, because the desire to seek reappointment is likely to limit their motivation to challenge the provider.

**Q14: Do you agree that we should permit the appointment of corporate persons to IGCs, including as the IGC Chair?**

We do not agree that corporate persons should sit on IGCs. We are especially concerned by the proposal that there would be no restrictions on duration of their appointment. In order to foster a sense of accountability and trust with scheme members, it is essential that they are represented by named individuals on the IGC rather than faceless corporate entities.

**Q15: Do you agree that there should be no restriction on the duration of a corporate appointment?**

ShareAction does not think it appropriate for corporate persons to fulfil this role and is especially concerned that the proposals place no restrictions on the duration of appointments. If there is no limit on the duration of appointment and no named individual to take responsibility we do not see how corporate appointments can provide the appropriate level of accountability.

**Terms of reference for an IGC**

**Q16: Do you agree that IGCs should consider in particular the value for money received by individuals enrolled in default funds?**

Yes. The IGC should, however, also be required to consider the value for money of all schemes that are offered to members through auto-enrolment. This is particularly important as non-default funds are not covered by the government's proposed charge cap. It is unlikely that scheme members would be aware that if they choose the non-default fund, the governance standards would be weaker. Although members who choose a non-default fund have made an active choice, they cannot be considered as informed consumers who do not

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<sup>6</sup> [www.ukpolitical.info](http://www.ukpolitical.info)

need the protection of the IGC given the asymmetries of information in this market. Members should be encouraged to make active choices rather than penalised in this way.

**Q17: Do you agree that, at a minimum, IGCs must assess whether the characteristics and net performance of all investment strategies are regularly reviewed by the firm?**

No. ShareAction believes that this minimum is setting the bar too low and is out of step with the responsibilities of trustee boards of occupational schemes. The IGC should itself consider the characteristics and net performance of the investment strategies, including how the firm takes ESG (environmental, social and governance) factors into account in the investment process.

ShareAction also believes that IGC members must have a clear legal duty to prioritise the interests of scheme members. It is concerning that members of the IGC have ‘a duty to act in the interests of relevant scheme members’ (3.35) but they do not have a duty to prioritise members’ interests in a conflict of interest situation.

This consultation paper and DWP’s 2014 Command Paper, ‘Better Workplace Pensions: Further measures for savers’ both say that there needs to be ‘a robust regulatory approach which offers consistent levels of protection for all members of workplace pension schemes’ whether the scheme is trust or contract-based (DWP Command Paper, paragraph 0.5). Although the introduction of IGCs is a welcome step forward in terms of improving the level of protection for contract-based scheme members to bring them in line with the trust-based model, the current proposals fall short of achieving this.

The proposed ‘duty to act in the interests of relevant scheme members’ is significantly weaker than the fiduciary duty which pension scheme trustees are subject to. This duty includes the duty of loyalty, comprising the ‘no conflict rule’ – whereby a fiduciary must not place themselves in a position where their own interests conflicts with that of the principal, or where they favour one principal over another – and the “no profit rule”, where a fiduciary must not profit from their position at the expense of the principal.

The most robust way to protect members’ interests is to impose a fiduciary duty on the individuals responsible for managing their savings. ShareAction has received legal advice that IGC members, unlike pension scheme trustees, cannot be given fiduciary obligations as they will not have the powers necessary to fulfil these obligations. We propose, therefore, that IGC’s terms of reference should require the IGC members to prioritise members’ interests over the interests of any other stakeholders and to resolve any conflict of interest should be resolved in the best interests of members. This is in line with Recommendation seven of the Kay review.

**Q18: Do you agree that, rather than mandating a particular approach, we should allow individual IGCs to determine how best to assess value for money?**

No. ShareAction believes that the government should offer clear, comprehensive guidance on assessing value for money. IGCs will sit within particular providers and are, in their current form, not adequately independent from the provider. There is a clear conflict of interest in allowing providers such a prominent role in designing the framework that they will be



judged against. It would be more helpful for employers and savers if all schemes were judged against the same criteria, facilitating comparability. The OFT's 2013 report goes into great detail about how the lack of common definitions for fees and charges impedes comparability and exacerbates the problems of asymmetries of information and the weak buyer side of this market.

**Q19: Do you agree that IGCs should be required, at a minimum, to review the three aspects of scheme quality proposed, and should consider other aspects as appropriate?**

ShareAction agrees that IGCs should consider these three proposed aspects, but should also be mandated to consider the following additional factors:

- The performance of third party service providers, for example any providers of outsourced administration or investment management services and the fees paid to them.
- The quality of communications to scheme members. In the context of the new freedoms that pension savers have been given with regard to their retirement savings in this year's budget it is more essential than ever that savers are provided with comprehensible and engaging information. The fact that many people are not saving enough for their retirement also shows that savers need to be provided with clear information about their expected retirement income. It would also be in line with the recommendation of the Myners Review, over a decade ago, that members should receive annual reporting on how their scheme's investment policy was being implemented. Myners argued that this "should develop into a forum for decision-makers to explain and justify their approach, and for stakeholders to exercise oversight of the decisions made on their behalf".

Communications from providers is often focused on compliance, protecting the company from risk and making sure all the necessary facts are in the small print. It is not designed with the members in mind. It is, therefore, important and appropriate that IGCs perform the function of considering communications from the members' perspectives. The need to improve communications is a further reason why member representatives should be included on IGCs. Member representatives know what other members want to know and can play an extremely valuable role in ensuring communications are written in jargon-free plain English.

- How ESG (environmental, social and governance) factors are taken into account in the investment process. The government should ensure that any minimum quality standards promote Responsible Investment (RI), being investment which takes account of long-term ESG risks which may affect investment returns. If pension schemes generally, and governance boards in particular, are mandated to take seriously the long-term effects of investment decisions, rather than to pursue short-term trading, schemes should act in a counter-cyclical manner rather than exacerbating herding within the market. This will benefit all schemes by contributing to a more stable investment system.

- The IGC should also be responsible for monitoring the stewardship approach of the provider in respect of investee companies. It is now widely recognised that the voting and engagement activities of institutional shareholders can help to reduce risks and add value for pension savers by ensuring high standards of corporate behaviour. ShareAction's 2012 survey<sup>7</sup> of the stewardship approaches of the UK's 10 largest contract-based pension providers showed that insurance companies have been unwilling to fulfil this stewardship role. Our study found that most insurance companies were not undertaking oversight of the stewardship activities of funds offered to members of their schemes. Monitoring and encouraging stewardship is an important part of overcoming the governance gap in contract-based pensions and raising standards to the level of well-governed trust-based schemes.

**Q20: Do you agree that IGCs should consider all costs and charges, as proposed? If not, what would you suggest?**

Yes, they should consider all costs and charges, in addition to the other features outlined above.

**Q21: We would welcome views on how best to improve the disclosure of all costs and charges, and how we could transpose the industry standards for authorised funds to pensions.**

The regulator should issue clear, mandatory, guidelines on how to disclose this information, to help IGCs in their work and to ensure costs and charges are disclosed in standardised formats. We do not think that the IMA or the ABI should be able to determine the framework. ShareAction recommends that the FCA considers the disclosure framework outlined in the Code of the Dutch Pension Funds, introduced in January 2014: [http://www.pensioenfederatie.nl/services/publicaties/Pages/Code\\_of\\_the\\_Dutch\\_Pension\\_Funds\\_72.aspx](http://www.pensioenfederatie.nl/services/publicaties/Pages/Code_of_the_Dutch_Pension_Funds_72.aspx)

**Q22: Do you agree that IGCs should be able to escalate concerns directly to the FCA, alert relevant scheme members and employers, and make their concerns public?**

Yes. The IGC should also have the right to summon members of the board of the provider before them to answer their questions.

**Proposed rules for independent governance committees**

**Q23: Do you agree that the IGC Chair should be required to produce an annual report and that the firm should be required to make this report publicly available?**

Yes

**Q24: We would welcome views on where IGCs should focus their attention.**

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<sup>7</sup> [http://www.shareaction.org/sites/default/files/uploaded\\_files/researchpublications/StewardshipLottery.pdf](http://www.shareaction.org/sites/default/files/uploaded_files/researchpublications/StewardshipLottery.pdf)

IGCs should be given clear instructions by the regulator to follow up on the findings of the review of legacy schemes, currently being conducted by an independent project board supported by the ABI. This review followed that OFT's finding that £30 billion of savers' money is trapped in legacy schemes at risk of offering poor value for money. ShareAction is particularly concerned that, despite the OFT's decisive findings, the legacy review will not result in appropriate action to improve standards for savers in these schemes.

The interim report of the legacy schemes review, published in on 31st July 2014, says that it will be the responsibility of IGCs to follow up on their findings. Yet the FCA's proposals for IGCs do not mention the review; section 4.24-4.26 is titled 'With-profits funds and legacy schemes', but only the former are discussed. As the final report of the legacy schemes review is due for publication in December 2014 but IGCs will not come into existence until April 2015 there is a clear danger that the review will be forgotten and the recommendations not followed up.

As outlined in our response to question 19, IGCs should also consider the quality of communications to scheme members and the provider's approach to Responsible Investment and Stewardship.

### **Ensuring effectiveness of IGCs**

**Q25: Do you agree that we should place a duty on the firm to provide the IGC with all information that it reasonably requests for the purposes of carrying out its duties?**

Yes, also we emphasise that it is reasonable for the IGC to request commercially sensitive information. The firm should have a duty to provide information that the IGC requests in a timely manner.

**Q26: Do you agree that we should place a duty on the firm to provide sufficient resources to the IGC as are reasonably necessary for it to carry out its duties?**

Yes; the firm is the only source of resources for the IGC. Also, IGC's should be required to meet at least quarterly as any less than this will not give them sufficient time to consider everything that they need to.

ShareAction also proposes that the IGC must be able demand that the provider moves members out of investment vehicles that are underperforming. The provider must act on this demand, or explain why not in their annual report. If members' funds cannot be moved out of underperforming vehicles, then the governance structure is not fit for purpose.

**Q27: We would welcome views on possible arrangements to ensure that member views are directly represented to the IGC.**

ShareAction is concerned that the proposed requirements on these possible arrangements are far too vague. We recommend that pension providers must hold an AGM, to which all members are invited where the IGC and Senior Executives of the provider are present and can be questioned directly by members. The existence of such an annual forum would help build much-needed trust and confidence, even amongst members who do not attend. AGMs

should be webcast and members attending over the web should be allowed to ask questions, so that geography is not a barrier to participation.

There is a precedent for pension scheme AGMs; the Legal and General master-trust recently held their first AGM which attendees and organisers considered to be a success. Local authority schemes also hold AGMs, which are often better attended than the AGMs of some FTSE 100 companies.

We also support providers holding webinars or roadshows where scheme members around the country can meet representatives from the provider. Apart from benefitting members, providers who do engage in these types of activities have told us that they find the feedback that they receive from members extremely useful and it helps to focus the providers' minds on the members' needs and views. As we detail in our 2013 report, 'Our Money, Our Business'<sup>8</sup>, even if only a small proportion of members engage, the scrutiny of a vocal minority helps improve outcomes for all members.

Contact details for the IGC, or a named member of it, should be clearly displayed on the provider's website and distributed to members with their welcome packs and annual benefit statements, so that the members know where to direct their concerns about scheme value for money and investment policy. As the IGC is meant to represent members' views to the provider, we see no reason why this should not be the case.

Providers should be encouraged to conduct online surveys to ascertain member and employer views, and to involve the IGC in this process.

**Q28: Do you agree that the firm should make the IGC's annual report and terms of reference publicly available?**

Yes

**Q29: Do you agree that we should place a duty on the firm to address concerns raised by the IGC or explain to the IGC why it does not intend to do so?**

Yes. To strengthen this mechanism, the firm should be required to explain any instance where it does not act on the IGC's concerns in its annual report.

The experience of with-profits committees shows that there is a clear danger that firms may not adequately address concerns raised by this type of governance committee. The FSA's 2010 'With-profits regime review report' found that:

*'some firms were unable to demonstrate that their Boards were engaging adequately with their with-profits committee and consequently, that policyholders' interests were being properly protected and taken into account in actions and decisions taken by the firm.'* (3.18)

And

*'In a few cases, when with-profits committees raised concerns on the grounds of fair treatment of policyholders, it was not always evident that these concerns were*

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<sup>8</sup> [http://www.shareaction.org/sites/default/files/uploaded\\_files/investorresources/OMOB.pdf](http://www.shareaction.org/sites/default/files/uploaded_files/investorresources/OMOB.pdf)

*taken into account by the firm and consequential changes made to recommendations, or that there were clearly documented and reasonable justifications for the firm not changing its recommendations.’ (3.20).*

We are not convinced that the lessons of past failures have been learnt. In their proposed form, it is likely that some IGCs would experience the same problems as those identified by the FSA in relation to with-profits committees.

### **Proportionate alternative arrangements**

#### **Q30: Do you agree that GAAs should be allowed as an alternative to IGCs for firms with smaller and less complex workplace personal pension schemes?**

No, savers should enjoy an adequate level of protection no matter what type of scheme they are enrolled in. Creating a two-tier governance regime would not achieve this and would introduce unnecessary complexity. There is a higher risk of poor value for members in smaller schemes which do not achieve economies of scale and often do not have sufficient capacity or expertise to provide good governance.

#### **Q31: Do you agree with our proposals for the type of firms that can use GAAs?**

No