

IRISH CONGRESS OF TRADE UNIONS

RESPONSE TO PENSIONS AUTHORITY 'CONSULTATION' ON TRUSTEE QUALIFICATION

September 2015



Congress Response

The Pensions Authority has commenced yet another 'consultation' - this time on the subject of trustee qualifications. The documentation accompanying this latest 'consultation' states:

"There are probably about 200,000 people acting as trustees at present. These trustees have a duty to manage their schemes in accordance with the rules of the schemes, the general law applicable to trustees and the provisions of the Pensions Act and other legislation affecting pensions. The Authority does not believe that all of these trustees have enough knowledge and commitment to fulfil their duties in a way that optimises the outcome for the members whose savings they are responsible for."

The apparently reasonable and balanced statement is on close examination both pejorative and disingenuous. Ever since the crisis that all but destroyed our Defined Benefit pension system and undermined public confidence in Defined Contribution pensions, the Pensions Authority has focused on the lack of knowledge, prudence and foresight of trustees. Are we now to add a lack of commitment to the list of alleged shortcomings?

Make no mistake about it. Our funded DB system is in ruins. Almost all if not all, DB schemes are closed to new members. Most have no provision for indexation which means the value of the pension will erode. Many pensioners will begin the descent into poverty from the day they retire. The whole point of DB was to avoid this scenario. Those schemes that have survived through the valiant work of trustees and trade unions will not honour the original pension promise. Workers and pensioners have lost out badly and it has nothing to do with the shortcomings of trustees.

Given the great service of trustees is the Authority being fair when concluding and commenting publically that not all of them are committed enough? Congress believes that this sweeping statement is an injustice to member trustees in particular, who carry considerable responsibilities, obligations, and duties to their fellow workers and former colleagues without any reward.

This 'consultation' is part of an ongoing campaign by the Pensions Authority to imply that the current disaster in the funded pension system in Ireland would not be a problem if all trustees had a more education, knowledge and commitment. No doubt in their sundry submissions the well remunerated 'expert advisors' of the pension industry will agree with the Pensions Authority that the root of all our problems is that many of our trustees are not up to the mark.

These experts will perhaps offer very high standards of training and qualifications at a price. This will involve a further depletion of the assets of schemes and losses for the workers and pensioners.

Congress has extensive contact with member trustees and we believe that the current standard of training and commitment is high. It is clear that the current obligations and duties of trustees are already very onerous. We do not believe that lack of trustee commitment is a problem. We are aware that very committed member trustees are suffering from low morale because they know that when a scheme is in difficulty they can expect help only from trade unions and employers, but all they can expect from the Pensions Authority is a finger wagging lecture on prudence. It is a wonder that so many trustees have stuck to their task given the lack of help and support from the political system, the relevant government departments and the Pensions Authority.

When establishing the Pensions Authority the government ensured that the unions and employer organisations whose members and former members own the pension fund assets now have no input into pension policy. The outcome of the current 'consultation' may result in workers in the enterprise having no say in what happens to their own money. Most if not all D.B. schemes in Ireland were brought into existence by trade unions and employers. The same is true of many of the better funded D.C. schemes. Trade unions and employers were involved in a positive and creative way in the Section 50 applications which saved many schemes if not the accrued benefits of members. Are union members and employers to have no future role in their occupational pensions except to pay their money and bear the losses?

Member trustees are elected because they enjoy the support and confidence of their fellow workers. If the Pensions Authority succeeds in imposing qualification restrictions it will remove the last vestige of transparency and democratic control workers have in relation to their pension assets.

The suggestion of the necessity of a Level 7 qualification for trustees appears to Congress as attempt by the industry to professionalise trusteeship and to eliminate direct worker influence or involvement. The constant denigrating of trustees and the attempts to load more and more responsibilities on them and indeed the not so subtle efforts to make trustees the scapegoat for the crisis, has been a constant since 2008.

However the pension crisis predates the financial crisis by a number of years and has its roots in over optimistic actuarial assumptions, poor investment advice and the misplaced Revenue notions of schemes being in surplus. In fact since 1990 and before, privately funded occupational pension provision has been underpinned by a plethora of theories which experience has shown to be naïve, over optimistic and wrong. The Pensions Authority's regulation system which concentrated entirely on trustee behaviour and ignored all the real problems also bears responsibility. Pension schemes bore the cost of a very expensive regulatory system that failed completely to protect workers' pension funds.

The latest 'consultation' may be used by the pensions industry to drive member trustees off the pitch and give total control of workers' pension funds to the 'professionals'. Congress

has made the point before that an exercise which poses a matrix of leading questions is not consultation. It appear to us that it is an exercise designed to lead to an outcome which will be in the interest of the pensions industry but very damaging to the interests of workers, former workers and member trustees.

However in spite of the fact that Congress believes that this questionnaire is a totally inappropriate way to handle this matter we attach our response.

Submission Form Consultation on Trustee Qualifications	
<p>Please save a copy of this form, then add your responses.</p> <p>Send your submission by Thursday, 1 October 2015:</p> <ul style="list-style-type: none"> • by email to: mbroderick@pensionsauthority.ie • or by post to: Mary Broderick, Policy Unit, The Pensions Authority, Verschoyle House, 28-30 Lower Mount Street, Dublin 2. 	
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No:	Questions
Q1	Should the trustee requirement be mandatory and if so when should such a requirement be introduced?
A1	The requirement for trustees training is already set at a high standard and is sufficiently onerous. Any further impositions on already beleaguered trustees could encourage an exit of member trustees. This will have a very negative effect on the already badly dented worker confidence in pensions.

Q2	Should “grandfathering” be considered for professional trustees and those trustees who have specified experience? If so, how do you think this should be managed, for example, what existing experience/expertise should get recognition? How long should grandfathering last for? Should there be some form of testing for those with specified experience, such as an online test with ongoing CPD requirements?
A2	<p>Most member trustees have had training from their union as well the statutory training prescribed by the Pension Board. Over the years they have learnt a great deal. If they require more training they should make that decision for themselves or it might be done with a proper training needs analysis.</p> <p>It should not be decided by the vested interests influencing this ‘consultation’. Neither should further training be forced on trustees by people who know nothing of the trustees’ level of knowledge or commitment.</p>
Q3	Following on from question 2, should there be exemptions/partial exemptions from some of the examinations for existing relevant pensions related qualifications i.e. accountancy/actuarial/legal.
A3	<p>The is no reason to give favorable consideration to actuaries, accountants, and lawyers over well informed white collar workers, journalists, airline pilots, engineers, archeologists, chemists, crane drivers or bricklayers. Educated adults can be effective trustees.</p> <p>It is the quality of advice available to trustees that needs to be examined.</p>
Q4	Is there anything missing from the list of topics for the proposed curriculum leading to a qualification for DC trustees?
A4	<p>Some training and qualifications for the ‘experts’ who got so much wrong in the crisis might be usefully considered The crisis also showed that much orthodox pension theory was naive and needs re-evaluation. We list below several orthodoxies which were long believed by the experts and now appear to be wrong:</p> <ol style="list-style-type: none"> 1. Pensioners and scheme members were told that they were protected by the legal doctrine of legitimate expectations. They could never end up with less than their pension promise. 2. Members were told that with DB the scheme carries the risk and with

DC the member carries the risk. We now know with both it is the worker and to a lesser extent the former worker who carries all the risk.

3. Any DB in 'surplus' was forced to reduce the surplus so that no cushion could be built up for the downturn. These schemes were never in fact in surplus. It was only the ill-considered Minimum Funding Standard that created the illusion of a surplus.
4. Trustees were told that equities always beat inflation in the long run.
5. Trustees were told that bank shares were blue chip investments.
6. Actuaries claimed they could set a contribution rate that made the pension promise safe.
7. Workers and employers were told that if they were prudent and made the agreed contributions the regulator would ensure the pension promise would be kept.
8. The regulator loaded extra costs on schemes such as the obligation to revalue deferred members pensions without sufficiently considering the threat to scheme sustainability.
9. Contrary to expert advice, trustees now know that neither DB or DC schemes can provide a decent, sustainable pension at a price workers and employers are prepared to pay.
10. It has long been argued by the experts that government bonds are a prudent investment and can provide predictable returns that are sufficient to provide a decent sustainable pension.
11. It was long argued and believed that annuity costs are reasonable and predictable.
12. The Minimum Funding Standard, by over pricing liabilities helped to destroy DB pension provision in Ireland and did nothing to protect pension scheme members.
13. Prudent pension planning has been sabotaged because governments can now change the tax or P.R.S.I. rules at the 11th hour giving workers no chance to readjust their expectations or pension plans.
14. Despite all the assurances to the contrary it is now clear that in Ireland we do not have a regulatory system which is capable of protecting pension schemes in the interest of scheme members.

Rather than focusing on trustees the Authority should admit the extent of the systematic failure in private pension provision. The Authority needs to realize that if any form of funded pension provision is to have credibility amongst workers and employers it is not good enough to pretend that nothing of real consequence has happened.

Any debate on pensions that puts the professionals centre stage and seeks to marginalise the input and influence of the owners of the assets is unlikely to succeed.

Q5	What is your view on the NFQ status for the proposed trustee qualification – level 7 or level 8? Level 7 equates to an ordinary bachelor degree and level 8 is a higher diploma or honours bachelor degree. What do you consider to be the more appropriate and practical level in terms of professional status and capability of delivery and take-up?
A5	<p>Our trust law obliges trustees to take the advice of experts. It does not and should not oblige them to become qualified experts themselves. Should an ordinary citizen who has a legal problem be forced to get a qualification in order to be able to assess the quality of the legal advice from their solicitor?</p> <p>It might be compared with having a very expensive dog and barking yourself.</p>
Q6	Should the trustee qualifications requirement apply to trustees of both DB and DC schemes, with differing requirements as appropriate?
A6	In many DB and DC scheme to date trustees have done a good job under very difficult circumstances. Where things have gone wrong it was not because of trustee action or inaction. The whole system is in a mess and the Pension Authority should admit the scale of the debacle. The Authority should review its systems, training and qualifications in order to construct a regulatory system that protects pensions and enjoys public confidence.
Q7	Do any other issues occur to you at this point?
A7	The Pensions Authority should highlight the extent of the systemic crisis in funded pension provision in Ireland and the massive losses incurred by workers and former workers? It is time to stop pretending that everything will be grand if trustees are forced to undergo expensive training from experts. The experts have not been particularly effective as workers and former workers' pension entitlements evaporated.

ENDS