

Briefing: The Office of Fair Trading's Report on the Defined Contribution Pensions Market

The purpose of the OFT's study was to investigate whether the defined contribution (DC) pensions market is working well for consumers, and "whether competition between providers is set up to work in the best interests of current and future savers to deliver low cost, high quality pension schemes."

Background and key findings

- **The OFT concluded that "competition alone cannot be relied upon to drive value for money for all savers in the DC workplace pension market"**, due to the complexity of the product and the fact that decisions are being made by employers on behalf of consumers.
- They identified particular problems with high-charging 'legacy schemes' and small trust-based schemes with inadequate governance.
- **The OFT is "concerned that similar problems might occur in the future without measures to improve the governance and scrutiny of pension schemes on behalf of savers and the quality of information available."**

The OFT's recommendations

Many had expected the OFT to recommend a charge cap, but it stopped short of this. **Key recommendations and actions include:**

- The Association of British Insurers (ABI) has agreed to undertake an audit of high charging schemes.
- The Pensions Regulator (TPR) will assess which small trust-based schemes are failing, and DWP will consult on whether TPR needs new enforcement powers to deal with this.
- ABI members have agreed to establish independent governance committees, and the OFT recommends that government embed the key elements of this into minimum quality standards.
- The OFT recommends that DWP consult on improving the quality of information about charges, and on banning auto-enrolment schemes from using certain charging structures (consultancy charging and active member discounts).

In light of the above steps, the **OFT is not proposing to refer the market to the Competition Commission, although it has concluded the legal test for doing so is met.**

ShareAction's response

- **ShareAction has long called for improved governance arrangements in contract-based pension schemes**, and DWP is currently consulting on whether to incorporate governance requirements into new quality standards for auto-enrolment schemes.
- The agreement reached with the ABI on Independent Governance Committees is a significant development in this area. Although the government could take a different view to the OFT on the role of these committees, the fact that they are already being set up by providers means they are likely to set the agenda for the DWP's further deliberations.
- **Although this is a positive development, we have serious concerns that the OFT's recommendation is insufficient to protect pension savers.**
- The role of the committees appears to be essentially advisory, with recommendations being made to the scheme provider's board which will then have a 'comply or explain' duty to act on the recommendations.
- In addition, the members of the committees will be appointed by providers and can be removed by them, which creates an inherent conflict of interest and a disincentive to 'rock the boat'.
- Finally, the committees' recommendations would only be made public if they felt they had not been properly addressed. **Transparency is a key component of good governance: the lack of scrutiny built into the new system is worrying.**
- ShareAction has argued for decision-making boards with a duty to act in members' best interests – not advisory boards acting as a 'check' on the decisions of the main board. **We are concerned that these new committees could have limited impact and do not truly close the 'gap' between contract-based and trust-based pension scheme governance.**
- In our view, DWP must go beyond the OFT's recommendations in setting scheme quality standards, and **must ensure that any new governance committees in contract-based pension schemes:**
 - » have decision-making powers which parallel those of trustee boards,
 - » are scrupulously independent and free from conflicts of interest, and
 - » include member representation to parallel the role of member-nominated trustees.

Further reading:

Summary of the OFT's findings: [Summary of OFT findings](#)

The OFT's full report: [OFT report](#)

ShareAction's 2012 report, 'Whose Duty: Ensuring effective stewardship in contract-based pensions': [The Missing Link](#)

Further information: Bethan Livesey | Policy Officer | bethan.livesey@shareaction.org | 020 7183 2351

shareaction.org