20 July 2010

Age 75 Consultation Pensions and Pensioners Team
Room 2/SE
H.M. Treasury
1 Horse Guards Road
London
SW1A 2HQ

Dear Sirs

I enclose my response to the consultation paper on the requirement to annuities by age 75.

Yours faithfully

Enc

cc Graham Brady MP

**RESPONSE TO CONSULTATION PAPER ON REQUIREMENT TO ANNUITISE BY AGE 75**

1. This looks like a stitch up by the Treasury designed to "con" a gullible junior minister and to sustain the Civil Service pension tax base.

2. Replacing one set of complex rules with another set of marginally less complex rules is not simplification. This is a continuation of "Brown speak".

3. The UK savings for pensions model is not EET; it is in fact ETT since Brown's first budget.

4. Reducing a death tax charge from 82% to 55% is no incentive.

5. Annuities are a rip off whatever the industry says; a layman would compare typical yields against dividends obtainable from any number of blue chip companies and conclude that equivalent income can be achieved without having to spend the annuity capital value. Annuities are simply a system of propping up the UK insurance and IFA industry.

6. Many annuity providers will not quote for small annuities but these represent the vast majority of DC saving pots.

7. If the Government really wants to reduce its debt burden and preserve cash flow it should scrap the tax free lump sum across the board including for public sector pension takers (of which there are soon to be many). This lump sum is the only "carrot" which encourages saving; and discourages savers for enquiring into the hideous charges levied by fund managers and intermediaries.

8. If the Government really wanted to be radical and encourage saving for retirement then arrangements along the following lines should be looked at:

   (a) On death any residual sum falls into the deceased's estate without tax charge and suffers IHT if applicable.

   OR

   By designation can pass to any other person to be payable when they reach over 55 but taxable as income.

   (b) Any pension pot below a minimum amount is simply paid out on retirement subject to a one off tax charge of say 12%. This tax charge is "low" to reflect the fact that the Government has already taken tax on dividends on the fund investment. A cut off of £50,000 might apply. The reason is that income streams for anything below this amount are too small to be worth the administrative hassle of dealing (although income on small amounts and detailed regulation does create HMRC jobs which was probably the driving force for their complex proposal).

(c) On any fund over £50,000 the tax payer is allowed to take all the income and up to 10% of the capital value subject to income tax but at a rate half that otherwise applicable.

(d) Have a special rule which allows additional monies to be withdrawn in case of:

  (i) special care needs;
  (ii) impaired life expectancy;
  (iii) incapacity or illness of carers;
  (iv) to give to charity.

(e) One of the Coalition's policies is to trust people to be responsible. The notion of HMRC/The Treasury or anyone else setting limits to protect people from themselves cuts across this fundamentally. Consequently, the concept envisaged in the consultation is simply wrong, over prescriptive, and a public sector job creation scheme.

9. I am sending a copy of these comments to my MP, as no doubt HMRC will make sure they do not get to the relevant minister.

Treasury Consultation

**REMOVING THE REQUIREMENT TO ANNUITISE BY AGE 75**

Response of (9th September 2010)

Tel :

## SUMMARY

I am UK citizen, taxpayer and resident of Herne Bay (Kent) and Maidenhead (Berkshire), aged 64.

I have an occupational (final salary) pension in payment from an employer who is now in administration and the pension payments are now under the control of the Government's Pension Protection Fund (PPF) – which means that indexation has been cancelled by the PPF.

I also have small Personal Pension Plans from other previous employments and a Self Invested Personal Pension (SIPP) administered by a portfolio company.

I am currently evaluating my options for drawing or deferring my State Pension next year. I also have my own small business and shares in a film distribution partnership.

I have therefore had direct experience of the numerous pension and taxation changes (and their consequences) over the past 45 years and will be directly affected by these current proposals to remove the need to annuitise by Age 75. In general, I welcome the proposals but have some specific concerns or objections :

1. The Treasury should confine itself to taxation aspects of pension arrangements and plans. In recent years it has extended its reach into other aspects of pension arrangements, and much of this is still apparent in these proposals. These aspects need to be rolled back and/or avoided. The Treasury often claims to have a major interest in Pension Plans because of the tax element held within the contributions (usually quoted or implied to be 40%). This is greatly overstated[1] and yet the Treasury does not generally safeguard the pensioners' majority interest or point of view. In fact, in recent years pensioners have been penalised by Treasury actions to limit or drain pension funds in order to support or subsidise general economic policy.
2. There should be greater flexibility to transfer personal pension fund assets into other registered pension plans (e.g. for non-dependant relatives, grand-children etc) subject to an appropriate and fair treatment of income tax aspects. This would especially help the current and future generations who are facing enormous challenges establishing any kind of financial provision for retirement, and put the responsibility back onto families, where it belongs, rather than ever increasing (and often unfunded) State liabilities.

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[1] Firstly, not all pension contributions attract relief at the Higher Tax Rate of 40%. Over a typical pension plan lifetime, many contributions only enjoy relief at the Basic Tax Rate (typically 20 – 30%), or at Corporation Tax rates (Typically 19 – 30%). Secondly, most of the contributions and growth in fund value will be taxed as income (at 20 – 50%) when drawn or (currently) at 35 – 55% (or 70%or 82%) if the pensioner dies. The only element "at risk" to the Treasury therefore is the marginal difference between these mixes of rates, and the element related to the 25% "tax-free" lump sum (currently a "tax deferred" lump sum under existing Age 75 rules).

## RESPONSES

My responses are arranged in the order of the questions raised in the Consultation paper, followed by an additional comment which summarises how I see my overall proposals working.

### Developing a new tax framework for retirement (Chapter 2)

A.1 The level of an appropriate annual drawdown limit for capped drawdown.

R.1 This is not a taxation issue – all sums drawn down will be taxed at the appropriate level. There should be NO capped drawdown and no annual limit. It is also not clear how any cap could be administered where a pensioner has more than one personal pension plan, especially from different providers.

The Treasury is concerned that a pensioner would exhaust his or her fund prematurely and then fall back on the State or taxpayer as their only source of income. There are two fallacies here :

- Someone who has built up a "substantial" pension fund over 20 – 40 years is financially responsible enough to manage their own money and affairs. If they spend all <u>their</u> money (and I emphasise that it is <u>their</u> money - after paying the appropriate taxes) they will still have their universal State Pension and/or any other assets to fall back on.
- There should be no other State or taxpayer funded benefits available, neither to "irresponsible" pension plan owners nor to the far more significant majority who have never chosen (or been able) to establish proper pension and retirement arrangements. Financial prudence, responsibility and support is the domain of the individual plus their family, friends and charities. We have to get away from the culture of believing that the taxpayer will fund / help those who haven't helped themselves. The Universal State pension should be the ONLY State source of income, itself paid for by properly managed and invested National Insurance contributions or credits (i.e. NOT the taxpayer).

If the Government determines that the Capped Drawdown arrangements will proceed then logically the annual limit should equal the Minimum Income Requirement (MIR). Because of the potential issue of income from multiple pension plans, that limit would need to be enforced by HMRC as part of the tax system (itself a scary thought, given HMRC's sad history of correctly dealing with income from multiple sources). There should be no relationship to annuity rates or Government Actuary Dept (GAD) rates because these statistics don't apply when only a single life is involved, rather than an averaged or pooled fund and life expectancy. Once again – let the pensioner decide the best drawdown rates / limits for themselves and their circumstances. They alone know what other assets, liabilities, priorities and income they can call upon in the future.

A.2 Its intended approach to reforming the pensions tax framework, in line with its commitment to end the effective requirement to purchase an annuity at age 75.

R.2 No – the proposals go beyond the simple objective of scrapping the Age 75 rules, and beyond the taxation mandate of the Treasury. Certainly - end the requirement to purchase an annuity at Age 75 and scrap the punitive and bungled Alternatively Secured Pension (ASP) regime. Also scrap the Unsecured Pension (USP) rules which limit the minimum and maximum annual drawdown. Just have one set of simple taxation rules which apply throughout the term of the pension plan and life of the pensioner. This could be the existing pre-75 (non-USP) rules, but I would also propose more flexibility for the proceeds on death to be transferred to other registered pension plans (typically relatives and grand-children) under the terms of a will. If a taxation element is deemed necessary, then a Basic Rate tax charge would seem the most appropriate, with no IHT liability.

**Minimum Income Requirement (Chapter 3)**

A.3 What income should be considered 'secure' for the purposes of the MIR and whether proposals for the life annuity income that can be considered for the MIR are practical and appropriate.

R.3 This is not a taxation issue – see response A1 above for my views on the Capped Drawdown proposals, which generate the need for an MIR.

If the Government determines that the Capped Drawdown arrangement (and MIR) will proceed then the current proposals are too complex, and are unfair to those people who were unable to choose an indexed pension (for various reasons), and those whose pensions now fall under the Pension Protection Fund (PPF) rules, which abolish any indexing that was present in the original pension scheme. The MIR should be a simple multiple of the current State Pension (single or married person as appropriate). This will then automatically take indexation into account (through the "triple lock" indexation process now applicable to the State pension).

A.4 What an appropriate level for the MIR should be and how the MIR should be adjusted for different ages.

R.4 This is not a taxation issue . If an MIR is required (see response R.3 above) then I suggest a simple multiple of (say) three or four times the current annual State Pension. I'm not sure why the MIR needs to be age related but if so, then just have different multiples for different age bands – similar to the personal tax allowances at 65, 75 and 85.

A.5 Whether a different MIR should be set for individuals and couples.

R.5 This is not a taxation issue . If an MIR is required (see response R.3 above) then I suggest a simple multiple of (say) three or four times the current annual State Pension. (single or married person's rate as applicable).

A.6 How often the MIR level should be reviewed.

R.6 This is not a taxation issue . If an MIR is required (see response R.3 above) then my proposal for a simple multiple of the current State pension would not need to be reviewed. It would automatically update each year in line with the State pension indexation.

A.7 How to minimise unnecessary burdens for individuals and industry in the assessment of the MIR.

R.7 This is not a taxation issue . If an MIR is required (see response R.3 above) then my proposal for a simple multiple of the current State pension would be simple to administer by any competent pension plan manager. The limits could be enforced by HMRC who already have all information on income, marital status etc and pension payments readily to hand. My proposal to limit drawdown to the MIR (see R.1 above) would also be easy to administer by HMRC, especially when the possibility of multiple sources of pension income are involved.

**The UK annuity market (Chapter 4)**

A.8 Whether other legislative or regulatory barriers remain whose removal would enable industry to provide consumers with more attractive products without incurring fiscal or avoidance risks.

R.8 This is not a taxation issue . A pensioner should be able to use some or all of his/her pension fund at any time to purchase whatever annuity they believe will suit their needs and circumstances. If rules are needed to limit fiscal or tax avoidance risks then these should form part of the approval and regulation of the various insurance and annuity schemes (as with PEPs, ISAs, SIPPs etc)

A.9 How the industry, Government and advice bodies such as CFEB can work to ensure that individuals make appropriate choices about what to do with their retirement savings in the absence of the requirement to purchase an annuity by age 75.

R.9 This is not a taxation issue . More advice is needed for the decision to buy an annuity than for the decision to carry on without one. The Annuity and Independent Financial Adviser (IFA) industry is (or should be) more than capable of helping people with their pension, annuity and financial planning, under appropriate supervision and regulation by the FSA or its successors. The Government should be more worried about how to help and advise those millions of people who haven't got any clue (or interest) in saving for their retirement in the first place, or managing their financial affairs in a responsible manner. These people pose the greatest threat to public finances – not those who have carefully made financial provision for their retirement by investing in personal pension plans.

A.10 Whether the proposed reforms have unintended consequences that may affect the market's ability to supply annuities at attractive rates or prevent the annuity market being able to meet likely demand for annuities.

R.10 This is not a taxation issue . The insurance and annuity industry is more than capable of standing on its own two feet, and competing for business through more innovative schemes with more attractive returns. The Government should limit its roles to approval and regulation through the appropriate bodies.

## ADDITIONAL COMMENTS AND RESPONSES

R.11 The rules should be kept as simple as possible and only deal with taxation issues. My proposals would be :

- A 25% tax free lump sum can be designated at any time after Age 55 based on the then current value of the pension pot. This designated lump sum can continue to be held in the pension pot indefinitely, and be withdrawn in whole or part at any time. It can continue to grow tax-free but the designated lump sum amount will not increase.
- Any amount of income can be drawn down at any time after a lump sum amount has been designated, and will be subject to income tax in the normal way in the tax year that it is drawn.
- Any amount of designated lump sum or income can be transferred tax-free at any time to a registered charity or another registered personal pension plan (typically a relative or grand-child). This will be credited to the receiving plan as a transfer-in regardless of any other contribution limits etc.

  [*Note : this is based on the current rule that undrawn funds can be paid out as a tax free lump sum if the member dies before Age 75. However, it would also be possible to make an appropriate (non-punitive)*[2] *tax charge (e.g Basic Rate tax) for any income transferred in this way*]
- If the pension plan owner dies (at any time, before or after drawing any lump sum or income) then the current balance of the pot(s) can be distributed as part of the deceased's estate, free of any Inheritance Tax liability.

  [*Note : It would also be possible to make an appropriate (non-punitive) tax charge (e.g Basic Rate tax).*

  [*Note : It should also be possible for such funds to be transferred into one or more registered charities or other registered personal pension plans (typically to relatives or grand-children) as part of the distribution of the estate under the will. Such funds will be credited to the receiving plan(s) as a transfer-in regardless of any other contribution limits etc.*

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[2] The 55% tax rate currently used under ASP rules is a punitive rate, based on charging 40% on the remaining fund value plus 40% on the "tax free" lump sum (making it a "tax deferred" lump sum. This is unfair to people who have decided not to take the lump sum, or whose contributions enjoyed less than 40% tax relief at the time that they were made (e.g. Basic Rate taxpayers and employer contributions, especially small businesses at reduced Corporation Tax rates).

4 August 2010

Reference:

Age 75 Consultation
Pensions & Pensions Team, HM Treasury
Room 2/SE, 1 Horse Guards Road
London
SW1A 2HQ

Dear Sir or Madam,

SUBJECT: REMOVING THE REQUIREMENT TO ANNUITISE BY AGE 75

Thank you for the opportunity to offer my views on the above subject. I am commenting in a personal capacity, Age 62 have a SIPP in drawdown, I manage the investment portfolio myself.

*General Comment*

I strongly support the additional choice and non-compulsion now proposed (I have suffered at the hands of the institutions before and was dreading the Age 75 annuity compulsion).

*Suggested Improvement*

MIR provisions are unnecessarily complicated by the need to provide documentary evidence to my SIPP provider of "other income". Far simpler if rules are put in place that require the SIPP fund to be of a minimum size to generate some multiple of the state pension, according to GAD tables. This sort of calculation is already in place with drawdown.

*Unfair Proposal*

The 55% tax rate, imposed from age 55 and without any tax-free allowance, is a confiscatory rate and makes saving for retirement appear very unattractive to young people. There are several issues here:

- the is no equality of this tax treatment with group pension funds, nor with annuity funds - I cannot see any justification to penalise personal pensions in this way, compared to the competition
- as individuals cannot cross-subsidise late deaths with early deaths, individual pension funds MUST have a residual left on death (as you acknowledge in your consultation); to tax this at such a high rate looks and feels unreasonable, especially compared to the remainder of the estate on death
- clawing back of tax relief is "rewriting the rules of the game" on payments that were made 40+ years ago - how can that be justified? On NEW contributions, maybe
- the rate of clawback taxation will almost certainly greatly exceed the relief earned due to effects of inflation in the years from contributing to death (average of 40 years)

*Consultation bias*

I fear that I detect a big bias in the efforts you are making to consult on the proposals - institutions are being contacted but I have seen no efforts to involve individual SIPP investors such as myself.

As institutions will strongly support the unfair 55% tax rate in order to make their products seem better, any bias in the consultation will result in a very distorted picture to yourselves.

*Alternative Proposal to 55% Taxation on Death*

Bring the residual SIPP funds into the deceased's estate for IHT purposes. I recognise this has complications with regard to the trust status of pension funds, but the principle exists for unit trust investments to be so considered and taxed.

My proposal would reduce the discrepancy between personal and group pension taxation and would appear to be consistent with other taxation at death, so would seem fairer than the blatantly unfair proposal in this consultation.

Yours sincerely,

Age 75 Consultation
Pensions and Pensions Team
Room 2/SE
HM Treasury
1 Horse Guards Rd
London
W1A 2HQ

19 July 2010

Dear Sirs

**Ref Call for Consultation**

I would like to make the following observations and recommendations.

Millions of people of working age are saving nothing extra towards their retirement and unless this changes quickly they will retire in penury. The value of our State Pensions cannot provide a decent standard of living alone and I know the Government is looking urgently at the problem. The reason why additional saving has fallen away is because many have simply lost faith in pensions and annuities. The majority of companies have now closed their final salary pension schemes leaving workers at the mercy of financial and investment markets which many do not understand. The markets have been extremely volatile mainly due to the banking/credit crisis. Some dreadful fund management news especially 'with profits' scandals has led to poor returns. Low interest rates and weak gilt yields have meant annuity rates are presently very low and the restrictions attached to them have led to the suspicion and low confidence levels that workers feel. The current annuity regulations have been widely criticised and are universally reviled. The value of state pensions has eroded from 26% of average earnings to just 16% since 1980. The State Pension Age is now rising for women and other planned increases will be brought forward.

These proposals to allow greater annuity flexibility from next April are long overdue but most welcome and they may go a long way to restoring confidence in pension saving. It is hardly likely to affect the annuity market and with the vast majority opting for simple annuities or drawdown and if we see more flexible types of annuities coming through Insurers should have no worries. Insurers in any case will largely retain the pension pots and offer the more flexible arrangements themselves. It will encourage them to offer decent advice and similar products in return. The confidence in pensions will cascade down the generations as new pensioners retire from next April and the positive effects of the proposals become understood and operational. From the Government's perspective there will be a positive underlying income stream as drawdown sums will be 100% subject to

income tax (as they will be amounts paid in excess of the expected MIR level and the lower tax allowance thresholds) and any expenditure from income drawn will attract VAT at the new 20% rate while assisting the economy.
On specific matters I recommend;

**Recovery charge**

Given the vast majority of tax relief on pension contributions is just 20% and the maximum tax relief on any contribution is 40%, the new recovery charge of 55% seems rather punitive. A maximum of 45% sounds fairer. I believe most partners will prefer to continue to drawdown rather than take the lump sum but for the last survivor though it would naturally apply to their estate.

**Inheritance concerns**

If it does become apparent that a very small number of pensioners use the new regulations as a tax avoidance vehicle the lifetime limit on contributions could be reduced. This would ensure only those likely to benefit are affected.

**MIR**

This will be age related and I recommend it should be about £14 000 at age 55, £12 000 at age 65 or an absolute minimum of £10 000 at age 75. This would put it around twice basic State Pension level which feels about right.

It should be single related not for couples. Please keep it simple and cost effective to manage.

**Solvency II**

I suspect Insurers are already factoring in these regulations into their calculations for annuities. In order there is damage limitation any remaining grey areas need to be cleared away and the final regulations need to be mindful of whether or not there could be further erosion or uncertainty.

Finally, congratulations on a well written and presented consultation document on a difficult subject.

Yours sincerely

Age 75 consultation
Pensions and Pensioners team
Room 2/SE
HM Treasury
1 Horse Guards Road
London SW1A 2HQ

16th August 2010

Sirs,

Age 75 consultation

I write as someone who was short changed by the last government in that I took out an ASP – at considerable expense – in April '06, actually the day after 'A' Day when the exit tax was pitched at 35%. This was changed in November '06 into a penal 70%, plus IHT, and applied **retrospectively.**

In the circumstances I am delighted to see that this government is taking steps to remedy the situation, but have to say there are certain areas which I consider require further attention.

I make my points in the same order as your 'Summary of Questions' page 2.1 of the treasury document.

**A1** – It would seem sensible to continue the current USP arrangement of 120% of the equivalent annuity. The current ASP capping is un-necessarily restrictive.

**A2** – I contacted the age75 e-mail address requesting an indication of the background behind the proposal to continue the 0% exit tax on funds of those who die before age 75. They replied that "this exception maintains the current tax treatment for such funds which is a long standing feature of the pensions tax system and is intended to avoid disadvantaging the small minority of people who die without taking any of their pension benefits."

I have to say that I thought the whole point of this exercise was to review the current rules and I am quite bemused that the government should wish to continue the clear anomaly that, on the basis of age, some pension saving is tax free whilst for the majority, who are in greater need [because of longevity] pension saving is tax deferred.

Equality would be achieved, quite simply, by applying one tax on all unused funds which, presumably, could be pitched at a lower level.

There can be no doubt that the proposal to pitch the exit tax recovery charge at 55% will claw back vastly more tax than the relief granted on pension contributions, even bearing in mind the 25% 'tax free' lump sum allowance. The sensible course would be to continue the 35% currently charged on a USP. This is also on the high side – but is what I expected when I took out my ASP.

**A3, A4**
It surprises me that all governments seem to think that anyone who has the good sense to build up a pension fund throughout a working life is going to blow it all as soon as they retire. Non- the- less I can understand them exercising some caution. In the circumstances I would suggest that the MIR be set as low as possible – and based on the current pension credit thresholds, thus providing different thresholds for individuals and couples.

Thank you

## Removing the requirement to annuitise by age 75

**Consultation response by**

I am responding to this consultation as a private citizen with an interest in pensions and taxation. I am currently in receipt of a defined benefit pension. This response relates to Question A.2.

The current arrangements for pension savings have two major flaws; the loss of control of the funds at age 75 and inadequate restrictions on the amount of tax relief which can be claimed on the contributions. The latter flaw has, in my view, led to major mis-selling of pensions for tax-avoidance purposes to individuals who did not understand the former flaw. Whilst these proposals do not address the issue of the amount of tax relief available on pension savings it is important that reform of the annuitisation requirements does not continue this distortion of the long-term savings market in favour of pensions.

I agree with the principles set out in Box 2.A for the reform of the tax rules for retirement and death benefits. However, I have two comments regarding the Government's intentions as set out in paragraph 2.22.

First, it is not clear whether the Government intends to set a limit on the tax-free pension commencement lump sum. Relating this to the value of the pension fund, as I believe is done at present, provides an incentive to use pension saving as a tax avoidance measure.

Second, the final bullet point in paragraph 2.22 states that "inheritance tax will not ordinarily apply to unused pension funds remaining after death in addition to the recovery charge." I welcome the prospect of a savings vehicle being exempt from inheritance tax but, for this to be acceptable, all other savings vehicles should be given the same exemption. Funds remaining in a pension after the recovery charge has been applied are no different from funds which have been accumulated out of taxed income and taxed savings and I see no reason to treat them differently for inheritance tax purposes. I believe that consistency of treatment is paramount and, whilst I would prefer that neither be subject to inheritance tax, I believe that it is better to tax both than to tax only one.

11 August 2010

T:
e-

25th July 2010

Dear Sir

I am an actuary with many years experience in the pensions industry, both in dealing with company pension schemes and individual pension schemes. In my dealings with individual scheme members, I became aware of the lack of understanding of annuities and the alternatives available.

In recent years, many approaching retirement have not made use of the open market option. This is indicative of the ignorance of annuity matters.

Those more versed in annuities, or perhaps with the benefit of good advice, have been able to find the best annuity rates available or opt for income drawdown. However, income drawdown is already sufficiently complicated and not normally available from providers unless the sum available for investment is substantial.

I welcome the government initiative in removing the 75 age limit as for some time annuity rates have been unattractive for a number of reasons that did not exist some years ago. However, I am also aware that the government is keen to simplify taxation.

All this points to better information being given to potential annuitants and to keeping matters as simple as possible.

I would urge that the **only** change to the legislation should be to replace age 75 with a much higher age, say 90 or 100.

Yours sincerely

For the attention of Mr Jonathan Deakin
Age 75 Consultation
Pensions and Pensioners Team,
HM Treasury
Room 2/SE,
1 Horse Guards Road
London
SW1A 2HQ

1st August 2010

Dear Mr Deakin

Thank you for your telephone call in reply to my letter of 20th July, and my apologies for the delay in following up your invitation to contribute to the consultation paper.

I am a pensioner aged nearly 79, who started taking my pension, after retiring from the City, in 1996. As a self-employed person I had taken out a number of single premium policies, and I converted these into a Personal Pension Plan. From time to time I converted parts of this into Income Withdrawal Plans, taking the appropriate Tax Free 25% withdrawal as I did so. The maximum and minimum income I could take from each IWP was calculated every three years. I also converted one policy into an Annuity, again taking the 25% tax free.

When I reached the age of 75, I converted all my PPP and IWP policies into an ASP.

I have therefore participated in all the types of pension mentioned in your paper, though I note it omits one which I have recently been told about - a Scheme Pension. I looked at this, but there are several disadvantages which made it inapplicable. If you are not aware of the proposals which are being made by Insurance Companies, but which are probably now superseded by the new proposed arrangements, I could let you have some details if it would help.

On the attached sheet I have commented on some of the questions summarised on page 21 of the report. I apologise for their shortcomings, and they are probably not terribly helpful, but thought I ought to have a go!

I note that you mention (A.2) the "commitment to end the effective requirement to purchase an annuity at age 75", and would be most interested to hear when, and by whom, this commitment was made.

Again my thanks for your help.

Yours sincerely

A1. Capped Drawdown
The simplest method would be to allow the annual level of withdrawal to be a percentage of the value of the remaining fund. Thus allowing a limit of say 8% at the age of 75, 10% at 80, 12% at age 85 and 15% at age 90 would be easy to calculate each year. If the actuaries can come up with calculations for annuities at ages after 75, this might be another solution. Keeping the calculation at the annuity rate for age 75 should certainly be replaced.

A2. System reform
This is long overdue.

A3. Secure income
I am not certain why life annuity incomes should not be allowable for the calculation of MIR if they are not uprated for inflation. The Additional State Pension will be included, but it was not uprated for inflation this year.

A6. Review
I would submit that the MIR should be calculated annually.

The MIR
I find it difficult to grasp the concept of MIR. The value of a pension fund each year will vary according to market conditions, and to allow a withdrawal of more than a reasonable amount is betting on the future performance of the markets. Certainly in (much) later life the reduction in a considerable fund might be acceptable, but not early on.

Mr Jonathan Deakin
Pensions & Pensioners Team
HM Treasury
Room 2/SE
1 Horse Guards Road
London SW1A 2HQ

19 July 2010

Dear Mr Deakin

**Removing the requirement to annuitise by age 75**

I am 72. My main pension is from the civil service pension fund. I also have a SIPP worth about £260,000 which is in partial drawdown. Two years ago my elder daughter ıged 47, was diagnosed with rheumatoid arthritis. She has had to take up less well paid work than previously and is unlikely to be able to continue this indefinitely. My wife and I give her substantial financial support. I

I have been hoping that on my death, and assuming that cumstances are substantially unchanged, my SIPP provider will consider that she falls within paragraph 15(2)(b) of schedule 28 to the Finance Act 2004. That is to say, that she is dependent on me through physical or mental impairment, and can thus have the benefit of my SIPP.

Footnote 7 to paragraph 2.7 of the consultation document defines "dependant" broadly as a spouse or civil partner or a child under 23. Presumably the same broad definition is intended to apply to the proposal in the second bullet point in paragraph 2.22, ie that unused funds remaining on death will be taxed unless used to provide a dependant's pension.

May I take it that the definition in footnote 7 has been used in the interests of brevity, and that there is no intention to repeal the provision in the 2004 Act which I have quoted?

(At the risk of being called a creep, I must say that the concise, jargon-free document and the extraordinary speed at which it has been prepared reflect great credit on HMT).

Yours sincerely

To Age 75 Consultation Pension
and Pensioners Team
Room 2/SE
HM Treasury
1 Horseguard Road
London SW1A 2HQ

26th August 2010.

Dear Sirs

Initially the doc looks good, but on re-reading there is a distinct sting when one reads the proposed tax rate of 55% is suggested to apply to all unused funds following death of a dependent. Why on earth such an enormous high tax rate as in most cases Joe Public has been a standard rate tax payer.

Also re the definition of dependent. By the time one reaches pension age, one's children will be over 23, so wont come under definition of dependents. Why for example can't the new rules allow say the first £50k of unused funds following death of beneficiary, to be passed to say a child over 23. ?

I appreciate the Treasury don't want to receive less revenue following new rules, but the 55% .....well that well over the top.

Yours truly

Date:- 08-Sep-10

Age 75 consultation
Pensions and Pensioners Team
Room 2/SE
HM Treasury
1 Horse Guards Road
London, SW1A 2HQ

Dear Sirs,

Re - Purchase of annuity by age 75

I started drawing from a Defined Contribution Pension Fund, i.e. Draw-down, in 1995, managing the fund, and drawing the maximum allowed every year for 15 years. ım now aged 71, and have become increasingly concerned as to what would happen, should I have the audacity to survive beyond age 75.

Your proposals seem to offer a glimmer of hope that a little common sense may be injected into the tax rules.

However, I do have a few thoughts and questions, as follows.

Two areas puzzle me.

1. Tax Relief Recovery Charge (too harsh?)
2. Flexible Draw Down (too easy?)

Apparently there is no charge at all if a person dies without drawing any pension. Why? If death occurs a week after the first withdrawal, there is a 55% charge on the remaining fund. Why? It is unfair to offer tax relief as an incentive to pay into a pension fund, and then draw back more than half of the remaining fund on death. Is this from everybody, regardless of age, and including the vast majority who do not leave enough to pay inheritance tax? Unless I am misunderstanding the proposals, these two areas create all sorts of loopholes.

I suggest only two situations justify recovery charges, and suggest around 15% for each.

1. Added to income tax on withdrawals in excess of the capped limit (as well as adherence to the MIR)

2 Applied to the remaining pension pot on death (if you must), before adding the rest to the estate, with normal inheritance tax rules.

This way you would still get your 55% from the richer, inheritance tax paying community, and for those who would draw down excessively (perhaps like me), you get the extra tax into the coffers earlier!

I am optimistic about the coalition, and I would be happy to discuss this topic further, if anyone is interested.

Yours sincerely,

29th July 2010

Age 75 Consultation
Pensions and Pensioners Team
Room 2/SE
H.M. Treasury
1 Horse Guards Road
LONDON SW1A 2HQ

Dear Sirs,

**Re: AGE 75 CONSULTATION**

We have a family construction company with two sons which has a substantial pension fund and welcome your Government removing the requirement to purchase an Annuity by age 75.

Our situation is as follows:-

- I am aged 71 and my wife is 66.
- We have been drawing our pension approximately 11 years.
- We draw less than the fund investments are accruing which enables the pension fund to grow.
- We have other sources of income and do not rely on the income from the fund.

I believe there are many other family businesses in a similar situation and welcome the proposed reduction in tax from 82% to 55% levied for passing the surplus savings to our heirs.

As a proposal, however, bearing in mind the main purpose of a pension fund is to take away the responsibility of people relying on the State for support, I believe it would be sensible to give two options of disposal of the surplus monies in the Funds as follows:-

(a) tax the heirs 55% if they cash the surplus and walk away from the pension fund ,or

(b) levy a 20% tax if they take over the share of the funds their parents have left in the Pension Fund. This would leave the fund intact, which would then be used to bolster their pensions giving them a retirement income independent of the State.

Yours faithfully,

22..08.10

Age 75 Consultation Pensions and Pensioners Team
Room 2/SE
HM Treasury
1 Horseguard Road
London SW1A 2HQ

Dear Sirs

The consultation document is interesting but I would like to make a couple of points.

Minimum Income Requirement. Easy way to check income requirement for many is to merely check the figures submitted to Inland Rev on tax return.. Because a large no of private pension receivers submit annual returns..
If they are not taxpayers, merely request they submit a signed and witnessed statement of income – Insurance Cos obtain such signed and witnessed statements from clients every five years or so- to confirm payee still alive. You could make such request annually or say biannually if you wish.

Taxation of Unused Funds The proposed tax recovery rate of 55% applicable in the circumstances stated in the consultation doc. is way beyond what is fair and reasonable. During lifetime most people will have only been standard tax payers – so its absolutely unjust to recover 55% in the circumstances shown in doc. For those people, Treasury would be taking double the amount allowed on the lifetime premiums. That cant be fair! I appreciate however the 55% figure is less unfair to those who had max tax relief on premiums during lifetime
Suggestion For those with small pension funds , allow say the first £50000 of taxable fund (after 25% tax free deduction) to be taxed at standard rate .

One needs to realise that:

(a) many policyholdera re single i.e. have no dependents
(b) It is late in life when pension pols are started and the children are generally over the age 23 dependent definition
(c) Finally, the doc mentions the rules applic in say Canada. However as far as I know, in some countries e.g. ~~Canada~~ DENMARK, the individual is allowed to take the entire fund less tax, to use as he/she wishes.

Unless this 55% tax is seriously amended for standard tax payers it is a distinct deterrent for new pension customers – and the Govt seeks to encourage people to save. To double the tax on unused funds following the death of the dependent could be considered a con by some folks , but this Govt's banner is, quite rightly, "fairness".

Yours sincerely

29th July 2010

Dear Sir,

I retired this year aged sixty five and have been saving for a pension for several years. As the rules stand at present I can draw 25% (£9,000) in cash and invest in an annuity which will only give me a very small pension, enabling me to claim some benefits. I also doubt I would live to be over a hundred years old to get back most of my investment, which I consider extremely unfair.

After saving for years, sometimes during hard times and sickness, going without family holidays and generally living within our means, it would be wonderful to now have money behind me to use as I wish. As I get older it would be comforting to know that I could use most of my savings to sell my home and purchase a bungalow and not have to claim any benefits.

I do hope any new rules regarding annuities will become more fair for people like myself who have worked all their lives and tried to save as much as possible so that we can look forward to a worry free retirement.

Yours Sincerely.

# HM Treasury – Consultation, July 2010.

# Removing the requirement to annuitise by age 75

**Foreword**

In the Foreword, Mark Hoban MP states that, "...the current inflexibility in the pensions tax rules acts as a barrier to saving..."

Whilst this is true for some people in some circumstances, it is by no means the only or indeed the largest barrier to saving for retirement. Having canvassed the opinion of a range of clients that have chosen not to invest in pension plans, it would seem that the barriers are as follows:

1. A distrust of financial advisers, who are paid commission to 'sell' pension policies.
2. A distrust of the system and the Government.
3. Restrictions on the use of the assets and money held within a pension scheme.
4. The unfairness of the current death benefit rules.
5. It is impossible to 'cascade' wealth held in pension funds to future generations without incurring penal tax charges of up to 82%
6. Lack of understanding.
7. Lack of trusted and unbiased advice.
8. Lack of access.
9. Fear of future changes that could be imposed by Government in future (e.g. the subtle change of language where a 'tax free lump sum' has now been changed by Government to a 'Pension Crystallisation Lump Sum' which is viewed by people as a 'sneaky' way of opening the door to tax the 'tax-free lump sum' in future years when, hopefully, most people will have forgotten that it used to be called a 'tax free lump sum.'
10. The unfairness of the system of reliefs and taxation, which mean that most people end up paying a lot more tax on the money emanating from their pension than the reliefs they were granted on the money they contributed in the first place.

So, my point here is that, I wonder whether the basis of the proposals is fundamentally flawed. In other words, because it has been assumed that 'inflexibility' is the barrier that, the proposals will solve only a small insignificant part of the bigger problem causing people not to save for their retirement?

I would guess that overall savings to pension plans did not increase post A-Day as a result of the increased flexibilities brought about by The Pensions Act 2006. Our experience in this firm is that clients seek alternative ways of saving for retirement instead of pension contributions for the reasons stated above.

**Introduction**

- If the announcements in the press are correct, one of the main causes of household savings reducing is that people are paying off their debts. Both unsecured debt and mortgage debt has reduced since the credit crunch. This has got to be a good thing not a bad thing as suggested in your paper.

- Reducing the annual allowance will reduce the incentive to save into pension plans, which works against your aim of getting as many people out of state benefits in retirement. Also, if you view the value of the tax relief against the restrictions placed on pension schemes and the level of taxation on the income and the residual fund, the tax relief becomes a barrier or is viewed as a 'trap' and not an incentive to save.

- If you assume that business owners obtain 21% Corporation Tax relief on pension contributions, then pay income tax at between 40-60% on the income and then pay 55% tax on death – even taking account of the 'tax free lump sum' (which is ultimately taxed at 40% when they die) the Exchequer makes a profit on pensions.

**<u>Developing a new tax framework for retirement</u>**

- The general public are confused because it is widely believed that the requirement to annuitise at age 75 was effectively removed on 6th April 2006 with the introduction of USP and ASP and allowing 'scheme pension.' Therefore, to suggest that the removal of the requirement to annuitise at age 75 now will have little effect on 'reinvigorating private pensions savings.' In other words, the proposal offers them something that they already have. So, I have serious misgivings as to whether your proposals will have any effect at all on either the number of people that contribute or the amount that is contributed to private pensions.

- People don't save because they can't afford to and/or they choose to use their money for some other purpose. Therefore, changing the rules to "...require..." people to use their, "...pension savings to...provide an income in retirement" is not going to make a huge impact on the population. Also, the financial aware such as entrepreneurs, business owners and professional do not need to be forced or cajoled into providing for their retirement – they take responsibility for their future financial well-being without intervention from Government.

- The problem is not so much preventing people from exhausting their retirement pot but it is that people do not have a sufficiently large retirement pot in the first place. Surely, if you can encourage people to save a sensible amount in the first place, the problem of exhausting the pot becomes less significant?

- The 'capped drawdown' should be set at a level that keeps members above the threshold for means tested state benefits only.

- What happens if they never crystallise their benefits?

- Whilst the proposed 55% tax charge on death is seen as an improvement over the current 82% tax charge, it is still seen as grossly unfair. Most pension scheme sponsoring employers receive a 21% Corporation Tax deduction on contributions it makes for member employees and directors. The member then typically pays between 20-60% income tax on the pension income. If you then tax the residual balance at 55%, it creates a huge disincentive for company directors to invest in pension schemes. The tax relief obtained on pension contributions is insignificant when compared with the total of the lifetime income tax and the 55% 'recovery charge' added together. More and more shareholding directors of SMEs are very quickly working out that they represent poor value as an investment vehicle for their income in retirement needs.

- Imposing a 'recovery charge' of 55% on a pension scheme creates problems with liquidity for the scheme and puts the sponsoring employer company at risk. The attached case study for Richard Pearson (Resourcebank Recruitment Limited) illustrates this issue and others that business owners potentially face.

- The onerous tax framework that is proposed increases the motivation for entrepreneurs and shareholding directors of SMEs to seek out the more sophisticated and sometimes aggressive tax planning put forth by Tax Counsel. A number of SIPP and SSAS providers such as AJ Bell have reported in the press that there has been a significant increase in the number of pension transfer requests to offshore pension structures such as QROPS and QNUPS. In my experience, people expect to pay a fair amount of tax but if you apply this iniquitous 'recovery charge' of 55% on top of the 40-60% income tax on their pension income, you will merely increase the motivation to reduce overall levels of taxation down to a level they believe to be fair by utilising some of the sophisticated tax planning created by clever London tax barristers.

- A SSAS by definition has less than 12 members; and one of the many restrictions placed on these pension schemes is the inability to redistribute scheme assets to other members. Schemes with 12 or more members are allowed to redistribute assets. This is inequitable and an unnecessary restriction given the other checks and balances in the rules.

- As highlighted in the enclosed case study, many business owners have established a SSAS to hold commercial property, which is then rented back to their trading company. If a 55% recovery charge were to be imposed upon death, the SSAS trustees may have to dispose of the trading premises in order to create the liquidity with which to pay the 55% tax. This puts the future of the trading company at risk. By allowing a redistribution of scheme assets, the trading company can continue to operate from the premises and the rental income accumulated in the SSAS can be used to provide retirement income for other existing and future members. After all, it is a trust based employee scheme.

- The UK is in a mess largely because of the way Government, the regulator and the banks have behaved. We are now looking to the private sector, mainly entrepreneurs and business owners, to create the wealth and jobs to pay off the huge debt that the UK has been left with. The tax framework part of your proposals has the biggest negative impact on the very people from whom you are seeking help. This does not make sense. A 55% recovery charge will be seen as a 'step too far' and is viewed as grossly unfair. I suspect that they would, however, accept a 40% IHT charge if scheme assets were not redistributed to other scheme members but paid out to the surviving family.

**Minimum Income Requirement**

- What about DB schemes with solvency issues? Would they qualify for MIR?

- Item 3.8 – allow members to use part of their pension fund to purchase a long term care plan to ensure they remain above MIR.

- Allow USP to be underwritten based on age and state of health.

- Item 3.9 – indexed annuities are not popular and often unsuitable. Many people want more spendable income during the early years of their retirement and less as they become more sedentary. By allowing people to use part of their pension fund to purchase long term care insurance, the risk of people falling below the MIR in later life as a result of increased frailty etc reduces.

- Non-pension income that is 'secure' in nature should be allowed as part of the MIR calculation.

**The UK Annuity Market**

- One of the main barriers to purchasing an annuity (including purchased life annuities) is that it is a final one-off decision that cannot be changed once implemented. It is human nature to seek to increase choice and annuity purchase restricts choice. The annuity industry should be encouraged to design alternative products (and legislation amended) that allows annuities to be transferred from one shape of benefits to another. Whilst this would have an impact on the annuity rate, it might make them more appealing and encourage the purchase of the more tax efficient PLA.

- As mentioned at the consultation meeting at HM Treasury, it is staggering to see the number of insurance companies that 'steer' their customers towards purchasing an annuity from them where the open market option would provide a higher annuity rate; and the number of insurance companies trying to 'steer' customers towards the open market option where a guaranteed annuity rate applies to the customers pension policy. There has to be tighter regulation on the information (and the way the information is communicated) that insurance companies have to provide to customers at retirement.

- The value of advice at retirement is grossly undervalued. From my own experience, there are numerous examples of people that have missed out on higher levels of retirement income, not considered USP/ASP, ended up with an unsuitable shape of benefits etc because they did not take whole of market advice at the point of retirement. There are a number of suggestions here that include, financial education, requiring pension providers to direct customers towards a whole of market adviser, collaborating with professional bodies such as PFS, IFP and AIFA.

Chartered Financial Planner

August 2010.

## Removing the requirement to annuitise by age 75
**HM Treasury July 2010**

Age 75 consultation
Pensions and Pensioners Team
Room 2/SE HM Treasury
1 Horse Guards Road
London, SW1A 2HQ
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### THE GOLD WATCH HOTCH POTCH

- "Individuals should have the flexibility to decide when and how best to turn their pension savings into a retirement income, provided that they have sufficient income to avoid exhausting savings prematurely and fall back on the state."
  *(Removing the requirement to annuitise by age 75, para 2.10, box 2.A, p 8).*
- "Changes to the existing annuitisation rules provide an opportunity for greater innovation in the market. They also provide an opportunity to focus attention on the value of annuities and the importance of consumers making informed choices tailored to their needs."
  *(Removing the requirement to annuitise by age 75, para 4.9, p 18).*

**How long have I got – innovatively speaking?**

I was grateful for the opportunity to attend the consultative meeting on 06 August 2010 about ending the requirement to annuitise accumulated pension funds at age 75. Following the discussion at that meeting, I confirm my representations in writing. These representations follow the order of questions in the consultative document. Unless otherwise stated, all page and paragraph references relate to *"Removing the requirement to annuitise by age 75"*.

## General introduction

I represented workplace colleagues as part of my trade union work with regard to their pensions affairs for some years. In an article in August 2006 on participation in pension schemes I outlined my experience in PMI News, the Journal of the Pensions Management Institute. Changing the pensions landscape radically has, in the past, led to mis-selling which was not truly to the advantage of customers for the new regime. Please bear in mind that the Equitable Life saga caught not only the unsophisticated. Many qualified professional people were misled and mis-sold. This had to be redressed at considerable expense. That error must not be repeated and the removal of the requirement to annuitise must be restricted to those to whom it is appropriate. This will be the class of pensioners with the largest funds who will be the smallest number of retirement products consumers. They may be able to afford good quality advice but the cost of the advice and the management charges and fees that reflect it will bear on their funds. It is not certain that their net return on free assets would be greater than if the annuity market were properly structured for everyone – including the majority who end up seeking an annuity on a retirement fund averaging £25,000 or less.

Not much has moved on since the HMRC Modernising Annuities Consultation to which I made representations in April 2002. I see that its objectives were:

> "16. In developing policy on annuities, the Government is determined that any action:
>
> • should, where possible, increase the level of retirement income that people can expect to gain through an annuity;
>
> • should ensure that funds saved with the benefit of tax relief are used to provide a secure income in retirement. Pension savings should not become a tax-favoured savings vehicle for non-pension purposes; nor should people be enabled to use their funds other than for retirement income, risking their needing additional support from other taxpayers through the social security system;
>
> • should contribute to the Government's aim of encouraging people to save more for their own retirement. The Government is keen that people should understand annuitisation and the options on offer so that they make the right choices and receive good value.
>
> 17. In particular, this document contains options to increase general understanding of annuities and ways to enable individuals to obtain the information and advice they need to make well-informed and appropriate decisions. It summarises the breadth of coverage of the specific advice required, discussing the role of the Financial Services Authority in educating consumers. And it considers further options to encourage people to get the best value from annuity providers."

It is worth remembering from Modernising Annuities:

> "33. From 1979 small self administered pension schemes (SSASs - most of which are defined contribution schemes like personal pensions) were able to postpone buying an annuity for five years after their members retired. Since 1995, both members of these schemes and retired people with personal pension funds have been able to postpone buying an annuity until the retired person reaches age 75 so long as they take a minimum income from the fund on retirement. Since 1999, (nearly) all defined contribution pension schemes have had the same flexibility."

In 1995 both deferred annuitisation and enhanced ill-health annuities were first permitted. What has happened to annuity rates since? They have collapsed. Loss of mortality cross-subsidy has combined with lower interest rates and increased longevity to squeeze annuitants. Now deferral is to be unlimited and these reforms may diminish annuities further by reducing the market size and increasing proportionate costs.

**Developing a new tax framework for retirement (Chapter 2)**
Views are sought by the Government on:

A.1 The level of an appropriate annual drawdown limit for capped drawdown.

A limit should depend on the assets available against reasonable life expectancy and be formulated by the Government Actuary's Department (GAD). Where the Minimum Income Requirement (MIR) is met so assets are held out of an annuity after age 75, there will be no limit. The capped drawdown pensioner at age 75 could buy an annuity if MIR cannot be met. The cap is designed to prevent premature exhaustion of the funds and recourse to means-tested state benefits, so there should also be a minimum. If the minimum cannot be met taking into account the yield on the assets, surely an annuity should be purchased? The limits should take account of the responsibilities the pensioner has to meet and be within a 110%-85% cap and collar to age 75 and 120%-80% cap and collar thereafter.

If MIR is met, should the assets be depleted more quickly than remaining life span taking into account the yield they can raise? It is intended that MIR, once met, is a definitive criterion. See also my response to question A6 with regard to how often it should be reviewed. If it is a definitive criterion, it permanently secures, for the purposes of the legislation, that recourse to means-tested state benefits will not be required. However future changes in policy about who should receive state benefits cannot be predicted and taken into account. If the criterion is met at outset, imposing a limit on access to the "free capital" in the event of future policy changes might result in an infringement of the human right to the quiet enjoyment of property contrary to Annex C, para C2, "Other Impacts". Any restriction on access to property must be legitimate and democratically imposed for the purposes of the European Convention on Human Rights. Article I of the 1952 protocol provides at page 15 of the Convention that *"No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law..".*
http://www.echr.coe.int/NR/rdonlyres/D5CC24A7-DC13-4318-B457-5C9014916D7A/0/ENG_CONV.pdf

It is hard to argue for "democratically imposed" if it has already been established by law that the individual will not have recourse to means-tested state benefits disregarding assets to which it might be proposed to limit access. Might it not be better to provide, in the legislation, for the right to review flexible drawdown at periodic intervals so the consent of Parliament has been obtained and later changes can be justified? Otherwise, a pensioner in capped drawdown would be subject to greater restriction on withdrawal compared with a pensioner in flexible drawdown with similar assets. So it might be argued that there was an interference with the right to the quiet enjoyment of property if it could be shown that capped drawdown would not exhaust the assets even if MIR was not met.

A.2 Its intended approach to reforming the pensions tax framework, in line with its commitment to end the effective requirement to purchase an annuity at age 75.

One pensions firm argued that value protection lump sums should be taxed at a lower rate than other surplus assets on death as the sum would be "purchased" with a lower income from the annuity compared to a standard annuity. Value protection effectively buys insurance against death before the annuity payments equal the annuity purchase price. So the value protection lump sum would not, per se, arise from a tax privileged environment.

The value of surplus pension assets on death that can be identified as attributable to tax free accumulation is problematic. Para 2.3 on page 7 is not strictly accurate in saying that *"No tax is charged on investment growth from pension contributions".*

One of former Prime Minister Gordon Brown's most controversial fiscal reforms was to prevent pension schemes from reclaiming the imputed corporation tax in the dividend tax credit. Dividends form an important part of investment returns as recent concern about risks to the BP dividend after the Gulf of Mexico oil spillage demonstrated.

Dividends are taxed in the pension scheme for basic rate taxpayers just as if received by the members directly. Management charges for running the pension scheme bear additionally on the dividend which is a disadvantage not a privilege. Higher rate taxpayers for 2010/11 do not shelter dividends from additional tax inside pension schemes until their taxable incomes reach £43,875 – getting on for double the average national wage outside London. They then shelter themselves from 25% higher rate tax on the net dividends, 22.5% on the gross, as the imputation credit satisfies 10% of the gross. It is likely that the 50% additional tax rate payers for 2010/11 will benefit significantly from sheltering dividends in pension schemes. Across the board, however, these are a small fraction of total pension scheme investors and their advantages should not be given undue weight in fixing an average claw back of pension scheme tax benefits.

Pension schemes are protected from tax on capital investment profits at rates that have varied from the starting rate of 30% in 1965, via alignment with income tax rates up to 40% and latterly to a flat rate of 18% which will be further adjusted following the Budget on 22 June 2010 to rates of 18% or 28% depending on the individual's income subject to specific exemptions and reliefs. In the three tax years ended on 5 April 2011, individuals are not chargeable to CGT on gains of £9,600 in 2008/09 and £10,100 in both 2009/10 and 2010/11. If their pension funds made smaller capital gains than the individual exempt amounts, they would have gained no capital gains tax advantage from being invested via a pension fund. In the 10 years to date equity prices now show little capital gain. Investors' fiscal gains would have been from income tax relief on the contributions. Their fund growth would have arisen from dividends, on which basic rate taxpayers gained no tax advantage but had to pay management charges, and new contributions. Only on the larger funds in the hands of higher income earners could it fairly be claimed that substantial tax advantages had accrued. Decumulated pension funds often total £25,000 or less on which little or no capital gains tax would be payable if the funds were held individually.

Contribution income tax relief is partly recovered by fully charging the pension annuity to income tax without allowing for any return of capital to the annuitant compared to a purchased life annuity. The main beneficiaries are those who obtained higher rate tax relief on their contributions and pay lower rate income tax on their pensions. This may be amended by the proposed reduction in the annual maximum pension contribution allowance to which some pensions specialists objected at the meeting on 06 August 2010. To contribute to the work of the Office of Tax Simplification, perhaps income tax relief on pension contributions could be limited to a fixed rate of 25% for all taxpayers. This would incentivise smaller contributions that benefit only from basic rate tax relief of 20% and not disproportionately reward the rich who would otherwise get 40% relief. Everyone would pay £75 for every £100 working in their pension fund. Otherwise the rich only pay £60 while the poor pay £80. It would simplify the accurate calculation of a recovery charge on surplus drawdown assets and avoid separate claims to higher rate tax relief as, presently, contributions are paid net of basic rate tax relief in all cases.

Care should be taken to calculate a fair charge on surplus drawdown assets remaining for inheritance and not to deter high earners from making the maximum provision for their own retirement within the UK. An arbitrary charge may face a human rights challenge as per my response to A.1 above. High net worth individuals can make provision in low tax jurisdictions outside the UK where the asset management may not be carried out by UK regulated firms and disclosure may not be complete unless international treaties on withholding taxes are enforced. This seems unlikely in some countries with weak government. The funds are likely to be invested in economies outside the UK. There would be no certainty that HMRC in the UK would be the primary taxing jurisdiction for such pensions and related assets under the OECD double taxation conventions or at all.

It is unlikely that 55% of the accumulated value of the fund relates to the tax privileges alone given that some of the income tax relief on contributions will already have been recovered by the taxation of the income from the fund. It is doubtful whether the proposed recovery charge of 55% on surplus assets is therefore justified. It is more likely that no more than 35-40% of the fund relates to the tax advantages. The USP ("capped drawdown") recovery charge of 35% is mentioned in para 2.7 on pages 7 and 8 and it should be noted that Inheritance Tax does not apply to surplus USP funds.

The tax reliefs are proportionate to the contributions and the investment growth not to the form in which assets are held as between flexible and capped drawdown. It is open to anyone to purchase an annuity to settle the matter, and therefore lose all right to the future use of the capital, but there is no reason why the recovery charge should differ as between the form in which assets are held as opposed to differing on a scale relating to quantum.

If a 20% surplus pension assets charge were made on death and the remaining 80% of the assets were subjected to 40% inheritance tax, the total tax on the surplus assets would be 52% which ought to be sufficient and would eliminate the need to treat a value protection lump sum any differently from any other surplus amount. By far the vast majority of the population will never be affected by these rules so I understand that those who are affected will benefit from sophisticated legal and fiscal advice which could create avoidance. However, it is not possible to assign pension assets, for example, in a personal pension plan. So they cannot be the subject of pre-emptive gifting. It seems reasonable to prevent capped and flexible drawdown assets from being assignable as any surplus in them cannot be identified until someone has actually ended the need for those assets by dying. So opportunities for avoidance ought to be limited and most people who benefit from not annuitising may well leave other estate assets that would create an IHT charge. Otherwise, make the recovery charge on the surplus pension assets at 40% (instead of 55%) and exempt the balance from inheritance tax as proposed at para 13(ii) of Annex C.

**Minimum Income Requirement (Chapter 3)**
Views are sought by the Government on:

A.3 What income should be considered 'secure' for the purposes of the MIR and whether proposals for the life annuity income that can be considered for the MIR are practical and appropriate.

During the discussion on 06 Aug 2010, the level of security for occupational pension defined benefits in calculating MIR was raised. Depending on the security of the employer's covenant for pensions in payment linked to Limited Price Indexation, an allowance at Pension Protection Fund (PPF) rates was suggested. Some care in communicating any such decision by the government should be taken. In principle it is necessary for the employer to be insolvent before PPF protection can be afforded. Reference to the terms on which the PPF would be able to compensate pension scheme members at this URL may be helpful
http://www.pensionprotectionfund.org.uk/About-Us/eligibility/Pages/Eligibility.aspx

The public might not welcome the implication that the Government felt pensions in payment by defined benefit occupational schemes were at this level of risk. It would be unwise to upset the valuations agreed between the schemes' actuaries, the PPF and the Pensions Regulator. Arousing public concern by failing to allow the full amount of a defined benefit pension in assessing MIR would highlight the funding difficulties of the PPF which has a £1.2 billion deficit. Under-funded schemes are allowed many years to reduce their deficits to avoid being taken into possession by the PPF like Heath Lambert.

http://business.scotsman.com/business/Crisis-looms-for-pensions-safety.6500720.jp

Paragraph 3.6 on page 13 posits that flexible drawdown will only apply to pension assets so only pension income can be considered secure for MIR purposes. That does not seem entirely logical. The object is to prevent recourse to means-tested state benefits. If non-pension income can secure this, there is no reason why it cannot be taken into account. A life income under a trust may not be a pension, but it is a life income. A purchased life annuity may not be a pension but it is a life income. Universal benefits related to disability may not be pensions but they are nonetheless on a par with other retirement age benefits.

The fall back positions, if MIR cannot be met, are capped drawdown or annuity purchase. If MIR were reviewed periodically against the assets remaining in flexible drawdown, a wider range of income could be secure. Otherwise only a narrow range of income likely to maintain its purchasing power can be considered. It will already be difficult for most people to meet MIR on pension income alone. Flexible drawdown will require advice and ongoing investment management the costs of which will bear on the fund. It is likely that only the largest funds will be viable in this regard and the MIR test further restricts the availability of flexible drawdown to a very small number of the wealthiest pensioners.

A.4 <u>What an appropriate level for the MIR should be and how the MIR should be adjusted for different ages</u>.

The GAD can calculate an appropriate level of adjustment by age. If the MIR is to be adjusted for age, it is proposed that the MIR will be higher at younger ages taking into account the factors mentioned with regard to uncertainty, health and care costs in paras 3.12 - 3.15 on pages 14 and 15. Para 3.14 on page 15 makes a footnote number 18 to the assertion that *"...average peak expenditure levels during retirement were around £423 per week for single pensioners, assuming inflation of 2.5%."* This refers to CEBR research carried out for Life Trust whose backers wound it up after 12 months because its longevity insurance business did not succeed. I do not, therefore, regard this analysis as reliable. It should not be used as a basis to set MIR levels. If £423 per week is regarded as a proxy for a pensioner's income, that is nearly the average national wage outside London and not a true reflection. Few pensioners would be in flexible drawdown as their incomes would be insufficient and the costs of administering it will be disproportionate to the benefit gained.

The Office for National Statistics (ONS) last published a wealth survey including an analysis of pensions wealth for the period 2006-2008. It is available from this website:
http://www.statistics.gov.uk/StatBase/Product.asp?vlnk=15074&Pos=1&ColRank=1&Rank=208
On that page the report is at the link headed *"Report: Wealth in Great Britain"* at this URL:
http://www.statistics.gov.uk/downloads/theme_economy/wealth-assets-2006-2008/Wealth_in_GB_2006_2008.pdf

Chapter 6 analyses pension wealth. In Chapter 4, formal financial assets appear not to include pensions which seems anomalous. Page 32 of the ONS report suggests that the mean value of ex-pension wealth is around £40,000 which implies that few people would meet the minimum income requirement on those assets alone. Chapter 2 shows all wealth including pension wealth. Table 2.7 on page 12 of the ONS report is in two parts. One part shows wealth including pension wealth and the other part shows assets excluding pension wealth. The difference between the two shows, as posited in the consultative paper on annuitisation, that wealth peaks between ages 55-64 and declines between ages 65-85. However, the pension wealth derived by subtracting wealth without pension assets from wealth with pension assets suggests that few people would be able to support themselves completely on pension wealth alone. Therefore removing the requirement to annuitise by age 75 is a low-priority policy initiative. Between ages 75-84 mean pension wealth is about £125,000 and therefore below the level posited by pensions professionals at the 06 August meeting at which flexible drawdown would be best advice.

If a fixed quantum test is preferred on the grounds of simplicity, why not limit the availability of flexible drawdown to funds over £175,000 and capped drawdown to funds over £100,000? If a weekly income of £300 plus housing costs can be demonstrated, MIR should be met. The onus of proof should fall squarely on an applicant for flexible or capped drawdown to show lifestyle maintenance for amounts below these figures and this should be easily identifiable at the advice stage before HMRC need be troubled to adjudicate.

Carrying out "lifestyle maintenance" tests, as opposed to fixed quantum tests, imposes administrative complexity for the sake of fairness. In this regard the working families' tax credit should be a lesson to us all. However, "lifestyle maintenance" is already used to validate exempt "out of income" gifts for inheritance tax purposes so it is tried and tested. The minimum income required in retirement is subject to the crucial test of whether housing costs need to be met. Is the mortgage paid off? That leaves outstanding only property maintenance and insurance. If it is not paid off, its cost should be added to any assumption in the order of £300 per week, with capital likely to remain above £10,000, to secure more than the equivalent of the guaranteed minimum income or pensioners' credit without recourse to the state. The assumption should be related to any additional financial responsibilities. If property is rented, that eliminates the structural repairs for the landlord's account but the rent should be added to the assumed income.

A.5 Whether a different MIR should be set for individuals and couples.

Opposition was expressed during the meeting to setting different MIR levels for single people and couples but MIR should reflect any responsibility for dependents as this would be an important factor in setting state benefit levels. I respect the fiscal independence of partners in marriage and civil partnership. Taxation is levied independently for example. Less formal "common law" arrangements are hazardous as they do not confer the same legal protection as marriage and civil partnership. Where an assessment of MIR is carried out and clearly partners are financially independent of each other, they should have their MIR assessed independently. Where one party depends on the other's income, non means-tested benefits such as attendance allowance should be taken into account in the assessment but the MIR should require consideration of the living and maintenance costs of both parties - not just one.

A.6 How often the Minimum Income Requirement (MIR) level should be reviewed.

The intention, as described by Treasury officials at the meeting on 06 August 2010, is that an individual has to demonstrate MIR compliance once only at outset and then enters flexible drawdown – not being required to annuitise funds. Later changes in MIR levels will not affect pre-existing flexible drawdown pensioners. This makes it difficult to bring existing flexible drawdown pensioners within future policy changes. If experience shows that MIR needs to be tightened, for example to cope with higher than anticipated inflation, existing flexible drawdown pensioners may be at risk of depleting assets too quickly.

I argued for a triennial review to make sure that MIR is taken into account, along with the pensioner's assets in flexible drawdown, to confirm that future reliance on means-tested state benefits can reasonably be ruled out. A quinquennial review would be satisfactory if inflation could be contained to the Limited Price Indexation (LPI) cap of 2.5%. The secure income to be taken into account, per question A3, could include sources that increase in line with LPI which will maintain their real value if inflation does not exceed LPI. At present, RPI inflation is well above LPI which is slightly behind CPI. So the MIR will not be keeping up with inflation. The starting income on purchased annuities linked to RPI is very low. On fixed escalation the future risk is easier to assess. There is a cross-over period of up to 23 years for a male life aged sixty on normal terms before the total payments on an annuity escalating at 3% fixed would equal the payments of a level annuity.

Is it clear what the Government's policy is on means testing? Means tested benefits per the budget on 22 June 2010 will rise in future by reference to the Consumer Price Index (CPI). Flat rate National Insurance Retirement Pension (NIRP) will rise by a "triple lock". *"The Coalition, our programme for government"*, p26, section 23, (May 2010, Cabinet Office, Ref: 401238 / 0510), aims to increase NIRP by the greater of prices, earnings or 2.5%. The triple lock on the NIRP, which is not means-tested, must be a shift towards a higher flat rate NIRP to reduce complexity.

Presumably the more generous regime for NIRP increases will reduce means-tested benefits such as pensioners' savings credit and guaranteed minimum income.The MIR can include benefits that are not means-tested (ie contribution-based) such as the NIRP. These benefits are specifically available regardless of other assets. The level of the MIR is therefore to ensure that means-tested benefits do not become available as a result of excessive asset depletion arising from deliberate action or unexpected longevity. If means testing is to be reduced, the MIR will have to be reduced. If it is not subject to review during flexible drawdown, policy changes like this will be difficult to implement for existing flexible drawdown pensioners. On the triple lock, it is likely that flat-rate contribution-based, non means-tested, NIRP will rise faster than MIR will need to rise if linked to LPI only.

A.7 How to minimise unnecessary burdens for individuals and industry in the assessment of the MIR.

The difficulty of establishing income for MIR purposes is no greater than proving income for mortgage lending. Obtaining proof will largely be undertaken by the individual. A DWP notice of the state pension payable with a letter from a company pension scheme showing the retirement benefits will cover most cases and it should only be necessary for the flexible drawdown provider to keep copies on file. It should be a requirement of any FSMA 2000 regulations that such proof is kept in the same way as for mortgage loans.

**The UK annuity market (Chapter 4)**
Views are sought by the Government on:

A.8 Whether other legislative or regulatory barriers remain whose removal would enable industry to provide consumers with more attractive products without incurring fiscal or avoidance risks.

Providing annuities was traditionally the preserve of insurance companies, within the aegis of the Insurance Companies Act 1982. This has now been repealed and replaced by the prudential and conduct of business regulations set by the Financial Services Authority (FSA) – the N2 regulator that consolidated N1 regulation by professional bodies for insurers, investment managers and intermediaries under the Financial Services and Markets Act 2000 (FSMA 2000). Annuities contain guarantees, for which reserves are made by actuaries who provide their expertise to insurers who specialise in risk management and investment.

Some mutual insurers set up banks to carry on savings and mortgage business in competition with building societies in the early1990s. This was problematic in law as there was a general pre-supposition against the ownership of banks by insurers and the mutuals had to provide comfort from the assets of the whole firm to support the liabilities of the bank. Much of the contention has been resolved by subsequent demutualisation and the development of corporate structures within publicly quoted companies held by shares.

In my representations on the FSA consultation *DP09/03, October 2009,"Mortgage Market" Review* I argued that future overheating in the housing market could be avoided if liquidity requirements could be reduced.

The term over which savings are invested should match more closely the longer terms over which money is lent to borrowers. Returns should be adjusted not only with regard to conventional interest rates but should include elements related to indices of inflation, earnings, property prices and the performance of the economy at large. Banks and building societies could provide long-term fixed mortgages on which interest related at least partly to other factors than market interest rates. They could then attract investment from pension funds seeking exposure to a wider variety of instruments in order to meet the demand for annuities. It is possible that legislation affecting the operation of building societies would have to be reviewed to permit this.

Both building societies and joint stock banks would need to convince the prudential regulators that risks could be controlled but there should be no reason why undue risk should be posed. In particular, margins on mortgage business have widened considerably from 1-2% since they were at the commodity end of the trade to 4% and above at current market rates. Within these margins, there should be scope for adjusting to a different way of charging for mortgages which could reduce demand on government index-linked debt, the price of which has become extortionate because the government does not wish to issue any and all the pension schemes scramble for it to meet LPI on annuities and other forms of liability driven investment.

Solvency II (see A.10 for further remarks on QIS 5) will require substantial capital to be held on annuity business and may be a barrier to new entrants to annuity business. One of the mutual insurers that set up a bank did place funds obtained as an annuity purchase price in its bank to supply funds for mortgage lending on a long-term basis. In principle there is no reason why this could not be encouraged more widely provided that the mortgages in which the funds are invested are "prime prime" with low loan-to-value ratios and low income multiples at fixed rates of interest over a long term.

A.9 How the industry, Government and advice bodies such as CFEB can work to ensure that individuals make appropriate choices about what to do with their retirement savings in the absence of the requirement to purchase an annuity by age 75.

At the consultative meeting on 06 Aug 2010, one of the participants that specialises in the provision of impaired life annuities suggested that advice on managing investments at age 75, if no annuity purchase is required, should only be given by the highest grade of chartered financial planner. This will be very expensive for consumers.

The Pensions Advisory Service (TPAS) could play a greater role. TPAS is represented at: http://www.pensionsadvisoryservice.org.uk/about-us.aspx. It already facilitates intermediation in pensions complaints prior to involvement of the Ombudsman. Some argue that it would not be qualified and there would be a fine line between regulated advice and the provision of information or education. The pensions firms have made a generous living from providing actuarial services, administration and asset management guidance to pension schemes. They could second staff to TPAS to improve skills and inform pensioners likely to be most vulnerable to mis-selling about the options and the need to insure against outliving their savings. Among additional sources of funding to enable TPAS to carry out an informative role I suggest passing the hat round at the TUC and the professional bodies representing actuaries, accountants, pensions solicitors that have their own association within the Law Society and investment managers. I am a member of UNITE but I criticise the TUC's failure to campaign through its affiliated unions for members' pensions and to ensure adequate arrangements for independence among member nominated trustees. It failed to set up industry-wide pension schemes that could have mitigated some of the problems now facing pensions provision through poor investment returns and the longevity squeeze on annuities.

TPAS is a pensions specialist. It could replace the pensions work of the residual FSA consumer protection body. I recommend that the comparative annuity rates should be withdrawn from the FSA website. It would be much easier for TPAS to give rule of thumb expectations and guide consumers to advice.

A.10 <u>Whether the proposed reforms have unintended consequences that may affect the market's ability to supply annuities at attractive rates or prevent the annuity market being able to meet likely demand for annuities</u>.

At the consultative meeting on 06 Aug 2010 key themes discussed were impaired life annuities, value protection, loss of capital to the annuity market from flexible drawdown, QIS5 for Solvency II and businesses that have Small Self Administered Schemes (SSAS).

Page 17, para 4.7 refers to a market for annuities enhanced for ill health that has existed since 1995 and has doubled in size between 2001 and 2010. Anyone retiring at 65 in 2010 was born in 1945 and will have worked entirely in the post-war economy after 1960 when the statutory school leaving age was 15. I agree that those subject to occupational health risks should be looked after and receive special consideration. Coal and other mining activity has caused, for example, emphysema or pneumoconiosis. Construction industry work with asbestos has led to mesothelioma. Other disabilities may arise from industrial injury at a time when health and safety did not meet today's standards.

Many pensioners in this category rely largely on state benefits or defined benefit pensions. Enhanced annuity considerations may not apply to the pensioner as the benefits are calculated by a formula related to earnings. The employer and not the pensioner bears the risk. Such pensioners are a diminishing number given the advances in occupational health over the last 20 years and the closure of DB schemes.

Separating enhanced annuitants from normal annuitants who are not in ill health poses moral hazard as the underwriting questions include offering enhanced money-purchase annuities to smokers, whose smoking is within their own control. Value protection is most common in providing impaired life annuities. The annuitant receives a higher annuity against the prospect of shorter life expectancy and further protection because the balance of the fund will be refunded on death if the annuity payments total less than the purchase price. It was posited by specialists in impaired life annuities represented at the meeting that the ill, poor and deprived have subsidized the healthy and wealthy for far too long and it is time it stopped. I do not entirely agree.

Type II diabetes, largely regarded as arising from an epidemic of obesity, also qualifies an annuitant for a better pension. If that includes value protection, there is no mortality cross subsidy from those who are responsible for their own ill health towards those who have looked after their health. There is no provision to impose different taxation on an enhanced annuity from a normal annuity to reflect the cost to the NHS of treating people whose demand on it is within their own control. The result is exceptionally poor annuity rates to those who have acted according to public policy and looked after their health, thus reducing the charge on the NHS and a reward to those who have not.

I queried whether the loss of cash to the annuity market if large pension fund holders decided not to annuitise would prejudice the returns available to annuitants with smaller funds. One of the specialists in impaired life annuity provision stated that this was unlikely.

Large fund holders would be expected to have lighter mortality (ie live longer) and be less likely to contribute mortality cross-subsidy to other annuitants in the pool. However, as they are likely to have the larger purchase prices, they will disproportionately diminish the funds under management in an annuity pool. The substantial guarantees inherent in an annuity must be conservatively managed but aggregate management charges on a larger fund bear less heavily on individual policyholders than in a smaller fund.

Smaller funds find it more difficult to spread investments due to the reduced flow of new money. Referring to the Modernising Annuities consultation mentioned in the introduction to these representations, I point out that annuity rates collapsed when rules were relaxed from immediate annuitisation on retirement to deferring annuitisation to age 75 in 1995.

On the other hand, there is considerable pressure on gilt-edged stock prices as the pensions market has an appetite for them beyond the ability of the government to supply. This is particularly acute with index linked stocks as these are required to underpin pension benefits that are required to increase by reference to LPI. If demand in this area could be alleviated that might weigh in favour of reducing the high cost of index linked stock which might favour annuitants. However, since MIR is likely to require income linked to LPI, it is hard to see how this can be achieved. It was hoped in Modernising Annuities that introducing temporary annuities for pensioners would ease the strain on demand in the gilt edged market as long ago as 2002 and therefore support gilt yields to improve annuities in the general market. There is no evidence that this happened as annuity rates have continued to collapse. In particular, whilst National Savings & Investments has now withdrawn the only low cost inflation linked investment available to modest and medium sized savings funds, you should check whether the re-organisation of the Government bond market through quantitative easing has resulted in the issue of any index-linked stock by the Debt Management Office.

Solvency II is the EU directive that is being formulated on the capital that insurers are expected to hold to cover their risks. The fifth Quantitative Impact Survey of late 2009 (QIS5) is the latest series of formulae for calculating solvency for the purposes of the directive. It is based on an aggregated average of the insurance industry as a whole and therefore not an accurate measure of any individual company's ability to meet its liabilities. In particular, QIS5 may permit insurers to capitalise their annuity risks with derivative instruments instead of cash or equivalent securities such as AAA Government Bonds

Some UK providers who have sub-contracted (re-insured) their annuity risk to non EU insurers may not be required to hold as much capital against UK annuities as those insurers who write annuity business in the EU. This will not stop them from writing annuities for UK pensioners whose underlying security might not be as great, or subject to the same regulatory recourse, as for UK pensioners who have taken annuities from EU insurers. This has potential for adverse consequences. For example will a non-EU annuity provider, holding less capital than an EU provider, offer better annuity rates to pensioners to reflect the reduced cost of holding the capital? If so, how will that affect competition? To whom will a pensioner with a non-EU reinsurer look for recourse if margins were held too thin and the annuity cannot be continued for solvency reasons? Should we not regulate all providers even-handedly by reference to the annuities they provide to UK residents?

The press has speculated that derivative instruments, such as longevity swaps, may count as security towards solvency. I questioned QIS5 and the role of shareholders in providing capital to meet risks, for example by a rights issue, at the 2010 AGM of one UK quoted insurer where I hold shares. The Chairman said that QIS5 had moved the capital holding requirement further in the direction of insurers so less actual cash would be necessary for Solvency II. The insurer has appointed a Solvency II committee with responsibility for this issue in a directorate of the finance department. Solvency II responsibility is one which Directors cannot delegate although they can take advice on the decisions they have to make. What constitutes adequate capital is likely to mirror the core Tier 1 requirement, such as equity, in banks and building societies compared to money market instruments. During the meeting on 06 August 2010, one of the specialists in impaired life annuity provision said that there was nothing wrong with using derivatives to secure annuities as long as they were properly collateralised. Overtones of residential mortgage backed securities collateralised by debt obligations and credit default swaps sprang to mind.

The discussion on SSAS reflected the risks to liquidity in a pension scheme that arise when the sponsoring employer's business premises are owned by the scheme. At some point, those premises are required to provide the pensions of the scheme members. It is a useful tax advantage to have the property in the scheme where its increase in value is accumulated without capital gains tax, the rent received from the business is accumulated in the pension scheme without income tax and is also deducted in calculating the profits chargeable to tax in the hands of the business by which the rent is paid. It was right to point out that a recovery charge, if the SSAS goes into flexible drawdown, may produce an insufficiency of liquid assets to pay the recovery charge. However, this would be the fault of the trustees' investment policy and should not be given special consideration. The object of the scheme is to pay pensions.

Contrary to Annex B, Small firms impact test, it was argued at the consultative meeting that the recovery charge would impact on SSASs many of which are held by firms, often with fewer than 20 employees. On this point, does paragraph B.1 intend that members of pension schemes at smaller firms will be denied the right to the proposed reforms as schemes will not be obliged to change their rules to permit the flexibility? Please see the remarks on human rights in answer to A1 above if differential treatment of individuals in similar circumstances is envisaged. Changing the rules of a small scheme with fewer than 20 members is not a marathon legal exercise. Doing so should not have a disproportionate impact on smaller firms but not doing so might have a disproportionate effect on equalities if, eg, women are highly represented in the workforce of smaller firms.

**The impact assessments at Annex C from page 25**

Paragraphs 1-13 re-state the purpose of the consultation. Paragraph 15 refers to removing the requirement to trigger a check at age 75 that an annuity has been purchased as a deregulatory removal of a monitoring requirement. That is not correct. If an annuity is not purchased, the state of investment of the assets will have to be monitored for each individual for tactical and strategic asset allocation instead of once across a pool of risk.

This deregulates a financial institution but imposes a customer-facing conduct of business obligation to ensure that not purchasing an annuity at age 75 is best advice. If a pensioner is to rely on assets that have not been annuitised for lifetime maintenance, strategic and tactical asset allocation will be subject to ongoing monitoring for appropriateness. This is classic liability driven investment not monitored once at the macro prudential level in the dealings between a financial institution and the regulator, but with regard to liability to many individuals for best advice. In practice the monitoring requirement is likely to move from annuity providers to financial advisers. The latter are more fragmented and have been notorious for commission driven mis-selling in the past. To remedy this, the Retail Distribution Review (RDR) of the FSA will soon force advisers to charge by fees and not take commission. If the monitoring of invested assets passes to advisers, they will have to justify this to the pensioners who may be deterred by the cost from seeking the advice.

Product innovation mentioned in paragraph 17 may include the use of derivative instruments. Care must be taken, as one of the impaired life annuity specialists mentioned at the meeting on 06 August 2010, to ensure that inventive solutions are properly collateralised, especially if portfolio efficiencies for pensioners in capped or flexible drawdown include guaranteed stock market investments secured by a bank guarantee. The underlying product structure (ie the guarantee) failed at Key Data and Lehman Brothers. The index performance was not met. On recourse to the guarantee, funds were not available as the counterparties could not pay. The Government will not look good if it introduces the flexibility of not purchasing an annuity, only to ask the FSCS to pay out on doubtful judgments by the banks. The FSCS is not a victimless crime. It is an open moral hazard financed by prudent savers and bears just as harshly on them as any tax.

There is risk to the security of annuities for poorer pensioners from Solvency II and QIS5 if it permits insurers to secure annuities with derivative instruments instead of cash. It is a higher policy priority to address this before removing the requirement to annuitise. Parallels with the collapse of the banking system at the time of Lehman Brothers are clear.

Pensioners in drawdown with no fixed date of annuitisation are at risk of mis-selling. That risk can be mitigated by insisting on highly qualified professional advice. However, the cost of that advice will bear on a pensioner's assets. Pensioners may have to move funds to another provider to take advantage of flexible drawdown, pay transfer charges, possibly incur penalties on realising assets and pay charges for the additional flexibility at the new provider. Every time a new charge is imposed it raises the minimum viable fund size and reduces the market size. Paragraph 70 of Annex C estimates ongoing industry-wide costs of £2 million per annum which, ultimately, can only fall on consumers.

Recent restrictions on pension tax relief imply that the proportion of any surplus funds at the end of a pensioner's life attributable to tax privileges may be less than the consultation paper suggests. Care should be taken in assessing recovery charges in these circumstances. The wealthy have no prescriptive right to assistance from the taxpayer to make retirement provision that they should be able to afford themselves. However, it would be easy for them to make that provision offshore thus possibly holding assets outwith the purview of HMRC, both managing and investing them with no benefit to the UK economy.

Before the requirement to annuitise is abandoned, steps should be taken to standardise quoted rates and simplify the choices. For most annuitants who decumulate funds up to £100,000 on retirement, options for annuities payable in arrears without proportion should be abandoned and all quotations should be for a term certain paid monthly in advance. As people are living longer the term certain costs an insurer less for the risk so a standard offer monthly in advance for 10 years certain should be the norm with only exceptional cases altered for more complex provisions. For a single life this is all that is required. For a pensioner with a married or civil partner who may be the last survivor, a residual pension should also be provided. In fact a 30% survivor's pension might be adequate in many cases which would enhance the life annuity initially payable by reducing the charge for the risk of future provision. This would remove layers of administration in the advice process, reduce the cost of advice and institutional compliance and further contribute to better understanding and more competitive terms. Once this has been done, it may be possible to release pensioners from the requirement to annuitise.

Finally, I am grateful to the Treasury for allowing me to attend the consultative meeting on 06 August which was informative. I caution both the Treasury and the DWP that the only body capable of amortising annuity risk fairly across the whole population is the Government by bringing all annuitants into one cross-subsidised pool under the aegis of the GAD. Breaking up that pool into private insurance companies with individual actuarial experience merely fragments the market and incurs additional costs as shareholders have to receive a dividend on the business. The Government would not, I posit, abandon the requirement to annuitise if it had all the risk. So it should not do so because that risk is kept off its balance sheet and spread among insurance companies.

Paragraphs 19 and 22 raise the legality of trusteeship powers if schemes do not alter their rules but allow flexible drawdown case by case. Institutions must comply with Principles of Business (PRIN) macro prudential rules (INSPRU and BIPRU) and Conduct of Business Rules (COBs). Principles 6 and 8 within PRIN are the rules for Treating Customers Fairly known as TCF6 and TCF8. The former requires that, where discretion exists, providers have to publish how it will be exercised. TCF8 requires that conflicts of interest between owners and customers and between customers (eg conflicts between those who annuitise and those who do not) have to be managed fairly.

http://fsahandbook.info/FSA/html/handbook Full FSA Handbook
http://fsahandbook.info/FSA/html/handbook/PRIN/2/1 FSA Principles of Business

A case by case approach would be fraught with the possibility of multiple cases before the Financial Ombudsman Service (FOS).

Concerning paragraphs 19 and 22, paragraph 28 under-estimates the likely costs and mentions only the costs borne by institutions. Changing scheme rules and trustees' powers is done by specialists whose portals could barely be graced for £1,000. If some schemes and providers decide not to offer the new flexibility, pensioners who are with them will have to move to a firm that does if they wish to take advantage of it. Costs will be incurred by pensioners in making the transfers, in addition to any costs for additional flexibility per paragraph 36, and inure for the benefit of the provider's shareholders. A 1% annual management charge on assets worth £150,000 is £1,500. A bid-offer spread on assets realised for transfer could be up to 3% unless the pensioner is invested in one-price funds. Transferring the assets may not be best advice. It may incur penalties that cannot be recovered by any additional return from the new investment and may erode wealth as much as purchasing an annuity. This is not adequately covered in paragraphs 36-38 and is glossed over in paragraphs 30-35 where no quantum is placed on the benefits.

The impact assessment makes no reference to deregulation of tax compliance that may arise from the work of the Office of Tax Simplification. If life offices and investment managers gain from simplification of the complex tax regimes that affect their products, they will have cost-saving benefits which can be deployed to the advantage of any withdrawal of the requirement to annuitise at age 75.

### General Conclusions

This policy initiative has been prioritised incorrectly at a time of national economic stress as it will benefit only a few people. It is designed to benefit wealthy supporters of the Coalition Government. The consequences for the less fortunate have not been considered.

The deferral of annuitisation in 1995 from the date of retirement to age 75 and implementing drawdown did not reduce demand on gilt stocks. So it did not increase their yield and did not improve annuity rates for the smaller pension funds. There is no reason to suppose that the current proposal will have any different effect. Nor was this objective met when, in 2002, Modernising Annuities introduced temporary pension annuities. Trying to improve annuity income in the light of falling rates has proved to be intractable.

In 2002, Modernising Annuities set out, at paragraph 17, repeated on page 1 of these representations, to increase education about annuities. That objective has not been met. Nor has the objective of the FSA to educate consumers generally to prevent them from falling victim to mis-selling. Annuities remain unpopular because the rates are low. If people live longer, allowing them to opt out of an annuity compounds the problem as the rates fall even lower. They are unlikely to buy an annuity if there is no requirement that they should and the market is then not big enough and not balanced. An annuity for a male aged 60 at current rates implies a 16 year payback to equal the purchase price on a level income and 23 years with escalation at 3% fixed. People do not find this attractive.

## Addendum – Post 8 September 2010 Meeting at HM Treasury

attending the meeting at HM Treasury on 8 September 2010 during which the following items were discussed. The comments below represent the personal view of , which on occasion offer alternative views to the main Barnett Waddingham response as a result of the further understanding of the Government's position following the meeting.

1. How to remove the effective requirement to annuitise at age 75

It is worth pointing out that this can be achieved very simply: the multiple layers of taxes that apply on distributing orphan drawdown funds post age 75 should be replaced by a single fair rate tax and the drawdown rules should not change radically at age 75.

Flexible drawdown is not a necessary condition of achieving the Government's stated aim and there is no pressing need to revisit the annual drawdown limit prior to age 75 – any major chance here will create cost for the industry and could cause cost for the Government if major revisions to legislation are required. Reducing annual drawdown limits pre age 75 may in fact introduce an effective requirement to annuitise pre age 75.

I noted with interest the comment that a provider of the Irish "flexible drawdown" schemes had recorded on 0.1% of their client base as opting for flexible drawdown.

2. Whether continuing a 20% uplift in the drawdown limit is sensible

One key reason why there is an effective need to annuitise by age 75 is that the maximum drawdown rate at age 75 is lower than that which an annuity can provide. Reducing the drawdown limit to around (or below) annuity levels would create an effective requirement to annuitise at retirement and so should be avoided.

Income drawdown is attractive for those people who expect to achieve higher investment returns than annuity providers can offer and those people like to be able to benefit from those higher returns by being able to access a higher annual pension. Other people are attracted by being able to draw variable income, which might mean less in one year and more than the annuity rate in another year.

Removing this flexibility would be counter to Liberal Democrat desires that there should be more, albeit controlled, ability to access pension in times of hardship. This would include some people with income drawdown pots who are unlikely to qualify for flexible drawdown (remember that having a fund locked away in drawdown arrangement does not guarantee that the individual will not suffer personal financial hardship).

One commentator noted that it would be easier to describe a 100% rate and that a 100% rate seems sensible. I disagree in that I find it useful and perfectly easy to explain that there is a tabled rate which is a proxy for single life annuities but under income drawdown rules you are allowed to draw 20% more as part of the flexibility of the contract. The GAD tables could be rebased by including the 20% uplift, but this then means altering existing legislation for no tangible benefit and so should be dismissed.

3. Whether using 15 year gilt yields remains sensible and whether Corporate AA bond yields would be more sensible

I am confident that the Government Actuary's Department will be able to provide comment on this. We have analysed the difference between the drawdown rates using gilt yields compared with the IBOXX Corporate Bond index each month since April 2006 when the current GAD tables were introduced, with the results shown in Figure 1.

I was intrigued that the commentators who were proposing a change to using corporate bond yields were also supportive of a reduction in the 120% rate to 100%. This simultaneous increase and reduction in the rate cancel each other out somewhat, as depicted in Figure 1.

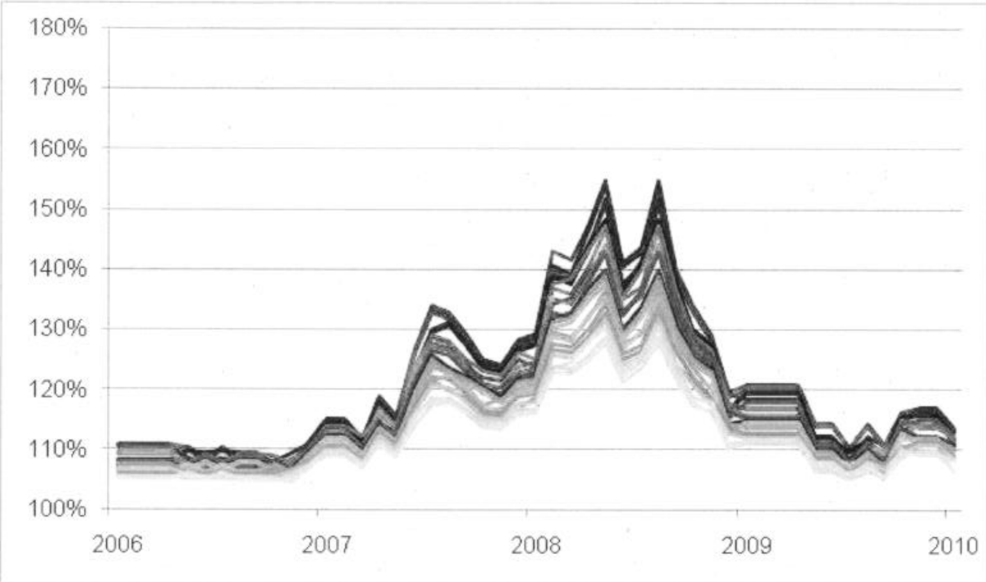


Figure 1 Graph showing "IBOXX" drawdown rates as a percentage of 15 year gilt drawdown rates

In Figure 1, the lines represent drawdown rates using the IBOXX yields expressed as a percentage of the GAD rates over the years,. The different lines represent different drawdown ages with the higher lines representing lower ages, meaning that a move to corporate bond yields would improve the annual drawdown limit more for younger members than older members as would be expected. Generally, the rates seem settled around 110% - 120% of current GAD rates, with the major exception being during the banking crisis when a higher premium on corporate debt was required, pushing up the yield and hence increasing the theoretic drawdown rate.

It also cannot be overstated how important it is to providers that a new calculation method is not needlessly introduced and I would therefore conclude that maintaining the existing calculation method is the only sensible route. It is of course possible to adjust the GAD tables to allow for improvements in mortality and this is possible with little impact on provider's systems and, of course, no need to change legislation.

4. Whether the GAD tables should stop at age 75

There was a comment at the meeting that the "man in the street" finds GAD rates difficult to understand but can understand his life expectancy and so the drawdown rate should reflect a payment of the fund over that person's life expectancy.

I found this comment confusing as the GAD tables do exactly this, but also allow for investment return on that fund. If the commentator was suggesting that investment return should be ignored, then the maximum income drawdown rate would be seriously lower than the annuity rate particularly exaggerated at lower ages. For example, the current maximum drawdown rate for a 55 year old male with a £100,000 fund is £6,120 (compared with a single life annuity of £5,280, source: www.fsa.gov.uk/tables). That 55 year old's life expectancy may be 30 years, meaning that his fund would be amortised ignoring interest at £3,330 per annum.

On reflection, perhaps the concern was that, as the GAD tables stop at age 75, they do not reflect life expectancy thereafter, e.g. for an 85 year old. On the one had I share this concern but there would need to be some end age for the tables: it would not be sensible for the drawdown rate to be, say, 20% of the fund. Whilst this might be correct "on average", the calculations are not sensible when dealing with a single individual person.

Using an end age effectively caps the maximum drawdown at a sensible rate which addresses the Government's concerns that funds may run out for older people (if, for example, you allow a 90 year old to draw 30% of their fund). Whilst this end age could be 80 or 85 (I wouldn't suggest any later), I am persuaded that the current system effectively operating under the transitional rules is suitable and achieves the stated aim of removing the requirement to end the effective annuitisation at age 75.

If, however, policy dictates that a 100% GAD rate is adopted, then this should be introduced with an extension to the GAD table end age as otherwise the effective annuitisation remains (noting that 100% of an age 75 rate would be broadly equivalent to 80% at age 80)

5. Comparisons of drawdown rates

Figure 2 below shows potential drawdown rates under various bases operating from age 70 to 85, using current market yields. You will note that the sudden fall in the maximum rate at age 75 under the ASP rules ("Finance Act 2004 Rules") to below the relevant annuity rate which provides the impetus for consumers to review whether income drawdown should continue beyond age 75. This contrasts with the proposal put forward in the Barnett Waddingham response ("Our proposal") which flattens the maximum drawdown rate thereby gradually reducing the additional income that can be provided over the relevant annuity rate with the result that by age 80 the income drawdown rate should be comparable to the relevant annuity rate and by age 83 the drawdown rate should be 90% of the relevant annuity rate. This suggests that there might be a desire to annuitise as age 83 approaches.

The IBOXX rate sits between the annuity rate and the current 120% relevant annuity rate, with the yield gap currently around 1% between corporate AA bonds and 15 year gilts.

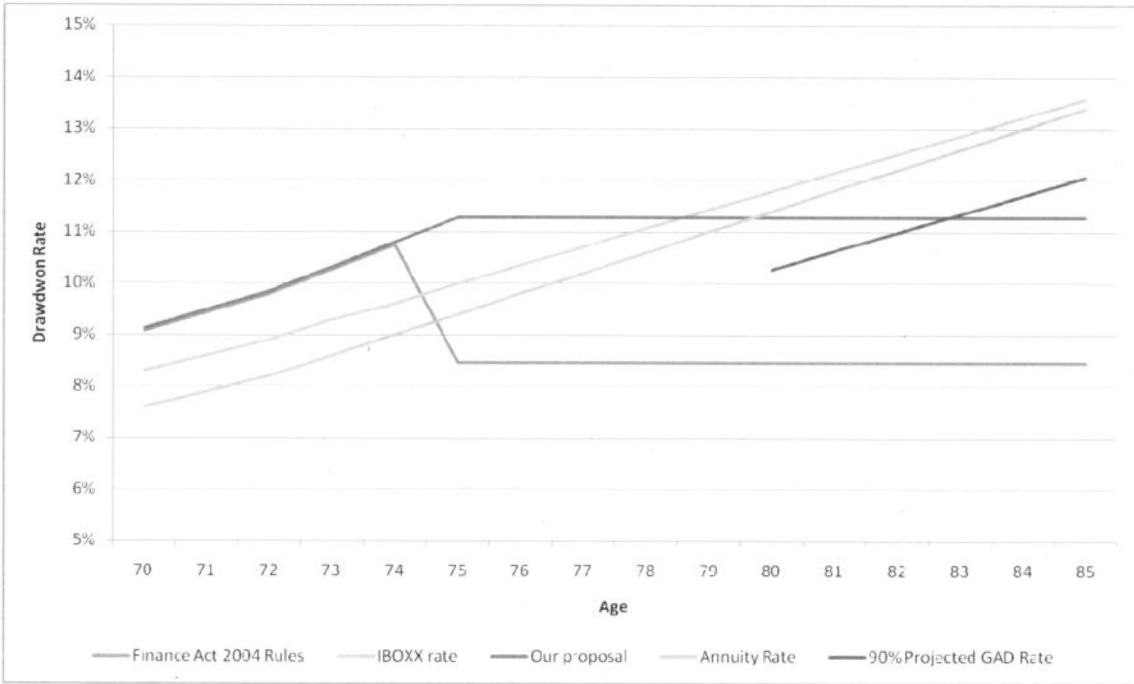


Figure 2 Comparison of Drawdown rate propositions

6. Existing ASP cases

I estimate 5,000 or so people already in ASP and some of these may die without leaving a dependant before the new rules are introduced, exaggerated if the rules are delayed by a year.

I would support any lump sums distributed once the new rules have been introduced are taxed under the new system, even if death occurred prior to those rules being introduced. Without this protection, the families of such people are needlessly taxed if death occurs at the "wrong" time.

7. Recovery rate on death

I understand that the Government believes that a suitable recovery rate should be applied to fund distributed on death as a lump sum, as pension funds should primarily be used as a means of providing pension income for the individual and their dependant. Furthermore, the Government believes that 55% is a suitable recovery rate to apply and this explains the significant increase in the tax rate that currently applies to unsecured pension lump sum death benefits.

Whilst 55% may be seen as suitable for those with large pension pots and so applicable as the Lifetime Allowance Excess Charge, it is not clear to me that this is suitable for those with lower pension pots who may only have received basic rate relief.

An alternative suggestion would be to tax funds on distribution at 25% plus the marginal rate of Inheritance Tax.

My view remains though that the rate should be kept at 35% as I do not think that this historical rate is out of kilter with the Government's principles. Individuals will not use this rate as a reason for using pension funds to mitigate IHT certainly before age 75. Instead of applying a 55% rate, perhaps the Government could consider restricting the availability of the lump sum option to cases where there is no dependant and leaving the rate at 35%.

**10 September 2010**

**Dear Sirs,**

**Response to HM Treasury discussion document on removing the requirement to annuitise by age 75**

As a pensions professional and actuary who has worked in the pensions industry for forty years I have taken great interest in your proposals. I am now employed part-time and I am responding to the discussion document in a personal capacity. I have set out below some thoughts and suggestions on the broader issues that your proposals raise. The appendix to this letter provides some specific responses to the 10 key questions that you raise in the discussion document.

*My credentials*

I was the founding chairman of the SIPP Provider Group (now AMPs) and am currently Chair of the Pensions Network (www.the-pensions-net-work.com) and a Board member of ILAG. I am Director of Marketing (part-time) for Suffolk Life a leading SIPP provider. I am a frequent media commentator on pensions matters.

I was heavily involved with involved Treasury and HMRC officials on the shaping of the original income drawdown regime following an attempt to launch a flexible annuity product in 1994 More recently I was involved in discussions with HMRC officials in the early days of consultation on the pensions simplification proposals.

*Overview*

The extension of income drawdown beyond age 75 is long overdue. The rapid increase in longevity and changing work and retirement patterns mean that the effective retention of age 75 as the cut-off point for annuitisation is an anachronism. The introduction of Alternatively Secured Pension (ASP) was ill conceived and as a result the take up has been very low. Anecdotal evidence suggests that the perceived compulsory annuitisation is a disincentive for some individuals to save via a pension.

However reform in this area is not straightforward. It is important that any changes take into account reforms in the pensions tax regime that are currently under consideration. The current rules governing retirement income are already complex as a result of the interaction with the lifetime allowance and other events. The potential users of a new tax framework for retirement are diverse in age, knowledge and most importantly the size of fund that they have accumulated. This makes the creation of a flexible and balanced regime extremely difficult.

A key element of any new regime is that it is easy to understand and to operate. Some of the proposals could lead to a much more complex set of rules and requirements. I believe this should be avoided at all costs. It is also important to appreciate that no retirement income solution can be risk free. Whilst an indexed lifetime annuity will provide security of income it does not eliminate risk. Also history has shown that on many occasions deferral of purchase of an annuity has been beneficial on account of interest rate rises. Whilst the prospects of such increases may seem remote at present the likelihood is that the majority of retirees in the next 5 years will live through a period of rising interest rates in the next 20-25 years. Of course continuing longevity improvements may well mean that there will not be a corresponding improvement in annuity rates.

I believe for growing numbers of retirees particularly those with larger accumulated funds the use of a range of retirement products and solutions will become more commonplace – and this will be facilitated by a growth in technology solutions providing some form of stochastic diagnostic and projections. At the other extreme there is a real prospect of many individuals with small funds being unable to afford or receive advice and consequently continuing to make ill informed choices particularly on annuity selection.

It is against this challenging and complex background that I make a few general comments about the main elements of the proposals.

*Flexible drawdown*

This is the most innovative proposal. In the impact assessment it is estimated that around 8,000 individuals per annum would look to satisfy the MIR. I believe this is an underestimate. The numbers utilising income drawdown currently are growing. From ABI statistics and my knowledge of the SIPP market (many providers of which are not ABI members) the number of new drawdown cases this year is likely to exceed 40,000 I would expect at least a third of these individuals to be interested in flexible drawdown. In addition I estimate the total current population of income drawdown users to be around 300,000 suggesting that the initial take up could easily exceed 50,000. I do not envisage many individuals withdrawing their whole fund but I certainly foresee increasing use of the extra income flexibility.

*Minimum Income Requirement (MIR)*

I believe that the administration of the entry threshold for flexible drawdown should be as simple as possible. I therefore favour an approach similar to the Irish model utilising a Minimum Retirement Fund. Whilst acknowledging that this does not provide total security of income if set at a high enough level I believe there would be a reasonable degree of confidence that the users of flexible drawdown would not fall back on the state.

I suggest the MRF is initially set at £150,000 – although in theory an age related scale is justifiable I believe this would be an unnecessary complication. The fund could be met either from existing pension scheme assets or from other assets or a combination. A decision would be needed on whether pensions in payment from DB schemes should be taken into account using some simple valuation method. The MRF would have to be held in certain secure assets – to be defined – until death or until a lifetime annuity is purchased.

*Capped drawdown*

Drawdown – or Unsecured Pensions (USP) & ASP - is already well defined and has been operating for over 15 years. The proposal on capped drawdown is therefore relatively straightforward. The main issue is the annual drawdown limit assuming that drawdown now continues beyond age 75.

Once again I think the emphasis should be on simplicity rather than technical accuracy. For that reason I recommend a scale which is based on longevity but has an upper age limit of 90 (male & female). I suggest that the maximum portion of the fund that can be taken in any year is simply the reciprocal of the number of years (rounded up) the individual has until he/she attains 90. So for example the relevant maximums would be

Age 55 1/35$^{th}$ of the fund

Age 65 1/25th of the fund
Age 75 1/15th of the fund

To allow for life expectancy beyond age 90 I would cap the above formula at age 80. Thereafter the maximum proportion of the fund that can be taken at any age in any year would be 1/10th. This is simple, easily understood and would provide protection against the fund being depleted prematurely.

However I have a further suggestion. There is growing concern about the scope for ill-advised use of drawdown by individuals who would be better with an annuity. To remove a great deal of these concerns I suggest that capped drawdown is only permitted where the fund exceeds £50,000. At each annual review whenever the fund is less than this figure either an annuity has to be purchased with part or all of the fund to provide income or income has to be deferred until the fund has risen in value above £50,000. Clearly there would need to be some transitional arrangements for those already using drawdown.

*Tax rate on death*

The suggested rate of recovery tax of 55% in my view is too high. Whilst a uniform rate eliminates some of the current lottery around the tax applied on death it actually increases the differential between that occurs on death just before vesting and just after. For example under the proposals assume an individual with a fund of £100,000 dies one day before his/her 55th birthday. The fund is payable tax free to beneficiaries at the discretion of the trustees or scheme administrator. If however he/she elects to take their pension commencement lump sum of £25,000 at 55 and dies the day after there would be a potential recovery charge of 55% of £75,000 i.e. £41,250. That seems totally inequitable.

I don’t believe a tax rate above 40% can be justified. Indeed a fairer system if the recovery tax rate on unused drawdown funds were 40% would be to have a lower rate of 30% payable on death benefits prior to vesting.

*Summary of main proposals*

In summary my proposals are:

- Introduce flexible drawdown as proposed but using a Minimum Retirement Fund of £150,000 rather than a Minimum Income Requirement
- A new age related scale for determining the maximum annual income for capped drawdown based on number of years to age 90. The same scale for males and females and for those aged 80 and over a fixed proportion of 1/10th of the fund would apply.
- A new minimum fund requirement for capped drawdown of £50,000
- A recovery charge of 40% on all unused funds once drawdown has commenced; with the option of introducing a charge of 30% on all other death benefits.

I believe the simplicity of these changes and the increased flexibility would re-energise the at and post retirement market whilst also introducing an increased level of security against premature depletion of funds. Taken in conjunction with other proposed pensions tax relief changes I believe the changes would lead to an increased propensity to save for retirement. I hope these proposals are of interest and I would be very happy to discuss them further.

**Appendix to response to HM Treasury discussion document on removing the requirement to annuitise by age 75.**

Question 1 – see proposals in my covering letter
Question 2 – ditto
Questions3-7 – see my proposals for an alternative Minimum Retirement Fund. I believe this should operate at individual level. There is no need for an automatic review of the suggested level of the MRF. I believe this approach would be much simpler to operate than a MIR.
Question 8 – again this would be largely irrelevant if my proposals were adopted.
Question 6 – see proposals in my letter
Question 7 – ditto
Question 8 – No comment
Question 9 – I believe the introduction of a Minimum Fund Requirement for capped drawdown would go some way to reducing the risk of individuals making inappropriate choices which could lead to funds being depleted prematurely. Other action is needed to enhance the visibility of the Open Market Option. The FSA also needs to reconsider its approach to product illustrations and projections for this part of the market so that they more clearly illustrate and reflect all the risks arising as a result of converting capital into income.
Question 10 – No comment

**Removing requirement to annuitise by age 75**

Comments from Mary Campbell. I am not an expert on the detail of these proposals – it is far beyond my wildest dreams that I could have avoided converting my pension to an annuity until age 75. However, I'm very concerned that - if I have understood right - the tax take from wealthy pensioners will be much lower than it would have been (which means the rest of us will have to pay more tax) and that some lower income pensioners who take advantage of the change will end up dependent on 'welfare'.

**General**

1.Para 1.1 of the Introduction sets a prime aim of this policy as being to encourage higher saving and foster a culture of personal responsibility. However, as the consultation document itself later makes clear, the main group affected are those with the largest pension pots, probably a few thousand people. Only those who have enough other financial resources to live on until age 75 without touching their pensions can benefit. Should the majority of lower income people have to pay more tax so that the family wealth of the richest can be increased yet further by incentives to save? At the end, the document says there is little if any gender (or race) equality significance to the proposed change: this is because almost no women currently are in a position to avoid taking their pensions, because, unless they rely on male partners' income, they are unlikely to have been able to save enough if they also had unpaid care responsibilities. This policy is therefore overwhelmingly for the benefit of men. Given the extraordinary levels of privilege in Britain's tax relief rules for pensions (see attached and the international comparisons in other HMT consultation docs) the prime aim of the policy should be to ensure that no revenue is lost from the wealthy as a result of the change. It also questionable whether allowing people to spend their pensions on luxury holidays when they may need them in future is fostering 'a culture of responsibility' – and insofar as the change affects people further down the income scale, the result is likely to be less saving.

2.At present only a few thousand very well-off pensioners are affected. As the document indicates (e.g. because of DB-to-DC switch) the numbers affected are likely to rise, though probably not as result of NEST (since NEST beneficiaries will usually have too little other money to be able to avoid annuitisation) unless the MIR is set dangerously low. As the baby boom generation retires and reaches age 75, many more will have pensions that far exceed the £1.8m current limit on size of pension pot at retirement (because their pensions reached much higher levels before the new rules), and the size of pension pot attributable to each affected pensioner will also be larger. If I've understood correctly, it seems that for others you plan that the LTA should apply to pension pots that remain unannuitised at age 75: surely the limit should apply right up until death? Otherwise, all subsequent growth can reach any amount, tax-relieved, and for someone who lives until age 90 off other savings (i.e. that are subject to IHT) his heirs may inherit millions without having to pay a penny of IHT. Thus, we will see IHT exempt multimillion pound pension pots at death even for post-£1.8m limit pensions, with the rest of the estate being reduced below £250,000. The potential sums of money are staggering as well as the potential beneficiaries being almost all rich men (or their heirs).

3.Since it will be difficult to tighten up rules later, it is imperative (a) that the current value of IHT relief for pensions be published so that there is a benchmark for assessing change and (b) that the arrangements when they are introduced are tighter than might be needed – it will be easy to loosen them, but much more difficult to tighten them later. Trying to recoup the damage done to tax receipts by the Turner reforms has proved impossible and this is a lesson for the removal of the 75 age limit for annuitisation. Of course, we are here talking about how to avoid revenue loss compared with what would have come in under the current system and this means allowing for possible behavioural reactions – for example choosing to die abroad to avoid IHT.

4.Perhaps I am being blind, but I cannot find a justification for the 55% figure you have selected as an appropriate amount to take from these funds. It seems to me that the true figure is much higher. Only a tiny proportion of these folks' pensions is likely to derive from diligent saving by the individual. Most will have come from NI rebates on S2P (defined as welfare dependency for those of us who receive S2P itself), compounded tax relief at 40% on the original contribution and on investment growth, corporation tax relief, NI relief on employers' contributions, and so on. It may be that 55% of the highest figure that you can achieve – because if you put it higher people will simply take their pensions as income, taxed at 40% or 50%. Also, I cannot understand why you want to allow the heirs of people who die before they are 75 to be exempt from the 55% as well as from IHT (para 2.22, if I've understood it correctly, see A.2. below). With the massive increase in individually large DC pension pots that are in progress, the cost of this tax relief will grow substantially. Surely, now is the moment to abolish the privilege: apart from anything else it privileges DC schemes over DB schemes, since someone with a dread disease who dies before age 75 can simply use up all their non-pension resources if they are in a DC scheme, leaving their pot to be inherited by heirs free both of IHT and the 55% retrieval of tax relief.

5. So far as I can see, you are planning to extend the current exemption from IHT that applies up to age 75 to all ages. In other words, sums that have not been drawn down or converted into annuities by the time of death will be taxed at 55% to recoup earlier tax benefits provided the pension-owner dies after the age of 75, but will never be counted as part of the pensioner's estate for IHT purposes. The amounts drawn down will be taxed at the individual's marginal tax rate (likely to be 40%) but subject to IHT insofar as they are not invested in 'businesses' (farms/forests etc) to be passed IHT-free to their heirs. ISAs and principal private residence will form part of the IHT-able estate, but are not taxed during the owner's lifetime. So there will be some quite complex trade-offs for individuals and their accountants to make. However, usually, an increase in flexibility for tax accountants results in a fall in tax take and given that the size of pension pots and number of big pension pots are both going to rise a lot, that probably means the overall tax take will fall a lot from where it would be if the present system were to be maintained.

6. I think you have made an unnecessary difficulty over inflation-proofing the MIR. Also, 2.5% is FAR too low. I lost most of my future pension entitlement because of the inflation of the 1970s-80s and never managed to recoup. There seems a distinct possibility that we may be headed for stagflation again: and at the very least the future of inflation is likely to be well above 2.5%. For people who are already pensioners, it will be impossible to rebuild through further saving from earnings. However, there is a simple answer: insist that the Minimum Income Requirement is inflation-indexed to the RPI (or at least the CPI). The market is already accustomed to providing annuities that are indexed to RPI (the figures are published weekly in e.g. *Sunday Telegraph* money pages). Of course, the older the individual, the less the cost of full inflation indexing, so age is automatically taken into account.

**Your specific questions**

**A.1.** The Government should adopt the most cautious figure possible to begin with: it will be very easy to free up in future, but very difficult to tighten up once the industry and electoral pressures have established what people think is an entitlement.

**A.2.** By abolishing ASP, the Government is foregoing IHT on post-75 annuitisations. The wording of para 2.22 is ambiguous: but it looks as though you are intending a pre-75 exemption from both IHT ***and*** retrieval of tax relief @55% on pension contributions/investment growth. I simply cannot see why this is necessary or just – it means that those who are wealthy can pass on multi-million pound pension pots (at present) and £1.8m free of both IHT and the 55% retrieval. This will cost £bns in tax relief each year as the switch from DB to DC schemes occurs. And this increase in ytax expenditure is exactly what you say you wish to avoid.

**A.3.**No income should be considered 'secure' unless it is fully inflation-indexed. In other words, whatever figure of MIR is set, the pension/annuity to meet it needs to be inflation-indexed to the same standard as the state pension and means-tested benefits.

**A.4**.The MIR needs to be set at a level that does not give DC schemes an advantage over DB schemes. For those with large pension pots, this in effect this means a minimum set at the level that DB schemes are insured at: currently around £30k. The figure should then be changed annually to match the DB insured amount. The simple policy would be to set MIR at this figure for everyone – protecting those with smaller pension pots from the temptation to run them down. However, if you want to have different rules for others, ie those whose pots could yield less than £30k at maximum, I think you do not allow a large enough figure. For example, you use the *average* peak expenditure levels £423 for a single pensioner (para 3.14): using an average means that in 50% of cases the pension will ***not*** meet needs, and these needs will presumably have to be met by other taxpayers. I suggest that the MIR should be set at the 75$^{th}$ percentile figure at least – as well as being fully inflation-indexed (not just 2.5%). Again, it will be easy to reduce the figure – very difficult to raise it. Also, you quote the size of the guarantee credit and minimum income standards (Table 3a): but we are paying a lot in means-tested housing benefit, disability payments etc for pensioners. So these costs need to be added to arrive at an appropriate for a ***Minimum*** Income Guarantee. There is also the issue of numbers of people who take up the new arrangements: few at present. But if you set the MIR too low, many people who should not be doing so may just spend their pensions on travel – not expecting to live as long as they actually do. Please, please, please make sure the MIR is set at the highest reasonable level to start with – it can always be lowered later. But you will never manage to raise it in the teeth of public objections once people have got used to the idea that they can run down their pensions.

**A.5** If you stick to £30k for everyone (i.e. the DB insured level), then you needn't worry about the difference between singles and couples. If you set the MIR lower, you should make everyone have an MIR for couples. Anyone can get married at any time. If relationships were stable, one could say that it could be individual if a spouse also has their own cover: but of course there is nothing to stop them from splitting up and marrying someone else without cover.

**A.6.** Anybody with pension pots that could yield a pension of £30k or more should simply move with the DB insured minimum. Under-£30k MIRs should be set very high with a view to reviewing them downwards later if appropriate. If you stick to the 2.5% inflation-proofing, you will need to review the MIR annually (though for many it may be too late).

**A.7.** The MIR should be inflation-indexed pensions in full, plus inflation-discounted other pensions (e.g. at present annuity rates, a female aged 60 might count her non-inflation indexed pension as about 55% of its nominal value and a 65-year-old man as 70% – to judge from the annuities table in *Telegraph Money* Sept 4). No doubt an appropriate industry wide average discount rate could be published monthly by the authorities.

**Views from the Office for Budget Responsibility**

What would the OBR say if it were commenting before you make your decision? If I have understood your proposals correctly (a big 'if' in this context) I suggest it would point out that the proposals you have put forward run the risk of a big loss of revenue, especially compared to the counter-factual of continuing the present system at a time when the affected pensions increase in size and number. First, the MIR will not cover the costs of all those currently covered by pensions if the inflation rate is set at 2.5% and/or the '***average***' (i.e. $50^{th}$ percentile) is used to judge how much is needed. Second, there are serious risks of increases in tax expenditure – i.e. loss of revenue from the richest people in the land. Third, start cautious and become more lenient if experience suggests this is appropriate: at present you are proposing to tighten up if experience proves the tax accountants reduce the tax take. Finally, you will need to publish a figure now for the cost of tax relief, with projections from its present level if the system were not changed i.e. establish reliable counter-factuals for future years as well as now.

**Annual expenditure on pensioners (2008/9/10/11)**

***Pensioner 'benefit' for the poor only expenditure*, 2010-2011 (2008-9 prices)**

| | | | £bn | % of GDP (approx) |
|---|---|---|---|---|
| Pension Credit (means-tested) | | | ***8.0*** | ***0.5*** |

***Universal 'benefits', equal £ for everyone, no tax relief on contributions***

| | ***£bn*** | ***%GDP*** | | |
|---|---|---|---|---|
| Basic NI state pension (contributory) | 53.1 | 3.4 | | |
| Pension benefits (fuel,TV,Xmasbonus) | 2.8 | 0.2 | | |
| ***Total*** | | | ***55.9*** | ***3.6*** |

Source: DWP pension expenditure stats-on-line Table 3, SPC 4.1. NB, does not include cost of bus pass – but this mainly replaces other transport subsidies since the buses would have to run anyway and is therefore a very cost-effective way of helping pensioners. **Although HMT deducts global figure for taxes paid on pensions in receipt from published Exchequer cost of non-state pensions, it does not deduct global NI contributions or tax paid on state pensions from 'benefit' cost of NI pensions. Also, if no NI pension, means-tested income support would rise by tens of billions – but tax expenditure is mostly a £ for £ cost.**

***Second state pension or structural reliefs in lieu***

| | | | | |
|---|---|---|---|---|
| S2P/SERPS etc (NI contributory) | 12.9 | 0.8 | | |
| NI contracted out rebates | 9.5 | 0,6 | | |
| ***Total*** | | | ***22.4*** | ***1.4*** |

***Public Service Pensions and Tax expenditure on pensions, i.e. welfare limited to the better off lucky enough to have pension schemes, mostly 2008-9***

| | | | | |
|---|---|---|---|---|
| ***Received by pensioners*** | ***£bn*** | ***%GDP*** | | |
| Addtnl personal allowance (2009-10) | 2.6 | 0.2 | | |
| Tax exemption of 'lump sum' | 3.2 | 0.2 | | |
| Net public service pensions[1] | 3.1 | 0.2 | | |
| *Total* | | | ***8.9*** | ***0.6*** |
| ***Exemption of monies paid in as contributions to pension funds and growth relief*** | | | | |
| Tax relief for employees | 5.8 | 0.4 | | |
| Tax relief for self-employed | 1.4 | 0.1 | | |
| Tax relief for employers | 14.1 | 0.9 | | |
| NI exemption for employers | 8.3 | 0.5 | | |
| ***Total*** | | | ***29.6*** | ***1.9*** |
| Income tax relief on investment income | 6.7 | 0.4 | | |
| [CGT relief not in stats due to calc difficulties] | £? bn | | | |
| Grand total of relief on contributions | | | ***36.3*** | ***c.2.2%*** |
| ***[or, say, 2.5% of GDP or £40bn including CGT relief]*** | | | ***£40bn*** | ***2.5%*** |
| *[Arguably Les*s tax paid on pensions in receipt | 9.5 | 0.6] | | |
| ***Grand total subsidy not available to low earners (gross)?*** | | | ***£49bn*** | ***c.3% GDP*** |

Sources: HMRC Table 1.5 and 7.9, as amended by IFS analysis. Of the £2.6bn age allowance, only £45m is attributable to over-75s extra tax allowance [c.f. tax relief on all ISAs is estimated to cost about £2bn p.a.] NB there is no tax relief on contributions to the state pension. NB, although pensions are often said to be deferred income, employers' NI contributions are never recouped and most of us have to save out of taxed income and then pay tax on the income from our savings. When they retire, pensioners can claim up to 25% of their maximum £1.8m 'pots' to a maximum of £437,500 tax-free (even though no tax has been paid on the contributions): but men about to retire now include significant numbers with multi-million pound pension pots. NB just because CGT relief isn't measured doesn't mean it should not be al

[1] Exactly how taxpayers' subsidy for public pensions should be classified is moot. Note net cost is expected to rise to £4bn in 2010-11 and £10bn by 2015-16: source is OBR Budget Forecast, Table C13

# Removing the requirement to annuitise by age 75
# A Response

Age 75 Consultation, Pensions and Pensioners Team, Room 2/SE, HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ.

In preparing a response to the Consultation Document attention has been given, where possible, to the following principles highlighted in the document.

## Stated Principles for a new approach to retirement for Defined Contribution Schemes

1 The purpose of tax-relieved pension saving is to provide an income in retirement.

2 Individuals should have the flexibility to decide when and how best to turn their pension savings into a retirement income, provided that they have sufficient income to avoid exhausting savings prematurely and fall back on the state.

3 Pension benefits taken during an individual's lifetime should be taxed at income tax rates. The tax-free pension commencement lump sum will continue to be available.

4 On death, pension savings that have been accumulated with tax relief should be taxed at an appropriate rate to recover past relief given, unless they are used to provide a pension for a dependant.

5 Any changes to the pensions tax rules should not incur Exchequer cost and should not create any opportunities for tax avoidance.

6 Any measure is transparent, fair, and can be implemented without undue complexity or burdens on individuals or business.

## The Scheme

Individuals save into a Defined Contribution Scheme. When they reach the age of 55 or at any age thereafter they may opt to convert their fund into an annuity or transfer it to an **Approved Retirement Fund** (**ARF**). Once a fund has been converted into an ARF, further direct contributions cannot be made.

An ARF is managed by a Qualifying Fund Manager and may invest in a wide range of assets, subject to certain restrictions introduced by a Finance Act.

Up to 25% of the accumulated fund may be taken as a tax-free lump sum at retirement. Investment income and capital gains within ARFs are tax-free. Income tax is payable at source during the holder's lifetime on the *Deemed Annual Income* (see below) or actual withdrawals whichever is the greater. A low annual tax charge of 3% might be levied on the value of the assets invested, but if so, then it should be deductable from any Income Tax due on withdrawals.

The money in an ARF can be used at any time to purchase an annuity.

There should be flexibility of investment within the ARF. For example, if there is a significant recovery in the stock market and the value of the ubiquitous 'Managed Fund' increases then all or some of the units can be 'cashed in' and the proceeds transferred to a deposit account or Gilt Fund; thus conserving some or all of the gain.

The money in one ARF should be transferrable to another ARF for a minimum fixed fee. During a working lifetime the individual may have had to join multiple pension schemes having worked for different employers, each with their own scheme, so a degree of consolidation may be desirable upon retirement. It will also offer an opportunity to those pensioners invested in poorly performing funds to move them to more dynamic funds.

On death, funds held in an ARF automatically pass to the surviving spouse/legal partner, or, if none, are realised and form part of the deceased's estate and will be subject to Inheritance Tax where appropriate. When a spouse/legal partner inherits an ARF the *Deemed Annual Income* (see below) is recalculated on the basis of the spouse/legal partner's age at the date of the transfer.

When an ARF is created its initial value is divided by the product of 95 minus the current age of the individual, herein after referred to as the '*Deemed Pension Life*', to give the '***Deemed Annual Income***'. The 95 figure is an arbitrary and government set upper age limit. The deemed annual income multiplied by the product of 95 minus the current age of the individual sets the benchmark for releasing additional funds.

Each year, on the individual's birthday, the fund is revalued. If the value exceeds the benchmark value a proportion of the surplus or any part of that proportion may be drawn down at any time during the following year. The proportion is calculated by reference to the formula – Fund Surplus / Deemed Pension Life **x** Years from start of Scheme. If the value of the fund has fallen below the benchmark value then only the deemed annual income can be taken.

In the normal course of events the individual will be taxed on his or her deemed annual income plus any actual surplus drawn down. However, there should also be an option for a member to elect to retain all or part of that year's net taxed income within the ARF. This would be held in a special tax paid income reserve within the ARF and could be drawn down at any time in the future. The idea is to generate additional income for the fund from money that is not immediately required and to provide the prudent pensioner with a bit of cover for any lean years.

If the individual applies for any State benefits then the deemed annual income and any money in the special tax paid income reserve would be taken into account in assessing their needs.

## Scheme Impact Assessment

## Tax

The Treasury benefits from a regular tax stream through the operation of PAYE on the deemed annual income or the actual money drawn down if greater. The amount paid can be fine tuned through PAYE Coding and a final collection made following submission of the individual's Annual Tax Return. Even if an individual elects to retain any of the deemed annual income within the fund it matters not as tax will have been paid on it. The annual tax charge on the fund will provide an additional income stream as well as acting as a mild disincentive to retaining surpluses and undrawn income in the ARF.
Where there is money left in the ARF on the death of the surviving spouse/legal partner and the estate is small ie under £325,000 then no further tax would be payable. If the estate was over £325,000 then the ARF being an estate asset would be taxed at 40%. Whether the cumulative amount avoiding a final tax charge is going to prove significant remains to be seen, but in the first instance the urge to slap a 'tax relief' recovery tax on the residue should be resisted. This is the trade off between setting such a high upper age limit that many pensioners will die before reaching it and leave money in their ARF and permitting an enhanced draw down by lowering the upper age limit, which reduces the chances of a residue, but increases that of needing state aid.
As the top income tax rate is now 50% there could be an incentive to leave money in the ARF, but as Income Tax is levied on the deemed annual income and there is also the annual tax charge on the fund the amount lost would not justify complicated anti-avoidance legislation.

## Premature Exhaustion of Savings

The best safeguard against premature exhaustion of savings is the requirement to invest in government approved and monitored ARFs and the setting of the upper age limit. Also, consideration should be given to setting fixed management charges to prevent exploitation of a vulnerable group of citizens.

However, it has to be recognised that no government can prevent a fall in a fund value through the collapse of world share prices. The impact can be minimised by stipulating the range and proportion of investments held. If all funds were held in cash deposit accounts then there is no risk of savings being exhausted, but there is also no chance of the pensioner alleviating the effects of inflation.

## Impact on the Individual

The individual will have the freedom to choose when to start drawing a pension once past the age of 55. The pension draw down can be tailored to a limited extent to fit the individual's personal financial needs.
There will be a huge psychological boost for the individual in that they 'retain' control over the funds they have spent, in most cases, a lifetime building up rather

than parting with them to an Insurance company under possibly, unfavourable terms. They have the certainty of the ARF passing to their spouse/legal partner and the residue, through their estate, to their children or other beneficiaries. In this day and age with so many reasons not to save for a pension, the government needs to seize on any opportunity to highlight an incentive to do so.
The scheme is relatively straight forward to understand. There is a certainty of income while funds remain. There is also the hope of a little bit extra if the country/stock market is thriving, which might encourage the few who are able to go the extra distance to help it.

## Background

I am a 63 years old working male, married, and have the bulk of my pension provision in a Defined Contribution Scheme.
I have watched with some alarm the fluctuations in the value of my pension fund as a result of stock market movements and with disgust at the dwindling annuity being offered by the scheme managers as a result of the collapse in interest rates. I have, therefore, a very real and personal interest in the measures you are proposing.

**HMT CONDOC ON REMOVING THE REQUIREMENT TO ANNUITISE BY AGE 75**

**Some comments**

## GENERAL COMMENTS

### *A missed opportunity?*

It is regrettable that the condoc is limited to the **tax** implications of the announced removal of the requirement to annuitise by age 75. The proposal, and the continued selective application of the age 75 guillotine, raises broader policy and other issues which merit debate, notably:

- What is the function (apart from a tax collection measure) of the age 75 guillotine?
- Are annuities really such a good (and safe) thing for all?
- Will people be able to save the sort of capital sums likely to be required to buy an (index linked) annuity at the sort of rates one can expect, taking account of the impact of increased longevity and higher capital costs?

It is ironic that the forward to the condoc talks of the government wanting to "foster a new culture of saving in the UK". Paragraph 2.1 talks of an objective "to reinvigorate private pensions saving". Sadly, the condoc only invites comments on a very narrow tax issue.

Perhaps a wider debate is called for.

It would also be desirable to understand whether these proposals create an additional degree of discrimination between defined benefit (funded or unfunded) and defined contribution or private pension arrangements.

Pensions legislation has been the subject of a significant amount of piecemeal modification in recent years. This has combined with the overall economic and demographic background to create considerable changes in the system. One essential requirement of any new feature to be introduced into the pensions regime is that long term savers can be confident that the arrangements they make today will not only remain largely unchanged but also can be expected to produce the outcomes in 20 or 30 years' time that Government assumes, explicitly or implicitly, in this condoc.

### *The tax neutrality criterion*

This is stated as a prerequisite which admits of no debate. However, it must be questioned whether it should be quite so immutable. Nor should the Treasury regard long term pensions savings as, by definition, a vehicle for tax avoidance.

First of all, the document talks of the "EET" model for treatment of pensions savings. It is remarkable that there is no allusion to the qualified nature of the second "E" in that acronym, after the political uproar generated by the last government's removal of the tax credit on dividends for pension funds. In view of the position taken by the Conservative party at that time, one might have expected the incoming government to desire to undo that much criticised decision and fully reinstate the second “E”. It is certainly not clear where the tax benefit to the Treasury of this measure has been placed in the “neutrality” balance. Failure to act in accordance with the protest made in opposition is just one more factor making people cynical and insecure about participating in long term savings schemes.

Secondly, the government needs to decide what it really wants, namely to encourage savings or to maximise tax revenues.

It is sad that the condoc, like the current tax regime, seems to start from the assumption that a person who dies without having exhausted his pension fund must have defrauded the Revenue (and intended to have done so).

In recent years, the government has imposed on individuals some quite arbitrary rules and limits on the tax treatment of long term savings. It has introduced double taxation by combining IHT and other special levies. Additionally, at a time when longevity is continuing to increase, the cost of looking after the old is also increasing and annuity rates are plunging, the government has decided to impose some arbitrary limits on what a person may save within his pension fund (the Lifetime Allowance), penalising excesses. This means that the funds available to buy annuities will be limited. It is an immense responsibility which the Treasury is taking on itself in deciding what will be sufficient to purchase an adequate annuity in 25 or 30 years (and how many market collapses may deplete the value of a pension fund before a person draws a pension). Quite why the Government sees fit to expose people to this risk is unclear.

One can understand that there should be limits on tax relief on savings, but it seems perverse not just to discourage but to penalise those who would prefer to be more prudent in their pension savings. After all, a larger pension fund will simply produce a higher amount of taxable income when the fund is drawn upon (or taxed on death). So the government should consider scrapping the Lifetime Allowance, or at least allowing non tax relieved top up pensions savings to run alongside tax relieved contributions, with no risk of a supertax on such savings.

Introducing a “tax relief recovery charge” also seems to overlook the fact that any savings which have been generated in a (partially) tax relieved environment and which then fall into a deceased’s estate will be correspondingly larger (both as a result of the relief and as a result of compounding) and accordingly increase the IHT charge on the estate. So there appears currently to be an element of double taxation.

***The significance of age 75 as a guillotine***

Paragraph 1.5 states that the age 75 requirement has existed since 1976, at a time when average male life expectancy was apparently 78. The condoc indicates that this is now 86. On the other hand, paragraph 2.25 asserts that the age 75 is a proxy for “the end of an individual’s working life”. It must have been a very cynical decision in 1976 (as well as a gift to annuity providers) which mandated that people should be obliged to buy an annuity which, based on the government's figures, on average would run for three years.

One also wonders how many workers in practice were allowed and able in 1976 to work until age 75.

This suggests that in fact the age 75 guillotine is rather more arbitrary than the document implies. Alternatively, one could argue, on the condoc's own statistics, that 83 should be the age at which any of the current age 75 rules which are objectively justifiable should now commence.

***Selectively removing the age 75 guillotine***

Unquestionably it is a good thing to remove the age 75 guillotine currently applicable to USP's and to introduce the new "capped drawdown" regime.

Flexible drawdown may ultimately be so complicated that it is not worth the trouble. It is unclear how the cost of administering all this will impact on returns on pension savings, or annuity rates.

HMG contemplates retaining age 75 as the guillotine for some other purposes, notably the treatment of death benefits. Surely the same statistics, quoted in the condoc, on increased longevity, would suggest that that age limit ought also to be reviewed. Has the Treasury made calculations as to the incremental tax take which will emerge from the happy circumstance of fewer people dying before age 75, so that there will be more cases of death benefits being taxable? Has that been factored into the tax neutrality assessment?

***Annuities generally***

It is inherent in the condoc that annuities are a good thing and are safe. The condoc devotes a whole chapter to the market, although it is not entirely clear what relevance the state of the market today has to the strictly tax issue which is ostensibly the subject of the consultation. The only obvious link is the effective monopoly position the condoc proposes for annuity providers in connection with the MIR computation. The result is that a document whose main subject is to facilitate the removal of a rule requiring annuitisation ends up looking suspiciously like a marketing document for annuities generally.

What the condoc does not do is explain the basis of the implied confidence that the annuity market will continue to exist and has a prospect of becoming competitive. Without that, the proposals will not fully work.

The condoc also makes some quite sweeping and potentially tendentious comments in support of annuities. For example:

- Paragraph 1.7: annuities "are good value in comparison with other similar products".
- Paragraph 2.8: annuities "are an effective way for individuals to insure themselves against longevity risk".

One of the problems is that it is not clear what comparisons have been made in arriving at these statements (or, indeed, exactly what is being said).

There are also several references to annuities being “guaranteed”. It is not clear what this refers to. Annuities are unsecured long term obligations of the company taking the pensioner’s single premium. The only special status of annuities is the protection afforded by the FSCS. A question to consider is whether there is a case for segregating funds paid once and for all to purchase an annuity, as it is of course vital that they should not be depleted and, as a result, jeopardise the annuity provider’s ability to meet a regular and long term obligation (and one which, increasingly, as a result of the indexation proposals in the condoc, will grow over time).

In a properly functioning regulated market, annuity providers should be safe, although many among the current generation of pensioners have faced the Equitable Life debacle, which combined credit risk and regulatory/ political risk and is ongoing, creating what must be the unprecedented situation where a Parliamentary Ombudsman has to state publicly that the measures proposed by the current government ostensibly to do justice to victims of regulatory failure are themselves flawed. This sort of approach hardly encourages people to commit to long term savings.

Paragraph 4.4 of the condoc quotes with approval a study which shows that (based on unspecified assumptions) the “money’s worth” of annuities between 1994 and 2007 “remained” at around 90%. The converse must be that the combination of administrative costs and profit amounted to around 10%. It is quite surprising that this money’s worth figure can have been stable (whatever the actual percentage) over such a long period, during which, on the Government’s own figures, longevity increased substantially and, at the same time, capital and regulatory costs will also have increased appreciably.

The consistency also suggests that the relatively recent freedom for pensioners to “shop around” for annuities has not improved the overall economic outcome for them. The use of the word “potentially” in paragraph 4.10 suggests that the evidence of improved results from exercising the OMO is less than compelling.

In any event, one might wonder how sound a business model the annuity business is if its consistent profitability before tax is somewhere less than 10%. Lack of profitability has been cited recently by at least one major assurer and annuity provider for reducing its activity in the sector, which will of course only reduce competition and therefore tend to lower annuity rates.

Furthermore, the combination of higher capital costs arising out of Solvency II and further increased longevity may well be expected to render the business only marginally profitable, unless (as will presumably be the case) annuity rates fall even further, so that in practice people need to attempt to save up ever greater capital funds (subject to the Lifetime Allowance barrier) in order to be able to fund an adequate pension.

It would be interesting to know whether the figures quoted in paragraph 4.4 were based on bulk annuities or on individual annuity business. One suspects that annuity rates for individual quotes have an element of incremental caution built in, as there is none of the averaging which applies to a group pension scheme.

One other point of interest is the fact that the USP cap, which is a prudential measure similar to

the proposed MIR mechanism, is calculated as "120% of the value of an equivalent annuity", which inevitably conveys the impression that annuities are unreasonably low.

Paragraph 4.6 of the condoc talks of diversification, but it seems to be diversification of a very limited kind. As indicated below, some of the protections bundled up into annuities come at a high price.

Paragraph 4.7 talks of "enhanced" annuities. Perversely, a person seeking an annuity has an interest in stressing any health risks.

Another recent development is the introduction of a postcode lottery into annuity provision. Quite how scientific that is remains to be seen. The scope for unfairness is manifest.

The increasing "sophistication" (or selectivity) of annuities will in due course lead to a need for much greater degree of consumer protection at the point of purchase, as well as increased transparency and objective testing in relation to the factors used by annuity providers in weighting their quotations in particular fashions. This will become particularly important if, as a result of the proposals in the condoc, annuities become even more entrenched in the UK's long terms savings regime and its tax treatment.

In addition, the industry and its regulators will need to confront the ethical issues arising from access to greater amounts of individual genetic information.

It follows that annuities are going to be increasingly complex and controversial, so that it is right to liberalise the regime so as to give people some possibility of opting out, but strange to build the new MIR regime around a particular sort of annuity. The condoc notes in paragraph 4.13 that Solvency II could have "harmful" effects on the UK annuity markets, which is another reason for not entrenching them any further.

***The Minimum Income Requirement***

One can understand the need for a concept of minimum income, but the proposed rules seem to reflect an assumption on the part of the government that pensioners cannot be trusted with the management of their savings.

Nor is it clear or justifiable to limit the assessment to pension income currently in payment. The rules proposed in paragraph 3.7 effectively confer a monopoly on a small group of providers and, moreover, a group which may have an interest in frustrating the liberalising objectives of this proposal, because they will lose business as a result. This will certainly not encourage the creation of alternative savings products.

Indeed, it can only be assumed that annuities are secure because of the industry-wide underpinning which exists via the Financial Services Compensation Scheme. There is nothing inherently "gilt edged" about a pensions provider.

The proposal may also discriminate unjustifiably against those who have personal pensions, rather than being members of company sponsored (or public sector) pension arrangements, even if not funded.

Given the urgent need for the government to sell debt, one more creative and less problematic solution might be to create qualifying debt instruments which would satisfy the security and inflation linking objectives. Indeed, it is strange that an annuity promised by a private company is treated by the condoc as more secure than government debt obligations.

There are doubtless numerous points of detail. One which arises is whether the differential treatment of care costs for the elderly as between Scotland and England will mean that the actual amount of the MIR will be different from one jurisdiction to the other. Similarly, will the MIR for a person who owns his or her home (without a mortgage) be different from the MIR of a person who pays rent?

***Flexible drawdown and MIR: will one have to buy an annuity in order to be eligible for exemption from the requirement to annuitise?***

I may have misunderstood the discussion in paragraphs 3.6-3.9, but, as I read the condoc, it is saying that to the extent the MIR is in excess of the State pension, the only sort of "guaranteed" income which will be recognised for the purpose of meeting the (balance of the) MIR will be an income stream such as an annuity. In that case the new regime seems rather circular, in that it will be obligatory to buy an annuity (and not just any annuity) in order to be eligible for flexible drawdown.

The only qualifying annuity will seemingly be an index linked one. This itself has profound economic consequences for the pensioner. A glance at the indicative tables quoted by an annuity consolidation website shows the severe reduction in immediate income involved in purchasing an index linked annuity:

> £100,000 of pensions funding buys a single life non indexed annuity for a male aged 65 of in the region of £6500 per annum, whereas the same sum would provide only £4,000 by way of starting index-linked annuity, ie less than two thirds. At age 70, the figures are £7,500 and £5,000. So the price of flexibility at age 75 may be relative penury until then. Of course, the "longevity gamble" in an index linked product is higher than for a standard product. I also assume that index linked annuities require more regulatory capital underpinning.

Quite apart from the economic issues, there are important wider factors. Assuming annuity business is profitable, pension companies have an interest in maximising the market for annuities and so may be resistant to the proposals in the condoc. They may be able to emasculate them by tending to price qualifying index linked annuities unattractively. So they will have a structural conflict of interests. This only creates yet another ethical challenge for the financial services industry and one which will, because of all the assumptions used and actuarial factors applied, remain very opaque. This is all the more serious given the oligopoly position of the relatively small number of annuity providers.

The condoc talks of the freedom to “shop around” when looking for an annuity, but this is very relative, as the negotiating power of a pensioner is much weaker than that of the annuity provider. In particular, the pensioner cannot realistically challenge the assumptions, let alone the actuarial methodology, underlying a rate offered by an annuity provider, even if any of them are actually disclosed.

**SPECIFIC COMMENTS ON THE CONDOC**

I am not sufficiently expert to answer most of the specific questions posed by the condoc. I set out below some particular points.

***Treatment of survivor spouses and partners***

It was my understanding that, in order to reduce the risk of penury for a surviving spouse or partner, the inheritance tax regime had been amended so that (put simplistically) no tax is payable on assets passing to the survivor until the subsequent death of the survivor. The condoc, which is consulting on a method of relaxing the rules requiring mandatory annuitisation, seems to be proposing a very odd rule in relation to survivors, namely that in situations where the deceased was not required to buy an annuity, the only way for the survivor to avoid an additional death tax is by buying an annuity. See Box 2A, point 5 and the Case studies in Box 2B. This seems perverse, unnecessary and unfair. It is also yet another gift to annuity providers.

***Paragraph 3.6: Secure income***

This paragraph states “As this additional flexibility applies to pension savings only, only pension income will be considered for the purposes of the MIR. I am not sure if this contention is based on some tax point. It has no logic in itself and, as becomes clear later on in this section of the condoc, the key principle should be security of income/ not falling back on the state, not some theoretical symmetry between pension savings and pension income.

***Paragraph 3.19; administrative costs***

This paragraph says “The MIR assessment will only be possible within a capped drawdown arrangement”. I am not sure what this means.

More generally, one of the questions raised by the condoc relates to the increased administrative burden and the resulting costs. One way or another, these will be passed on to pensioners. It may be that this will not only drive down annuity rates further but also entrench the use of annuities, in order to avoid additional charges.

Those who are content to live with the capped drawdown regime may want some assurance that they are not subsidising those who wish to avail themselves of the luxury of flexible drawdown.

Mr Mark Hoban MP
Financial Secretary to the Treasury
The Treasury
London SW1
July 22nd 1010

**Comments on consultation document re annuity purchase abolition at 75**

Dear Minister

Your foreword rightly recognises the desire of people to have greater flexibility over their own pension arrangements. You recognise the wider range of assets people own. You see clearly that people resent the presumption that individuals do not truly own their own pension savings. The tremendously complex rules governing the use of personal savings reflect the worse kind of nanny state.

Unfortunately in the body of the consultation document, your officials seek unnecessarily to circumscribe and limit the degree of freedom and flexibility that would be allowed under the new rules.

To give one example: In considering what constitutes the Minimum Income Requirement, your Treasury officials propose the narrowest possible limits to what constitutes secure income, and they ignore common sense.

They propose that the State pension is accepted as being part of 'secure income', but only when it is actually received. Someone wishing to take their pension at 60 knows that he or she will receive their State Pension in due course. But your officials seek to exclude the State pension entitlement until it is actually vested.

The Treasury also wishes to exclude all other assets and savings from the MIR calculation, on the basis that they are not pensions savings or cannot be secure. This flies in the face of common sense. It is surely the case that savings held on deposit or invested in other assets, are part of most individuals' calculations of their future retirement income.

The Treasury's concern is that people might spend down savings and then fall back on the State, and that therefore pensioners must be forced to hold back a pensions pot to guarantee the MIR. Surely it would be a simple matter periodically to seek evidence of a pensioner's other assets, in return for maximum flexibility around their pension fund ?.

The MIR figure should be set at the lowest possible level to give maximum flexibility over what are, after all, an individual's own savings. I would suggest the MIR is set at no more than that needed to secure income up to the pensioners minimum income guarantee. This simple benchmark will ensure that key benefits cannot be claimed.

Spouses or civil partners income should be included in the MIR calculation.

This would have the effect of maximising freedom to use one's savings as one wishes. Please Minister, be bold.

I am totally against having to take out an annuity @ 75 The figures quoted by companies offering these are pathetic, and what`s more is that when you die they keep whats left in the pot.
In my opinion this should be left for members of the family to top up there pension when required

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I request you consider my views concerning your proposals to remove the requirement to purchase an annuity by age 75.

I understand (Money Week August 2010 page 14) that you intend the 'no age limit' for an annuity to be for those who can prove that a minimum income of £10,000 per annum can be provided through drawdown.

My concerns are for people such as myself and my wife, who are both approaching retirement. Although the personal pension 'pot' I have is relatively small, but may be ok for your £10,000 per annum criteria, I also have a small MOD pension and my wife will have her NHS pension. We also have significant savings due to our relatively unsophisticated life style and our careful management of our financial resources for over 30 years.
Our income at retirement, available from our net worth (excluding our home, but including our MOD, NHS & state pensions, investments and savings) will be in the region of £30k - £50k per annum. We are outright owners of our house. It is unlikely we will ever require more than £40k per annum and so I expect our savings to grow, excepting abnormal events in terms of our health etc.

What concerns me is the thought that I should have to buy an annuity at 75 (i.e. for those who cannot prove that a minimum income of £10,000 per annum can be provided through drawdown), when our other savings mean that we are comfortably able to provide for our old age.

1. I therefore think you should also be considering net wealth in your calculations and would like to know why this has not been considered.

I think you may also like to reconsider what people need to live on. A key determinant is if they own their homes, as , if not, rental or mortgage can be a significant outgoing. A case study as to what is needed is my late father-in-law. He died in 2007 at the age of 84, after retiring at 60. His
wife died about ten years before he did. During his later years he lost
his competence to handle financial matters and so I helped him with his finances. Although he had significant savings, and a reasonable pension from his employer of 30-plus years, I found out his annual outgoings were under £5,000 per annum. He lived frugally, did not take many holidays, but ran a car, and cooked for himself. The point is, he survived healthily and

comfortably. My follow-on point is that, when ‘push comes to shove’, how much money do we really need, to live our retirement? How many things, which are really options for consideration, if we have saved enough, are now considered essential?

2. I’d be interested to know the basis on which you make you £10,000 per annum calculations please.

I’d also like to draw your attention to a broader issue, which relates to the motivation for people to save for their retirement. I am aware of some individuals who spend their income and do not save on the basis that the State will provide. There are other people who just do not understand the numbers in terms of what needs to be saved; also, of course, many who just cannot afford to save. One way which may help people recognise the importance of taking responsibility for such savings is for a running total of individual income to be kept throughout people’s lives. Then assumptions can be made about what they should have saved and such figures can then be used in calculating any state support they may be entitled to. This avoids the situation whereby the prudent saver ends up paying (through taxes etc) to support those who have been stupid enough to spend all their income during their working lives. Of course, there should always be a safety net for those whose earnings have been consistently low.

3. I suggest this idea is treated as being a ‘straw man’ and possibly fleshed out for its pros & cons and possible unintended consequences and would like to know your views on this approach.

I welcome a considered response to my ideas and in particular, the three queries I raise.

I am happy for the information above to be used as you see fit, but do not want my name published.

Thank you for your consideration of my concerns and suggestions

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I don't know when it was that it was decided that pension funds would be taxed on death after age 75?

It would appear to me that we are expecting people to have to work longer because we can no longer provide for them in retirement through tax and NI receipts.

Thus the reality is that the arbitrary age of 75 should be removed altogether and all assets (irrespective of age and including pension death benefits) should form part of the estate on death and be subject to Inheritance Tax rules.

So the more wealthy pay tax on larger estates and the less wealthy pay less or no tax on death. All will still have the option of how they take benefits, an annuity or drawdown (with no need for ASP), and the option to gift income or capital during lifetime, and the government will receive tax from those who retain assets in excess of the Nil Rate Band.

It would still remain possible to take out life assurance and place the policy outside your estate on death.

Pension contributions invested to provide income and capital in retirement for an individual would form part of that individuals estate.

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I am responding to the consultation document just issued.

I believe that there should be some provision for triviality. For example, I am a retired health service worker with an NHS pension of about £30,000 per annum. Next April, when I am 60, I have an additional private pension which will mature with a pot of about £15,000. I can currently take 25% of this tax-free, leaving about £11,250 to buy a pension by the age of 75. At current rates this will buy a pension of about £640 per annum. In the context of my income this is clearly trivial. Whilst I welcome the proposed additional flexibility, there does still seem to be a lot of bureaucracy related to the draw-down arrangements. I wonder whether there ought to be some clause relating to trivial pensions enabling them to be drawn down completely over, say, three to five years with a minimum of bureaucracy, perhaps the proof you propose relating to the MIR. Triviality could be defined by some percentage of the retiree's current pension, say 5%. Thus a person with a supplementary pension which would produce an income of less than 5% of their other pension income (subject to that being above the MIR) could withdraw their subsidiary pension over a short number of years without tax penalty.

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I have a number of issues over the above:

1. For the vast majority of people with Money Purchase pension plans, an annuity will still be the best option. If an individual has a small pension pot, it normally means he or she has very little other liquid assets. As such they cannot afford to take an investment risk with their pension funds/income in retirement. An annuity will remain the best solution.
2. For those people with sufficient funds in their pension plans and other assets, Unsecured Pension (USP) and Alternatively Secured Pension (ASP) are viable alternatives, albeit ASP is currently subject to a very vindictive level of taxation where the plan holder dies without leaving a surviving spouse. The proposals go some way to improving matters.

3. Currently if a USP planholder dies before age 75 without leaving a surviving spouse the unused funds are taxed at 35%. Under ASP, in the same circumstances there is a potential tax charge of 82%. The proposals suggest that in future the tax charge on unused funds will be 55%. This is much too high and will be leapt upon by the Opposition as a massive "stealth tax" - increasing the charge from 35% to 55%.
4. USP works very well. Why not simply allow USP to continue in its present form until death.
5. Alternatively, I believe the public, IFA community and providers would accept a tax charge of 40% on unused funds in USP/ASP or whatever the new plans will be called.
6. I feel the introduction of capped and flexible drawdown is too complicated. As mentioned, USP currently works very well. There is no need to complicate matters by introducing a minimum income limit.
7. If it is felt a minimum income limit is needed it should be at a level of, say, £10,000 per annum. The State Pension will provide the majority of this. An annuity could provide the balance. The MIR should increase in line with RPI therefore the annuity would need to be RPI linked.
8. Once the MIR is covered there should be no need for a choice between capped and flexible drawdown.
9. Once in drawdown, there should be a maximum level of income, fixed/reviewed every 5 years, but no requirement for a minimum level of income to be taken, i.e current USP legislation works well.
10. HMRC seems obsessed with the thought that people will avoid tax and use pensions as a tax saving vehicle. Assuming the Recovery Charge is 40%, what will happen to the balance 60% inherited by children? Some will be spent - HMRC receives VAT, some will be invested - HMRC will receive income tax, Capital Gains Tax in due course, some will be used to repay debt - this frees up net spendable income which will be used to buy goods - HMRC receives VAT, the economy gets a boost.
11. What happens to the very wealthy client with £1.5m in his pension funds who also has other significant assets. He does not need to touch his pension funds. Could they be left unused until death, no matter when death occurs? If so will the whole £1.5m be free to pass on to chosen beneficiaries free of IHT and Recovery Charge?

I beg you not to over complicate this issue. I have been a practising IFA since 1986. I have many clients in annuities, USP and a few in ASP. As I have mentioned several times, USP works very well. There is no need to make massive changes. Please avoid the certain criticism of a "stealth tax".

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Further to our recent telephone conversation; I would apologise for missing the cut-off date and am grateful for the opportunity of adding my views to the consultation process.

I very much welcome the contents of the consultation document in removing the need to purchase an annuity at age 75, with all the unfairness this previously entailed.

I especially welcome the provision which will allow my wife to continue to derive an income from my "pension pot" after my demise.

As I read the consultation document, on her death (or indeed mine should my wife predecease me) the remaining sum will pass to, in our case, our sons, subject to a recovery charge proposed at 55%, but not subject to further death duties.

I agree wholeheartedly with the statement in the forth bullet point of paragraph 2.22, that pensions should not become a vehicle for the accumulation of capital sums for the purposes of inheritance.

A previous Conservative Chancellor talked of "wealth cascading down through the generations"; I am not sure that those sentiments are entirely appropriate in the current climate.

I would however like consideration given to the remaining pension fund, on last death, being transferable to approved pension funds for surviving children with a lesser recovery charge than the 55% proposed - say 15 - 20%.

In this way the pensions enjoyed by ones heirs, which are currently substantially less generous that those enjoyed by our generation, would be enhanced. This would not only benefit them, but the Treasury as well; and would fairly and equitably recognise the responsible financial management of those in this position..

Again my thanks for your consideration and help in this matter.

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This is my response to the consultation. I am a partially retired private individual aged 65 next birthday with an existing fixed pension (no escalation), the result of having purchased a level annuity, and a SIPP, in respect of which I have yet to go into drawdown.

I welcome the decision to remove the requirement to annuitise by age 75.

However, having read the consultation document, I am concerned at the definition of 'Secure Income' with the implication in the document that only those in receipt of index-linked or LPI pensions can satisfy the MIR to allow larger withdrawals to be made from drawdown "uncapping". I don't have access to statistics, but my understanding, from talking to IFAs and what I read in the financial journals, is that the differential between a level annuity and an escalating annuity is so great that the vast majority opt for a level annuity, hence the unfairness of the implication in the document. In my own case, at age 60, the cross over point between the sums paid by the level annuity and the escalating annuity that I was considering, was at age 82 which was more or less my life expectancy at that time, without allowing anything for the interest that I might have earned on the greater sum in the interim. The decision was what is known colloquially as a 'no-brainer'! I was very fortunate to have a guaranteed annuity rate fixed many years ago which persuaded me to take an annuity, otherwise I would have transferred the pension fund held by the Insurance company into my SIPP.

This reply deals principally with questions A3, A4 and A7 on page 21 of the document.

Within the document, on page 14, you have set out suggestions as to the calculation of 'Measures of retirement income' with a view to establishing a base in order to preserve the principle that the Exchequer should be protected from the risk of an individual falling back on the state.  While I applaud the principle, in my view the exclusion of anyone with a level pension from the possibility of entitlement to larger withdrawals to be made from drawdown uncapping requires further consideration.  Surely, if someone with a SIPP, seeking to make a larger withdrawal from the SIPP, currently had a fixed pension of £30,000 per annum, either having bought an annuity, or as a result of being in receipt of a company pension, it would be a very long time, allowing for inflation, before they were in a position to require assistance from the Exchequer.

I think that it is a reasonable assumption that anyone with a SIPP is likely to be more financially sophisticated than the norm and consequently would be more than likely to have other income eg dividends on shares, cash savings, ISAs, rental income, distributions on UK government gilts etc, none of which appear to be taken into account within the consultation document. I assume that this is because such assets could be given away and are therefore not 'secure'. However, such assets, however unsecure, would be taken into account in assessing entitlement to Pension Credit and therefore the same rules should apply
- sauce for the goose and gander!

My suggested solution is that an individual's fixed pension, together with the entitlement to state pension, should be aggregated, with the pension element being rebated by an amount to allow for inflation and the state pension element increased by the same amount. At the same time, the appropriate 'measure of retirement income' would be set and the individual would be able to make larger withdrawals provided he had a sufficient level of income at a predetermined age, which I suggest should be set at the average life expectancy of the individual in question at that time. The same principles could be applied to couples.
Statistical data about life expectancy should be readily available.

I have prepared a very basic spreadsheet, a copy of which is attached, in which I have set out the bases of calculation and the sources. Using the relatively modest pension of £15000, and the average life expectancy in the consultation document for a male aged 65, viz 21 years, in the example in the spreadsheet, at the age of 86, the aggregate figure of level pension and state pension would be in excess of the 'measure of retirement income' and a larger withdrawal could be made. There seems little sense in requiring a person of advanced age to hold a pension fund significantly larger than is required.

I accept that this is a very crude tool, and one could argue about percentages, but the consultation document is looking for something reasonably straightforward in order to be able to calculate the entitlement or otherwise which a calculator along these lines would provide. The most important point that I would make again, is that those with level annuities or pensions should not automatically be excluded from being entitled to make larger withdrawals, because this could quite easily be accommodated by formula such as that which I have suggested above.

With regard to the other questions raised on page 21 I have the following comments

A1
The existing limits appear to have worked in practice although the GAD Tables should be continued beyond the age of 75 and not be fixed as at present

A2
Agreed in principle

A3 A4 and A7
As above

A5
A different MIR should be set for individuals and couples

A6
Every 5 years

A8 to A10
Beyond my ken, although it never ceases to amaze me the generally awful annuity rates paid by the annuity market.

Spreadsheet

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I write as a private individual, who has considered his circumstances against the proposed legislation. I am completely supportive of the stated aims of Government contained within the consultation document, but I do foresee certain difficulties and wish to convey my concerns as to 2 specific aspects.

Minimum Income Requirement

Most people aged between 55 and the state retirement age will have accrued a substantial right to a state pension. Indeed, I would imagine that many people in this age range will have accrued the maximum entitlement to a state pension, by virtue of having 30 qualifying years of national insurance contributions.

However, because the pension is not yet in payment, it has no value under the MIR regime.

It would therefore seem likely that Flexible Drawdown will only be a realistic proposition for (a) those who have amassed a substantial pension fund and who can afford to buy an MIR qualifying annuity or (b) those who have reached state retirement age, and who can use their state pension towards meeting the MIR requirement. Surely this cannot be an intended consequence of the legislation?

Consider a 60 year old who has paid NI for 40 years, and has accumulated a 'healthy' pension fund, but who is now retired/unemployed. He is sustaining himself by drawing a regular income from his Unsecured Pension fund. The inference in the consultation paper is that the maximum permitted drawdown may well decrease from the present level of 120% of GAD. This person would therefore experience a decline in income, with no prospect of supplementing it through the use of Flexible Drawdown, despite having a 'healthy' fund. Of course, he could exchange some of the fund to buy a qualifying annuity, but this would 'duplicate' the state pension when it eventually comes into payment.

I would counsel the Government to reconsider this matter. Perhaps a formula can be devised which allows a discounted value of the accrued right to state pension to count towards the MIR. Alternatively, perhaps a formula can be designed in connection with Flexible Drawdown which defines the minimum pension fund that must be retained / ring-fenced to cover the gap between now and the commencement date of state pension coming into payment.

Taxation of Death Benefits

The consultation suggests the implementation of a uniform taxation rate of 55% when the residual proceeds of a pension fund are paid as a lump sum to beneficiaries.

I would suggest that the review panel carefully considers the possible ramifications of this.

As described above, persons with state pensions in payment are likely to look at the situation and see the following:

* unless they annuitise or invoke Flexible Drawdown, there is a certainty of an unused fund at death, and their beneficiaries will receive 45% of this.

* their state pension counts towards the MIR, and they may be close to qualifying for Flexible Drawdown, upon which they would pay income tax at 20% and/or 40% and/or 50%.

* they may be able to stage their Flexible Drawdown income over several years so as to manage their income tax rate (e.g. to avoid going into the higher rate bands).

* the amount drawn via Flexible Drawdown adds to the person's estate, but could be used to make potentially exempt transfers. Beneficiaries could therefore end up receiving anything up to 80% of the original fund, instead of 45%.

The effect of a stampede out of pensions via Flexible Drawdown driven by tax management issues could be very significant on the pensions industry.

I would suggest that the situation could be avoided by simply defining that any residual pension fund belongs to the estate of the deceased. For many, this will translate to taxation of 40%. Alternatively, the uniform rate of tax applicable to residual pension funds should be 40%. Many people would consider this to be 'fair' on the basis that the income tax concessions received on the original contributions were at a maximum of 40%.

I would also suggest that a concession be made to allow residual pension funds to be used to establish / supplement the pension savings of named beneficiaries, free of tax. It is a stated priority of Government that people are able to support themselves into old age without falling back on the state, and this concession would certainly support that aim. It may be that a limit would need to be placed on the amount receivable by any individual beneficiary in this manner.

Thank you for considering my observations.

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I write to comment on the above and particularly Page 8 box 2 item 5 and page 11.

I object to the 55% claw back suggested. It seems to me that the pension crisis is largely the result of the Blair & Brown Government claw back on the tax relief on dividends on pensions. The current economic crisis means that annuities are paying out less and less which the proposed legislation designed to mitigate.

Yet the 55% claw back in unacceptably high. It is true that all tax rates of any kind in UK are less than 55%.. So why is 55% suggested and where did such a figure come from?

In view of the above pensioners look to the Government to assist them and to remove or reduce the 55% proposed claw back would be of great benefit and should be implemented.

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I hope that I can make a submission by e-mail. Perhaps confusingly, your website says: "All responses should be sent to the following address" but then provides an e-mail address as well. Please let me know if this e-mail is acceptable.

"The Government welcomes views on what income should be considered 'secure'
for the purposes of the MIR ..."

Because much of my working life was spent elsewhere in the EU over half my pension income comes from France, Belgium and the Republic of Ireland. A significant and increasing number of UK residents rely, I suggest, on similar pension income.

Some of that income is from state pensions, some from an industry-based pension scheme in France (where individual company schemes are rare if non-existent). They are all linked to one index or another and rise regularly in value. They are all paid gross, in Euros, and subject to UK income tax.
Their value in Sterling fluctuates according to the £/€ exchange rate.

The UK government will be able to determine readily the provisions of the state pension schemes - particularly as regards index linking - elsewhere in the EU. Details of the index linking of industry-based pension schemes can be furnished by those schemes to the pensioner and submitted to HMG. In all cases, being comparable to UK state pensions they seem likely to meet HMG's minimum requirements for index linking.

Changes in the £/€ exchange rate are unpredictable, and it will be necessary to devise some provision for this uncertainty. Bear in mind that HMRC allows 10% of such pension income to be free of income tax, a concession that allows a "cushion" against losses on exchange.

I submit that - with appropriate allowances for differences in indices, and in the fluctuations of the exchange rate - these index-linked pensions should be also be considered "secure" for the purposes of MIR. If they are not, UK and other EU citizens resident in the UK will suffer discrimination in the treatment of their pension savings.

What constitutes 'secure income'

3.6 The purpose of the MIR is to ensure that an individual with more flexible access to their pension saving does not fall back on the state after exhausting these savings prematurely. As this additional flexibility applies to pension savings only, only pension income will be considered for the purposes of the MIR.

3.7 To be 'secure', this pension income should: • be currently in payment (i.e. not a deferred entitlement); • be guaranteed for life; and

• take into account reasonable expectations of the future cost of living.

3.8 Both a basic State Pension and additional State Pension in payment will therefore be considered towards the MIR. Scheme pensions in payment from an occupational pension that are uprated annually by a minimum of Limited Price Indexation (LPI) will also allow be considered for the purposes of the MIR.

3.9 The Government proposes that life annuity income should be allowed for the purposes of the MIR providing it increases annually by at least LPI, defined as for scheme pensions to be the lesser of the annual increase in prices or 2.5%. Both an index-linked life annuity and an escalating life annuity (with an annual percentage increase of 2.5%) satisfy this criterion.

• The Government welcomes views on what income should be considered ' secure' for the purposes of the MIR and whether proposals for the life annuity income that can be considered for the MIR are practical and appropriate

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Thank you for the opportunity to comment. I wish to limit my comment to paragraph 3.9.

I understand the requirement to ensure that a minimum level of income is available before flexibility in drawdown can be contemplated.
I also understand the thinking behind some allowance for inflation being built into the arrangements.
The consultation paper implies that each source must have an inflation built into it of an amount not less than LPI.
Does this mean that an income of £1,000 per annum with a guaranteed increase under LPI of 2.5% would count but an income of £10,000 without any LPI would be ignored altogether? Surely it is logical that a discounted figure relating to £10,000 should also be counted?

If I could also raise a personal example of a potential difficulty.
I have 3 sources of pension income.

Government Pension
Employment Pension
SIPP

The employment pension all accrued before the advent of LPI. The Trust Deed provides that increases could be given to pensions in payment at the discretion of the Pension Trustees. For some time the Pension Trustees were unable to make increases because of the availability of funds. Negotiations with the Employer have resulted in an agreement whereby the Employer will fund discretionary increases up to the LPI limit as awarded by the Pension Trustees. My question is whether any such arrangement will satisfy the criteria for increases. I also happen to be a Pensioner Nominated Trustee of the Pension Fund. I know that it is the Trustee's intention to make increases which would satisfy the criteria but as a pensioner I also know that any future increases are not actually guaranteed by the Trust Deed - they remain discretionary.

My concern is that a rule book tends to deal in certainties but in reality some issues are judgmental - the certainty of continuity of a discretionary regime- the covenant of a pension provider (not all pensions being funded).

I have considered whether the minimum should be in an age related table of either an actual sum in payment or a lower sum which has guaranteed LPI increases. I do understand the need for simplicity.

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My wife and I have read with interest the proposals for updating the pension legislation and welcome the changes to Annuity requirement at age 75.

You have requested a response to a number of questions and we will answer those where we have some concerns.

New Tax Framework

A.2 When we converted some of our pension plans to SIPP's we thought it would be possible to pass some of the fund on to children on our deaths. We have no intention of defrauding IR but feel the current situation of 82% is excessive. The consultation document mentions a figure of 55% but we are somewhat baffled by this figure. Most of our tax relief was at 25% or 22% and we would welcome a calculation to show how that becomes 55%. After all, in the case of our SIPP's which are invested in a factory unit, we will pay normal income tax on the rental which is taken as income and therefore the Inland Revenue is earning on our SIPP's

Minimum Income Requirement

A.3 The consultation document seems to suggest that only index linked pensions will be considered for MIR. However, when we retired we took considerable time to consider our options and calculations showed that had we taken index linked pensions our initial income would have been substantially lower than a flat rate and it would have taken about 15 years for the income to catch up and only then would we have been better off.
Instead we will have had 15 years of enhanced income at a time when we are most active. We therefore think it would be a mistake not to consider flat rate pensions in your calculations. We also took pensions that would give either of us the same pension for both our lives and feel these kind of decisions should be taken into account for MIR.

A.4 An appropriate level for MIR is difficult to fix as we all have different expectations but it must be above the cut off for benefits. If flat rate pensions are taken into account then some index linking of MIR to say age 90years would indicate if our present income would be likely to cover us adequately in the future. After all, our flat rate pensions by age 90 years may still be higher than another persons index linked pension at age 90 years if we began with a larger fund.

General comments

Apart from some pension plans which we annuitised to give us a guaranteed income to cover all our normal expenses, we kept a sum in SIPP's. The SIPP's are now invested in an industrial unit and the rental will give us an additional bonus income above our normal expenses. We hope that the new legislation will make the operation of this easier. Under the present legislation, at age 75 the SIPP must become 'crystalised' which means no further funds can be added to it even if one segment has been kept open for this purpose. This could prove problematic if the unit was empty for a time as there would be no funds to cover running expenses. We therefore hope that the new legislation will also apply to 'crystalising' of SIPPS at age 75. On this topic it would also be beneficial to reintroduce rate relief on vacant properties held in pension plans as it could be a crippling expense.

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I have copied my response to Theresa May and Roger Gale, who represent the two constituencies where my wife and I have homes.

I am asking them to read my comments and if they agree with the thrust of my arguments and concerns to bring them specifically to the attention of Mark Hoban.

I believe that this is an excellent opportunity to demonstrate how financial and fiscal life has changed under the new Government and put more flexibility and responsibility for personal financial planning etc back in the hands of the people whose money it is, limiting the role of the Government in making up complex rules telling people what they can and can't do with their own money.

The Treasury has acquired a reputation for harming the pensions industry in various ways, and should in future confine itself to the taxation aspects of pension arrangements in a more balanced and fair way than it has tended to do in the past. Financial planning and survival is also far more complicated and uncertain nowadays, and it is impossible for Government to design one-size-fits-all schemes to cover all individuals and possibilities for years to come. People have to learn to do that for themselves, and face the consequences of their own decisions and actions.

If you need further information, clarification or discussion on any of my comments then please don't hesitate to contact me by phone or email, as indicated in the response.

Also pdf

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In response to the HM Treasury report dates July 2010,

I give my full support in the removal to purchase an annuity, in my view this would benefit all those who are saving for a retirement.

The purchasing of annuities is a major reason individuals do not pay into a pension, the returns are poor and those more financially minded are putting money elsewhere.

Those not financially minded are not saving at all, becoming a burden on the state. This change would encourage all to pay into a pension pot.

My only caution is that it is clearly monitored by responsible authorities to ensure that the fund is not fully depleted and individuals become a burden on the rest of us.

One issue I would like to add is the recommendation from the white paper review on pensions in 2006. It recommended a person may take 25% as a lump sum from a combination of all their pensions pots.

This recommendation has not been implemented and those with a occupational pension and a private pension may only take 25% from each.

I would like this pension review to re consider to allow the lump sum to be taken from one pension fund allowing the them to take a monthly payment from their main pension.

Therefore those with a substantial occupational pension may be allowed to take a private additional pension as a lump sum.

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I am of the firm opinion that the governments' objectives to re-invigorate pension savings will be helped by removing the need to annutise by age 75.
I have stated in a previous Email, how this is already happening in my own family.

You ask for views on the capping limit. Although I like the flexibility of being able to drawdown up to 120% of an annuity offering, and would not like to see this fall below 100% the thing that really attracts me to the scheme is that my pension pot remains in my control and not given to a large organisation with little or no capability or desire to consider my personal situation and requirements.

Although I am also in favour of being able to draw down more than the capped limit, I feel that such an action should only occur in the event of some unforeseen and serious situation (for me it would have to be a violent thunderstorm, not just a rainy day) and certainly should not result in the taxpayer having to support the drawer in later life.

I personally feel very fortunate to have been able to accumulate a pension pot and in addition having a pension paid by the tax payer (e.g. my children and grandchildren). We all know that this is imposing an ever increasing burden on the taxpayer; I therefore agree that it is essential that an MIR is fixed that safeguards the taxpayer against the slightest risk of having to support me even more in later life. Such a minimum figure must be simple to understand and calculate. I think it should be tapered with age but need only be applied to individuals; a separate figure need not be applied to couples.

In order to calculate tax on drawdown I regularly use the HMRC CD to complete the PD11 calculations. I have no idea of the cost of producing such a piece of software but in an ideal world this is the sort of tool that should be available for those having to calculate things like MIR and drawdown limits on small pension funds (using the GAD table is OK but seems a bit crude in this day and age).

I have deliberately tried to keep my words to a minimum for your sake but if you would like me to expand in any way please ask.

I want to counter some of the negative comments I have read regarding the removal of the requirement to Annutise by 75. From my personal circumstances it will arrive in the nick of time.

I will be 75 next year and could not really justify proceeding with an ASP because of the restrictions on drawdown (insufficient freedom of choice).
This would have resulted in my having to sell the property (this is owned by my pension pot) that my son runs his business from in order to purchase an annuity. He wants to buy this property but with the present economic uncertainties is not prepared to put that additional strain on his company.
Flexibility and freedom of choice is my understanding of what the changes to the pension tax rules are all about and this is exactly how it is working in my case. It is giving my son a better chance of building and expanding his company which already employs a dozen people and me the freedom to invest my pension pot as I wish.

This same son has been very disillusioned by the restrictions that he has seen me working under on my pension scheme to the point where his policy has been to save and invest for his retirement outside a pension fund. I believe your latest proposals could help to change his mind, he has already organised a meeting with me to discuss the situation.

I will make a response specifically to the consultation document separately.

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Already we are seeing vested interests (Aviva and Land G) trying to water down the Flexible Drawdown proposed legislation.

They must not be allowed to dominate the discussion. The proposals make sense, they are overdue and should be introduced from 1st April 2011 - for goodness sake

be bold whilst being responsible. Make it simple and favour the pension holder.

Set the MIR at a responsible but not restrictive level. Ensure checks are in place to avoid the pitfalls seen when validating income to qualify for a mortgage.

Allow the pension providers to make a reasonable, flat charge for any drwdown transaction

thereby ensuring that the providers do not incur a loss of profit related to this legislation. Of course they will have work to do to validate the MIR evidence. The onus must be on the pension holder to provide MIR evidence that is acceptable.

Finally move this along quickly to remove uncertainty - there is enough of that!!

The proposed new rules are long overdue. The emphasis must be placed on feedback from pensionholders rather than pension providers, the latter having a vested interest and

as profit motive.

The MIR must be set a t a responsible level; but not be too restricitve.

The rules must be couched in plain, simple English.

There is no reason to delay the facility until the 2011/2010 tax year. Allow pesnioners to avail themselves of this opportunity from 1st April 2011, thereby allowing drawdown in tax years 2010/2011 and 2011/2012. There appears to be no negatives in this proposal and the positives would be increased tax revenue in the current tax year and a small stimulus to the Bitish economy. ANY stimulus is welcome.

In summary. Move quickly, be cautiously bold, do not allow the vested interests of the financial institutions to prevail over pensioners needs, and promote these flexible rules to stimulate more investment in pension funds.

I wholeheartedly applaud this initiative - just move things along smartly!

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My comments follow with regard to the Age 75 Consultation

Minimum Income Requirement (Chapter 3)

Questions A.3 & A.7

An automatic exception to compliance with the MIR should be granted to non-UK citizens residing outside of the UK as the chance of ever falling back on the state for assistance is remote in the extreme. This then eases the compliance burden for the individual and the industry with no downside to the state.

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Having been brought up to save and not be reliant upon the state as well as being fortunate to be fully employed during my working career, now aged 70, I strongly feel that I should not be forced to take an annuity from my SIPP at age 75 which I would prefer to keep for my wife to inherit, should she predecease me. At present, I do not need the income so why exascerbate my personal taxation situation by having to pay (currently) 30% tax, (20% due to income tax and 10% loss of age allowance)? Should my wife predecease me, she would be able to use the SIPP to provide for her living and care therefore not becoming a burden on the state.

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Having read your consultation document, I would wish to comment on your proposals for MIR.

I currently have a USP which provides an income via a SIPP in drawdown, the fund is invested in Bond and Equity income unit trusts to provide an income. The income from these unit trusts is not guaranteed and varies, under your proposals this would not be regarded as "secure" for the MIR.
I have also invested in Stocks and Shares ISA's in similar funds to provide retirement income which would also not be regarded as "secure" for MIR.
Therefore people whom have taken the USP route will be unable to access Flexible Drawdown.

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Proposals welcome, but with one VERY unfair suggestion - the substantial amount of 55% tax recovery in the circumstances mentioned on page 11, point 2.2.
The vast majority of pension pot holders have been lifetime STANDARD rate tax payers, so why now should there be more than doubling of that rate?
Additionally, such persons usually have small pots.
A simple solution - allow such small pot holders [less than, say, £100k] to be taxed at standard recovery rate or for such persons increase the 25% commutation rate.
Finally, there will be many people, e.g. widows, widowers, plus most single persons, who have no one who could be classified as dependent. Incidentally, even for those lucky lifetime HIGHER rate tax payers, the recovery rate of 55% seems high.

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Sir - With regard to your proposals to modify the regulations on SIPPs, I make the following observations as a private individual with a SIPP:
1. The sector of the population who have spent their lives saving for a personal pension are the least likely to spend it and throw themselves on the mercy of the State. By insisting that only State pensions and index linked annuities may contribute towards the MRI is much too stringent. For these people, it would be sufficient to make State dependency improbable, rather than impossible.
2. Any sensible saver would have diversified into ISAs, shares, secondary property, cash etc. - but no income from these sensible investments will count towards the MRI - not even lifelong pensions, unless they are indexed linked. A non-indexed linked pension could easily be scaled to a linked one by any actuary - and so could any other source of wealth.
You are forcing intelligent people to contribute towards the profits of the Annuity Providers.

3. Hopefully, you will allow married couples to elect to be treated either singly or together when being means tested for their MRI?
4. A personal comment; Young people contributing to a personal pension are generally unaware of the restrictions imposed on them at retirement age.
Any other form of saving can be cashed in at will. I regret having put so much into a SIPP.

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Dear Sir,I would like to comment on a the position of some employees with occupational pensions who have chosen to enhance their pension by saving through DC AVC schemes. My wife works in the NHS and has had several career breaks while our three children were growing up. To help plug the gaps in her final salary pension she has made contributions to a NHS AVC provider, initially Equitable Life and more recently Standard Life. I think it would be fair to say that the overall performance of these pensions have not entirely met our expectations but this was a risk we understood. The capital value is modest and under the rules of the NHS pension scheme she is able to take 25% of the AVC fund value as cash leaving a depleted fund for the eventual purchase of an annuity. However many (most?) final salary occupational schemes in the public and private sector allow the pensioner to take cash from an AVC equivalent to 25% of the total pension 'pot'. For the employee this is an attractive option and in means that small AVC funds can often be taken entirely in cash if the occupational pension is a reasonable size. This avoids the need to find a home for relatively small sums with disproportionate administrative costs. However not all schemes have changed their rules after the 2006 reforms to allow lump sums equivalent to 25% of the global fund value to be taken from the AVC, the NHS scheme being one example.
This review might like to consider whether forcing pension schemes to adopt the more generous global tax free lump sum provisions might be a step forward. After all the AVC lump sum is not coming from the occupational scheme itself, and it would remove many small AVC funds from the annuity route altogether, one of the aims of this review.

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Re Whether other legislative or regulatory barriers remain whose removal would enable industry to provide consumers with more attractive products without incurring fiscal or avoidance risks.

Transfer fees incurred while moving a pension from one provider to another should be for the administration cost alone, to a fixed amount. It should not be a fee for loss of profit or a penalty.

I have a pension with AXA Sunlife, which is underperforming. I would like to transfer it to another provider.
AXA want to charge me 25% to transfer it. This is far inexcess of the costs involved

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I would like to comment on the statement below.
The Government proposes that life annuity income should be allowed for the purposes of the MIR providing it increases annually by at least LPI, defined as for scheme pensions to be the

lesser of the annual increase in prices or 2.5%. Both an index-linked life annuity and an escalating life annuity (with an annual percentage increase of 2.5%) satisfy this criterion.

The overwhelming majority of annuities arranged from money purchase schemes are level in payment. Whereas, I can appreciate the need to protect against inflation in your proposals, I would suggest that you agree to a formula to be able to take into account level annuities as well. If say you need £12000 pa of index linked income at 65 and the client has say £20,000 of level annuity income, then he should also be allowed to qualify.

£12000 x 2.5% x 20 years = £19663. In other words the escalating pension would not even have reached £20,000 by the time the client was 85.

A formula should not be too hard to work out.

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Re. Removing the requirement to annuitize by age 75

Thank you for your discussion document. This response follows the numbering of section A of that document.

A.1 Permit the annual drawdown limit for capped drawdown to be between zero and 100% of the equivalent single life annuity for a person of that age and sex assuming standard mortality. A common single life annuity rate for both sexes and for all ages from 55 to be published annually by GAD or by the ONS.

A.2 The intended approach seems very fair. In particular, the 55% recovery charge is well pitched: the state takes just over a half, which is enough to be a deterrent without appearing Draconian. A recovery charge like this is needed in order to deter those people who seek to use the generous tax reliefs of the pension system as a means of estate planning, rather than the provision of lifetime retirement income.

A.3 "Secure" for the purposes of the MIR should be a lifetime annuity or pension from a registered UK pension scheme or life office. A Purchase Life Annuity is acceptable if it meets or exceeds the same criteria as a Pension Annuity.

A.4 Set the MIR at two-thirds of National Average Earnings (NAE), with no adjustment for different ages. Your section 3.15 indicates that it may be reasonable for the MIR to be higher for a person of 59 than for a person of 80. I disagree. Your section 13.1 notes that "the risk of running out of funds during drawdown increases with advancing age." That being so, the MIR for an older person should not be lower than that for a younger person. Also, varying the MIR by age adds unwelcome complexity.

A.5 The MIR should be the same for each person, with no change for couples, i.e. each person in a couple would have their own MIR of two-thirds of NAE.

A.6 Ideally, determine and publish the MIR once a year by reference to the most recently published NAE, and apply it to the tax year immediately following date of publication. If that is too complex, review the MIR review every five years and adjust by the change in the NAE over that period.

A.7 Assessment of the MIR need not be a problem. The person who needs to demonstrate his or her "secure" income must furnish suitable proof of it to the drawdown provider. The drawdown provider's charges will include their administration, which in this instance appears modest.

A.8 Make it easier for a person who has phased drawdown to consolidate any drawdown plans with one provider into one plan per person per provider.

A.9 Make it a requirement that every person taking a pension benefit receives a Government leaflet at or before that benefit can be paid (point of sale) and that the person signs a detachable confirmation slip within the leaflet to the effect that they have read and understood the leaflet. The confirmation slip should be retained by the pension benefit provider, for random inspection by the regulator at periodic audits. The leaflet should briefly outline the retirement income options, direct the reader to the Government website where more such generic information can be found, and recommend that the person who is still in doubt should consult a suitably qualified adviser.

The leaflet should briefly note the benefits of a lifetime annuity and the risks of other methods of providing retirement income. A lifetime annuity is insurance against living too long: one cannot out-live such an annuity.
Persons who are helped to understand this come to view such annuities positively.

A.10 One of the most notorious "unintended consequences" of recent years was the forced selling of equities imposed by the FSA upon UK life offices between 2000 and 2003. Let's not have a repetition of that!

A prudent pension provider will want to hold enough assets of a type suitable to back the product that they are providing. For index-linked pensions that implies index-linked British Government stock (Gilts). For level pensions it implies conventional Gilts or perhaps investment-grade corporate bonds. "Perhaps" is because one cannot rely on the rating agencies to determine qualification for investment-grade, and because the annuitant of an insolvent

provider enjoys considerable protection from the Financial Services Compensation Scheme. US index-linked Treasury stock
(TIPS) would be an acceptable alternative to UK index-linked Gilts, if accompanied by currency hedging. But there needs to be an adequate supply of such index-linked Government securities, or there will be apparent distortion such as the perceived abnormally low yields of recent years. Such low yields impair the provision of attractive annuity rates and encourage the provider to at least partially back the annuity with other assets.

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We are pleased that government proposals would give us the flexibility to utilse our pension pots in a way which we think can best suit our needs.The present system allows us one choice -to purchase an annuity.We have worked hard to save for our retirement and these proposals will give us the opportunity to decide for ourselves which option we wish to take.We believe the changes are sensible and will encourage people to invest in future pensions.We look forward to new legislation being in place for implementation in April 2011.

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Firstly, thank you for the opportunity to give our thoughts on your proposals. My wife and I are currently using draw down and our ages are 69 and 60 respectively. We are not experts in the field of pensions, however we believe we understand the problems and pitfalls of adequate provision for successful financial retirement. Over our working years [having had our own business for some 26years] we have managed to tuck away a decent sum into our SIPP savings. When we started to save ISA plans etc were not avavilable and therefore the only way to save for retirement was through a pension. We believe that although the Pension providers have slowly improved their "offerings" over recent times, the improvements have been too slow, unco-ordinated and sparse. This has resulted in the annuitants in some cases having to settle for second best. We would summarise our thoughts as follows:

1. Flexibilty of pension savings is paramount, as is the ability to retain your pension "pot" for your spouses use.

2. The ability to increase your withdrawal of funds from your SIPP due to current lower annuity rates whilst remaining invested is also very important. Despite the reduction and turmoil in global markets our SIPPS have retained and increased their original value including our current withdrawals. This would definitely not have been the case if we had annuitised our SIPPS. If we had annuitised we would have been fixed at a much lower level and the gain would all have been to the provider. This may lead eventually to the annuitant being in a position to claim some benefit from the treasury and being a burden on the tax payer.

3. Government must understand that people who have saved all of their adult life must be credited with some recognition for their efforts and common sense. Having saved all of our lives we are not of the mind to blow it all on a once in a lifetime holiday. In fact, having been savers all of our lives we have had to make a concious effort to spend now instead of saving.

4. We believe that the pension industry needs to become more inventive with their products offering more types of annuity, some companies do, most do not. Perhaps it would be possible to either incentivise or compell this to happen.

5. We agree to the Governments five principals for a new tax framework for retirement. However, it is important that the Treasury does not receive a reduced tax income stream and we consider that careful attention needs to be paid to any schemes that attempt to avoid inheritance tax.

6. We believe that a capped drawdown figure should have the ability to rise with your age. Generally as you grow older you have less desire to travel as extensively as you did in your earlier retirement, however, you can become exposed to a potential requirement for care, mobility or health related problems etc. Perhaps it would be possible for the Government to adopt a special position regarding capping of drawdown and the diagnosis of a terminal illness.

7. MIR should be reviewed every three years.

8. MIR should have different levels for singles or couples with the individual having the option to choose [if they are a couple] if they want to be treated as two individuals if that would give them a better option.

9. Government should seriously consider making compulsory the open market option. At the present time too many people are still unaware of this despite continued mention in the financial papers.

10. Government should ensure that all aspects of savings, pensions and general financial education becomes a core part of the basic curriculum at schools and colleges. There is insufficient awareness of the vast sum of money that todays teenagers will require to lead a reasonably active life in their retirement without having to work for the rest of their days.

Hopefully the above is of interest and raises the salient points that will make all of our lives [both individuals and The Treasury] much easier.

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Here are a few comments from a retired couple aged 65 with a SIPP

1. If my children (aged about 35 in quite good jobs) are anything to go by, nobody in the UK is ever going to save into a private or money purchase pension again unless they are given tax incentives to do so. Trust in pension schemes has long gone due to the behaviour of governments.

2. Because of the Labour and now the Coalition governments' refusal to compensate savers who lost so much in the Equitable Life debacle, most people think that despite the fine words from the Treasury, nobody in government is remotely interested in the treatment of either savers or people contributing to money purchase pension schemes, so in the absence of tax incentives and in the presence of an incompetent financial regulator, why bother?

3. This new approach in the Consultative Document is a worthy try at following what most other countries did years ago and we support it

4. The main problem is the rate of tax proposed to be paid on any amount drawn out of the pension fund. This is far too high. It is argued that this is needed to recoup the tax relief given in earlier years on contributions into the pension scheme. However, the effective rate of relief given in the past will vary for everyone depending on their income in the earlier years when contributions were made. For example, in my own case, not only were the contributions in quite small, but I was earning a great deal less so the pension contribution tax relief was only at about 20%. If I were to decide to take all my SIPP fund in excess of the required minimum income to keep me and my wife off state benefits, then logically I should just repay the actual tax relief given in earlier years, details of which HMRC would have. This is a very different figure from a straight percentage on the whole of the sum withdrawn. This does not look like a tax incentive to me. If you want this idea to attract the younger generation into saving again, then I believe the exit charge would have to be say a flat 25% and kept at that level. If any higher, I think people will just take an annuity at the earliest opportunity, try a bit of tax avoidance on their income to keep the marginal rate down and they will advise the younger generation that pensions are not a good deal due to constant tinkering by governments of all political stripe. You might care to reflect on exactly where the tax incentive is in the scheme proposed (apart from the 25% tax free lump sum which in my opinion is the only incentive)

5. On an administrative level, we believe that if a couple are both either actually drawing a state pension (or are entitled to draw it but have taken up the government's offer to defer it), then this should be sufficient indication that they have the financial means to be refused state benefits and thus they would not become a charge on the state.

6. The other reason that the younger generation are advised by old miseries like me not to subscribe to pensions is that the newpapers are constantly full of ideas for fleecing the people who have had the foresight to build up a pension by having a large part of the tax free lumps sum taken compulsorily tofor example finance care in old age. We feel very strongly that if governments want people to save, they have to accept that pensions are sacrosanct and not a useful source of additional state financing or a handy way of stuffing insurance companies with gilts that no one in their right mind would buy.

7. Keep up the good work and I would like to be invited to one of the meetings you are holding to discuss this matter.

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The proposal is very welcome and in line with the policy of allowing people to decide what is best for their own situation. While the purpose of tax-relieved pension saving is to provide an income in retirement, there is no reason to prescribe the use of the fund by a pensioner if the pensioner is willing and able to use other resources for living expenses. It is, however, ironic that when the Government is launching a tax simplification initive, it should at the same time propose to introduce an unnecessary and distortive 'Recovery Charge' . This charge entails:

different tax treatment of drawn and undrawn lump sums on death, since sums drawn down before death will be subject to IHT; and

different tax treatment for those who can satisfy the Minimum Income Requirement (MIR) from those who cannot, since those satisfying the MIR will be able to draw down all their funds and either give them away or invest them in assets exempt from IHT.

There does not appear to be a policy justification for these differences. A far simpler solution is to continue to tax funds drawn down in life as income and for any balance left at death to be subject to IHT.

If the reason for the 'recovery charge' is to increase the tax paid over IHT, it is most unlikely to be effective since anyone with significant sums can ensure that they suffer only income tax and then avoid IHT. Avoiding the recovery charge in this way will become even more advantageous if the highest income tax rates are reduced in the future. It is also difficult to justify a higher rate of tax for undrawn funds, which smacks of the dirigiste attitude of the former government

It may be objected that while the highest rate of income tax is 50% and IHT is 40%, making any balance left at death subject only to IHT would discourage drawdowns, which are taxed as income. This is, however, a result of the current difference between the two rates and anyone liable to the higher rate is already seeking to minimise its effect by using assets which are not subject to income tax for living expenses. In the short term, at least, while people expect the income tax rate eventually to be reduced, making the balance subject to IHT would have little effect on tax raised.
But if the difference in rates becomes permanent, it would be possible to deem any undrawn balance as drawn down on the day preceding death (although this could not apply to any undrawn lump sums). This would at least avoid the complications of introducing Recovery Charges.

I have a personal interest to the extent that I have a pension in drawdown.

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## Age 75 Consultations
## Removing the requirement to annuitize by age 75
## and related matters

### Submission by Two Experienced USP SIPP investors

We have been investing entirely for ourselves since 2002, using electronic trading platforms, and our two funds are jointly worth over £500,000.
We presume that most submissions to this enquiry will come from financial industry sources, and we are keen that the voice of private investors should also be heard

**The current USP rules**

(1) Flexible choice of income withdrawal from zero to 120% of the typical annuity you could otherwise purchase for your age, sex, etc – as determined by GAD tables;
(2) Compulsorily reviewable at least every five years;
(3) More or less compulsory annuity purchase by age 75 (the ASP deal is so blatantly bad, even an index-linked annuity would be preferable).

**The proposed new rules**

(1) Flexible choice as before, though the 120% capping factor could be revised;
(2) The compulsory review period would appear to remain the same;
(3) ASPs will be abolished, so that the USP option is now a lifetime option;
(4) Flexibility to make income drawings above the cap – provided MIR criteria can be met from sources other than the USP fund itself.
(5) The balance of any USP fund to be taxed at 55% if it is taken as cash by beneficiaries on the death of the USP holder.

**Simple changes to these rules that would offer greater flexibility**

(1) The 120% capping factor presumably exists on the assumption that annuity funds are conservatively invested largely or even entirely in gilts (the yield on which is combined with actuarial data to calculate annuity rates), whereas USP funds are usually invested for a potentially higher return with equities, corporate bonds, etc. As well as gilts. Unless investment conditions have changed irrevocably downwards, there seems no reason to reduce the 120%. Rather, there is a good case for increasing it slightly (say to 130%[1]). This would give all USP holders a degree of flexibility, not simply those who meet MIR from other sources. Coupling this with annual rather than 5-yearly reviews (see below) would provide not only flexibility but immediate control.
(2) Currently, the USP cap for each holder is reviewed at least every 5 years, though annual reviews are possible. We propose that annual review becomes the norm, particularly for anyone who seeks to draw an income based on any capping factor above 120% (or whatever new standard level is set).
(3) The abolition of ASPs or any compulsion to take out annuities is welcome, and simple enough in intention to need no further change.

[1] Currently, gilt yields, to which annuities are geared, are close to an all-time low, with the consequence that income related to them is also very low.

(4) The criteria for MIR require more fundamental thinking (see below).

(5) We entirely concur with the principle that USP funds exist to provide pension income rather than to provide tax-advantageous inheritance opportunities. Indeed, it could be said that USP holders who exhaust their funds entirely prior to death, provided they avoid being a burden on the state, fulfil this principle entirely. Where there is a residue on death, which is passed on in the form of cash, it will be taxed at 55% (calculated to repay the balance of taxation that was deferred when the pension fund was built up). Our only suggestion here is that 50% has a greater ring of fairness, whatever the mathematics may say.

**Circumstances under which a USP holder could call on the state for assistance**

Under current rules, assuming (as is likely) that the unsecured pension holder has a state pension, he or she could only call on the state for additional assistance if he or she required long-term care, in particular when needing residential care. As was the case with one of our mothers, the state will subsidise such care only once the claimants' other capital has been exhausted. For most people, their largest single asset is not their pension fund, but their property. Selling or mortgaging property is therefore a necessary resort for those going into residential care, and the state would not offer assistance until all proceeds from property had been exhausted. In addition, the USP holder can, on going into care, seek an impaired life or an immediate care annuity.

To avoid or minimise risk to the state in paying for long-term care, USP holders need to demonstrate sufficient equity in their property, USP fund or a combination of both to meet the costs of an impaired life or immediate care annuity. If the capital alone can satisfy this requirement, then there need be no earmarking of the USP fund. If owning property prevents the USP holder from seeking state assistance for long-term care, that property should be taken into account when assessing what may be taken from the USP fund as income. Otherwise the state appears to have it both ways.

For certainty, all that would be required would be an undertaking with the USP provider that the USP holder would supplement his USP fund from any profit from the sale of his or her property, with sufficient to purchase an impaired-life or care annuity.

**Meeting basic living expenses**

Living expenses are living expenses, and can hardly be avoided. Therefore, it is sensible for the state to ensure that USP holders requiring additional drawdown flexibility at least have the means to meet everyday living costs. A MIR of £10,000 or thereabouts, based on Family Expenditure Data, makes sense, but for the reasons outlined above, it need not be higher (except in the unusual circumstance of the USP holder owning no property). Here, too, we believe property or other asset values should be taken into account, as well as income.

In addition, we believe that the MIR calculation should not be confined to income outside the USP. Where a USP is sufficiently large, it too should contribute to the MIR calculation. That is, any surplus in the fund over and above an annually reviewable minimum would qualify for flexible drawdown. We suggest for the purpose of discussion, as well as simplicity, that the minimum should be 150% of that required to generate today's MIR.

**Index-linked annuities are a bad deal and ought not to be encouraged**

An annuity is really a bet: each annuitant is betting that he or she will live longer than the insurance company actuary is predicting. Those who exceed the actuarial average win the bet at the expense of those who die early. Indexing the payback makes it harder to win the bet, since more of the payback is earmarked for later life. Anyone who dies early (at least half the cohort, depending on mortality distribution) will almost certainly have got less of his or her fund back in the form of income than if he or she had taken out a flat-rate annuity.

For example, a man of 68 investing £100,000 in a 3% indexed annuity must live until he is 89 to get back more than if he had bought a flat-rate annuity. For most 68 year-old men that is an actuarial long-shot.

USP holders must, almost by definition, be wary of annuities. Therefore any proposal that seems to encourage poorer-value, index-linked annuities will not go down well.

For this reason, as much as for any other, we believe that flexible drawdown should not be over-reliant on USP holders investing in ind

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Once decided on the date legislation should be enacted as soon as possible.

If implementation is delayed until April 2011 there will be a group of taxpayers born in 1935/1936 who lost the married persons allowance when it was abolished and will now have to take out an annuity prior to age 75.

Those born 1934/35 retain the married persons allowance and those born
1936/37
can opt not to annuitise.

Hardly seems fair.

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I write as an interested individual on the subject of this consultation. I have taken a close interest in pension matters for many years; I have no formal qualifications in the field, but friends and colleagues often seek my advice on these matters. I will make comments in the order of the material in the Consultation document.

A. Box 2A. The demand (part of 2) that there be no cost to the Exchequer sits oddly in this context: I can appreciate why it has been included - public finances are currently under strain. However, it has nothing to do with the general principles of pension arrangements, unlike the requirements 1, 3, 4, 5 and the last part of 2. Plainly it is better that costs should be minimised, but to make this a PRINCIPLE that MUSt be followed seems to be too strong. I hope you can interpret the phrase in a less absolute way.

B. I particularly applaud paragraphs 2.15 and 2.16.

C. Paragraph 2.22 leads me to reflect on the general way "retirement" might be approached. In retirement, people broadly have three sources of support:
first, any regular payments, such as State or Occupational pensions; second, any Pension Pot they have accumulated separately; third, general savings.
This consultation is mainly about the use of the Pension Pot, but it seems to me sensible to consider all three sources together. After all, we make decisions during our working lives about how to fund retirement, and whether to save mainly into a Pension Pot, or to build up a fund via regular contributions to ISAs and other savings, is a fairly arbitrary decision.

If someone decides to buy an annuity with their Pension Pot, nothing further need be said. But suppose someone takes regular drawdowns during retirement (taxed annually at their current marginal rate), and passes the funds remaining on their death to their spouse to do the same thing. Then, on the death of the spouse, I propose the following tax treatment of the funds remaining in the Pension Pot: first, act as though that spouse had taken the entire remaining pot as *income* during the year in which she/he died, but then apply *income tax* to it at the marginal rate she/he paid in the *
previous* tax year. Then what is left after this removal of income tax goes into the deceased' estate, and is liable to Inheritance Tax. An example may make this clear.

Example: John dies on 31 August 2012, with £80,000 left in his Pension Pot.
This Pot passes to his widow, Mary, who draws some income from it (along with other benefits) and dies on 20 September 2016, with £65,000 in the Pot.
Her income during the tax year 2015/16 was £30,000, her marginal tax rate was 20%. Thus 20% of the £65,000, i.e. £13,000 is paid as income tax, and the remaining £52,000 goes into Mary's estate. If, after this, the total value of her estate is under £325,000, no more tax is paid; but if her estate increase in value from £800,000 to £852,000, then a further 40%, i.e. £20,800 tax will be collected. Total tax on £65,000 is thus between 20% and 52%, depending on the eventual size of her estate.

I make this proposal to bring in a symmetry between the tax treatment of a Pension Pot and any other form of savings. If John had not built up a Pension Pot at all, but had saved for retirement in other ways, he would presumably not have had so large a sum (his Pension Pot benefitted from the EE part of EET tax treatment), BUT he has already been taxed as he built up his savings. On his death, his savings pass tax free to Mary, on her death they form part of her estate.

These proposals seem to me both simpler and more equitable than those proposed in paragraph 2.22.

D. I suggest a gloss on 3.9, footnote 13, which looks at the treatment of a non-escalating annuity. That some fraction of the payment, related to the life expectancy of the individual, be allowed to count towrds MIR.

E. The MIR should be rather less for single people than for couples.
However, at the point when it is being assessed whether a couple meet the requirements, the arrangments that would pertain when the first person dies should also be taken into account. Only when the MIR for a single person is also expected to be met on the death of either partner should a couple be deemed to meet the MIR.

I would like to be informed on the dates and places where public consultation takes place, so that I can decide whether or not to attend.

None of the above is confidential in any way.

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I confirm I agree with the proposal to remove the compulsion to take an annuity at age 75.

I would also like to see the underlying fund made available to the surviving spouse and for any eventual inheritance tax liability to be limited to the standard rate, currently 40%.

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Section 2.22 Unused funds.

The proposed 55% recovery charge is very unfair on those who have received just the basic rate deferall on their pension contributions and unfair on those who have received that deferral at the higher rate. What is wrong with a recovery charge at the rate of the tax deferral of one's original pension contribution, i.e. 20% or 40%

Section 3 Minimum Income Requirement.

The consultation appears to presume that ONLY Index Linked or LPI pensions can satisfy the MIR to allow larger withdrawals to be made from Drawdown "Uncapping".

Few have chosen any kind of index-linked pension voluntarily and very few chose any fixed level of increase from personal pensions.

Level annuities should be allowed to count; perhaps with the caveat that they must still satisfy the minimum income test after allowing for a notional discounting by LPI.

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In his closing speech, ComSec mentioned that the comments on pensions and annuities made by various Lords would be considered as part of the respective consultations. Please can you check Hansard and make sure that you are aware of these points (note that there was a urgent policing debate for 45 mins at 16:00 yesterday in the middle of the FB debate).

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Further to the Age 75 consultation on the abolition of the compulsory annuitisation rules, I should like to comment on the minimum income requirement and the definition of secure income. The higher the minimum income threshold is set, the more applicable they are.

If, as suggested, secure income is limited to state pension, additional state pension, and occupational pensions and annuities escalating with inflation or by at least 2.5% p.a., there will be some very bizarre results. Fixed-rate annuities are preferred by very many pensioners, despite their purchasing power declining through debasement of the currency. The reasons are clear; for most pensioners the income from an inflation-linked annuity will not reach the same level as the fixed-rate annuity until they are in their 80s. Moreover, particularly if their pension 'pot' is modest, they are more likely to be become a charge on the state at an early stage if they buy an inflation-linked annuity in preference to a fixed-rate annuity. At the other extreme, somebody with a large pension 'pot'(s) could find themselves with an income from a fixed rate annuity which is a multiple of the 'secure' income (defined as currently suggested) but be deemed not to have met it.

Accepting that inflation is a permanent fact of modern life, a more logical approach to fixed-rate annuities would be to apply an age-related discount to the income arising for the purpose of 'secure income' measurement. A similar approach might well also be applied to income arising from a person's assets (the main source of income in some cases) or at least some of them. Presumably HM Treasury would not wish to imply that interest on Treasury stock is less secure than annuity income from an insurance company.

I trust you will find my comments worthy of serious consideration and will acknowledge their receipt.

Before I comment on your proposals I wish to draw your attention to another consultation from the Department of Work and Pensions.

Although it does not specifically highlight the fact, it will ban transfers from a defined benefit pension scheme into a defined contribution scheme. I presume this would also ban transfers to S I P P's.

If that is the case then it would force people who have a D B scheme for some of their working life into taking out an annuity ( which I do not want to do ), yet you are proposing to remove the requirement.

Could you please talk to one another and scrap the idea so the government has 1 voice in the matter.
I have copied the consultation document and nowhere does it say that the removal of the requirement to take out an annuity is restricted to defined contribution schemes only.

I am against being forced to buy an annuity for the following reasons ( NB I currently have a S I P P with Hargreaves Lansdown and income drawdown of 120 % of annuity that was taken out in 2007);

I want to choose how much I take out via Income Drawdown at the time most appropriate for me.
When I die, I do not want to lose 50 % of the fund for my widow but let her take roughly the same amount until she dies.
When she dies, I do not want the insurance company to keep the rest but any residue ( after 55 % tax ) should go to my son.
I have several defined contribution pension schemes that can be combined and 1defined benefit scheme that I wish to be added at the last possible minute ( February 2017 under present rules ) into my personal S I P P, whilst I still work. The more I can put in, the less chance I will be reliant on the state to support me.

I think that from 75 you should tell people that the minimum income drawdown should be at least 75% of the annuity value to stop too much being left to inheritors.
I think that employers should aligned their retirement age with the state normal retirement date so that there is no gap between leaving employment and getting the state pension.
People should be encouraged to stay in work after NRD by increasing the personal allowances much higher than at present.

M I R should include the money gained by downsizing your house if it is invested in long term deposits.
Do not set M I R's fr couples. Only do it for an individual. We are not together for a long time after retirement so we need a lot more than the state pension to ' live ' .
In fact, really the state pension merely gives you a bare 'subsistence'
amount and the government's own minimium economic level is about £135 per person anyway.

For those people who still want to take out an annuity, employers and insurance companies should be forced to offer the Open Market Option as well as their own product.

Above all - KEEP IT SIMPLE FOR PEOPLE TO UNDERSTAND !!!

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In response to your consultation, I wish to make the following remarks.

"2.22 Consistent with the mainly tax-deferred nature of pension saving, it is important that pension benefits continue to be taxed at a rate which reflects the value of relief given and which ensures that the cost of providing tax relief remains sustainable. The Government intends that:

a.. pension benefits drawn down under the new, more flexible arrangements will continue to be taxed at income tax rates. (The tax-free pension commencement lump sum will continue to be available);
b.. any unused funds remaining upon death will be taxed at a rate designed to recover past relief given unless they are used to provide a dependant's pension. (In this case, the pension will be taxed as income of the dependant in the normal way). The Government expects that an appropriate recovery charge will be around 55%;
c.. to make the new framework as simple as possible, the Government intends that the recovery charge should generally apply to all death benefits. However, death benefits for those who die before age 75 without having accessed their pension savings will remain tax-free"
"44. The Government would welcome input and evidence as to the potential benefits, costs and burdens on individuals, government or industry in respect of any aspects of the policy design proposed."

Problem (potential for unfairness)
The application of a flat rate of charge at (say) 55% from age 75 creates an effective 'precipice' in the taxation of pension funds (from 0% to 55% in one day). This aspect (being arbitrary) is at odds with principles of fairness. The justification for a flat charge (that it is: "consistent with the mainly tax-deferred nature of pension saving") does not follow any particular logic since pension fund savings will have accrued at vastly different rates of tax relief for different (low and high) earning individuals through their lives. A better alternative would be:

Possible solutions

1) Use of an age related tapered rate - starting at the lowest rate of tax relief (in practice, 25% for a 20% relief rate when making contributions) which rises over the standard life expectancy at 75 (say 15 years) to the corresponding highest rate (in practice to 66% for a 40% relief rate on contributions) Thus the appropriate rates would be something like: 25% (75) 30% (77) 35% (79) 40% (81) 45% (83) 50% (85) 55% (87) 60% (89) 65% (91)

Further, if the aim is not to create any sort of taxation precipice at 75 (an arbitrary age, after all) the taper could equally be extended before 75 - back, say, to age 65 roughly as follows : 65 (0%) 67 (5%) 69 (10%) 71 (15%) 73 (20%) - even though such charges are being expressly ruled out at the present time.

This would be quite consistent with the principle that pension savings should be used to secure an income - and provide an incentive to begin drawing on this source earlier rather than later, whilst affording individuals wide latitude as to the timing. The main purpose being to remove any 'precipice' provisions.

2) Use of a disregard An alternative (and much simpler) approach is to remove this 'precipice' effect is to apply any charge 'progressively'. The simplest form of progression in taxation is the use of a 'block' allowance or disregard - leaving (say) the first £20,000 (to use a hypothetical example) and use a simple 'flat rate' (of 55%) embodied in the original suggestion against any 'surplus'.

This would be intended to reflect the broad reality that 'smaller' accumulated funds will have arisen from lower lifetime earnings, lower rates of tax relief available and lower levels of contributions, whilst 'larger' funds will have arisen from higher (absolute) lifetime contributions - probably made in response to the higher rates of tax relief being available.

Examples:

A £50,000 fund (at age 75) would then face an effective charge of 33% A £40,000 fund, an effective charge of 27.5% A £30,000 fund, a charge of 18.3% A £25,000 fund, a charge of 11%

And, going the other way:

A £60K fund, a charge of 36.6%
A £75K fund, a charge of 40.33%
A £100K fund, a charge of 44%
A £200K fund, a charge of 49.5%

Whilst the figure being put forward here was chosen purely at random it would make sense to consult on the level of such an amount under the draft legislation to be proposed and to do so on the assumption that it would be periodically reviewed and/or price indexed thereafter to maintain its real value.

Thank you for taking time to consider my ideas

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I work in Financial Services, but am responding to this consultation in a personal capacity.

I am writing in support of the proposed removal of compulsory annuitisation.
This is primarily because:

* The inherent elimination of both investment and longevity risk which is sought in annuitisation means that guaranteed return products are effectively overpriced for the benefit they give to individuals
* In part the reason for this mismatch is that fixed/guaranteed income doesn't actually match with individuals ability to flex their spending depending on income or with their changing patterns of spending in retirement
* Increasing longevity means the theoretical benefits of annuitisation are all too frequently offset by the practical impacts of inflation and the move to low risk investments with much lower returns much earlier than advice based on individual circumstances would consider wise. A move in most cases to fixed income securities at a point where savings and income horizon is still The thriving UK annuity market has been state sponsored
* Annuitisation acts as a disincentive to pension savings and that is a critical motivation to address if we are to avoid building up future state liability for an underfunded pension generation. Flexibility, savings attractiveness and individual responsibility are essential to encourage individuals to save

In principle, I believe you need to look at the American model for clues around both motivation to save, and ability to drawdown income.

* If an individual has been motivated to save money for retirement, they are typically inherently not the type of individual who will choose to spend it all and rely on the state (particularly as state ability to deliver well funded pensions is inevitably declining) so the whole issue of controlling withdrawals can be over engineered
* Few will choose to fall back on state aid if they have other options - the real challenge is the level of pensions savings and the fact that for a significant majority in the UK their pensions in effect equate to their equity in their house, as that is where their wealth is tied up
* The US model relies on a simple minimum withdrawal amount (1/20th of pot) to force individuals to withdraw their pension money, rather than the reverse which is to discourage or limit them. This also ensures that the assets are taxed on their return from tax free growth
* In reality I understand the psychology of individuals means they are often reluctant to make withdrawals against capital rather than draw it down too quickly as seems to be the fear in the UK
* Costs are being driven down by market forces, and advice and guidance are becoming more valued and widely available as individuals recognise their responsibilities and seek help or validation of their investment and decumulation strategies
* Prohibitive tax charges are not applied to remaining pots on death (in part because of minimum withdrawal amounts meaning pots are already taxed) so that disincentive to save in a pension vehicle is removed (individual has flexibility to choose to save and not have to try and guess how much they will need in retirement

I would like to provide feedback on the following issues:

The level of annual income limit for capped drawdown.

* I would have thought the principle of a cap is wrong here - look at the US where a minimum is applied!
* If there has to be a cap, I don't see major arguments for changing the 120% of GAD current limit, except to recognise that if this is viewed as being to low, the numbers of people choosing to prove they have adequate income may become large creating an administrative burden

What types of income should be secure enough to be included in the MIR (Minimum Income Requirement)

* I think a simple minimum pension fund asset limit/income asset calculation should be considered rather than try and prove guaranteed income

- I appreciate this leaves a risk that individuals will draw down their pensions to zero, but in reality will they and how much effort is it worth making to try and stop the few who would (who won't have saved money for a pension anyway!)? If the asset hurdle is set at an appropriate level this will be simple and effective
* Most plan for retirement as couples but end up with one survivor continuing to live off the same assets. For simplicity, I would suggest a minimum income/asset requirement is set for couples and individuals and is a one off test which once taken is never revisited for the individuals involved
* I agree that if you are looking to measure minimum income, a life annuity should be included. If an asset test is not agreed, I would suggest this should also be extended to a portfolio of fixed income securities or investment in a fixed income fund which pay sufficient income to match an annuity. These would need to be placed in an appropriate 'no withdrawals' account. Whilst this wouldn't provide complete guarantees - it would allow for asset allocation into fixed income securities as part of an asset allocation which is appropriate to individual circumstances and needs, and the risk to the state would be minimal as the capital would still be available should other assets be spent
* Less and less income will be provided with guaranteed LPI increases - the move is towards individuals carrying some risk. This is inconsistent with the state then looking for elimination of risk So the whole indexation issue of testing of an MIR is going to create practical problems for individuals - the only way they can comply fully is to buy a guaranteed product. I would suggest instead the asset test or a simple level of investment income test at a point in time or averaged over three years.

The level of MIR and how it should vary for different ages and marital status

* Assuming you apply one, I think the MIR should be a simple indexed income requirement which equates to the point at which on average means tested benefits apply

Whether there are unintended consequences of their proposals which should be considered

* If implemented as suggested, demand for index linked/escalating life annuities will increase dramatically as most are currently fixed single life. This index linking will dramatically reduce the typical payments achieved for a given lump sum and so the tax paid. Again elimination of risk = cost to supplier to cover all eventualities = worse value for customer!
* The taxation of remaining assets at what will be perceived to be a prohibitive rate, will discourage individuals from planning their retirement income according to need - they will also complain bitterly if constrained from withdrawing money, but taxed if they leave it!
* The restrictions/reduction in tax relief on pension contributions has already provided less of an incentive for individuals to live with the constraints putting money into a pension means (primarily loss of access and flexibility). Whilst the removal of annuities is to be welcomed, onerous taxation on remaining assets and requirements to prove you will not rely on the state will both act as significant disincentives to individuals doing the very thing they need to do - save more for retirement. The big issue is not MIR but getting the size of savings pots bigger

* The fundamental treasury mindset shift which has to be made from ' pensions money is ours to control as we gave tax relief on it' to 'pensions money is for treasury to encourage and individuals to own and manage' will not happen if complex restrictions which are incomprehensible to many continue to be applied to the use of such money

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I wish to contribute my responses to the consultation document, issued by the treasury, concerning the removal of the requirement to annuitise pension savings by age 75.

My contribution is that of the holder of a self invested personal pension who has never voluntarily contributed to a pension since leaving a defined benefit scheme 24 years ago. The changes to the pension rules relating to Protected Rights, which finally occurred towards the end of 2008, provided me with a long awaited chance to run my own pension arrangements. Since taking a transfer value of my old pension into a SIPP, I have enjoyed building up my fund value substantially by successfully investing in shares of UK companies. The reason for my disinterest in pensions over that long period was a conviction that the pension products offered by our financial services industry produced poor returns, particularly in comparison with the returns I obtained over many years by stockmarket investment, and the poor value I perceived in annuities when compared to readily available income returns which could be achieved by investment in a portfolio of blue chips, preference shares etc.

¨ In this respect, for example, at the time of writing this, the GAD at 65 is 7.2%, giving a maximum drawdown allowance of 8.64% of fund value for 120% drawdown, and there are currently 51 bank and building society preference shares, contingent convertibles, or pibs, paying dividends in excess of 8.64%, of which I'm aware. The 7.2% from the GAD tables is based on a 15 year gilt yield of 4.5% (edit: currently lower but the principle holds good, in fact even more so), which could also be consistently exceeded using utility share dividends and many other capital instruments provided by a wide variety of FTSE companies.

My responses: provided in blue

Developing a new tax framework for retirement (Chapter 2)

A.1 The level of an appropriate annual drawdown limit for capped drawdown.

I believe that the current caps (120% of GAD to 75 then 90%) are fine, with a sensible proviso that when the second partner in a marriage dies, the remaining fund (within an appropriate limit of say £100,000) could be left as a pension fund to the surviving children of the marriage, as an alternative to becoming part of the estate for inheritance purposes. This would mean that the 90% cap after age 75, which is reviewed annually in value terms, would enable the pensioner to benefit from good investment by having an increasing pension, while minimising the risk of total depletion, and allowing the pensioner the satisfaction, in exchange for reducing depletion risk, of bequeathing any remaining fund tax free as a pension contribution to their children on death.

In my case, this fair treatment of residual funds by allowing a reasonable amount to benefit my children in the form of a pension, combined with not having to waste my time and money by making use of our financial services industry for either investment or annuity income, would have made a huge difference to my investment decisions as a young man.

Perhaps the use of age 75 from the GAD tables to calculate drawdown for all years beyond age 75 should be made a little more fair, by changing it to say actual age less three years, from age 78.

A.2 Its intended approach to reforming the pensions tax framework, in line with its commitment to end the effective requirement to purchase an annuity at age 75.

I believe this is an excellent start to the task of attracting those who will not use the financial services industry to provide for their future, into the principle of pension investing.

Minimum Income Requirement (Chapter 3)

A.3 What income should be considered 'secure' for the purposes of the MIR and whether proposals for the life annuity income that can be considered for the MIR are practical and appropriate.

This is presently a savage shot to the foot, in my opinion. You are judging the long term "creditworthiness" of people like myself (and I believe the burgeoning growth of SIPPs indicates that there are plenty of similarly minded people out there), on the basis of our buying an annuity to provide the "guarantee" that would release more cash from our funds. As most of those holding SIPPs and using drawdown loath the annuity industry, this again becomes two steps forward and one step back, making pension investment again a second best alternative. Since in principle an annuity simply depletes at a given rate over the anticipated lifespan, would it not be possible to allow those who maintain investment control of their funds in drawdown to periodically (say in line with the drawdown reviews every five years to 75 then annually) have the right to a simple extra cash withdrawal of any excess over the drawdown commencement value of their fund, or a proportion of the difference between their residual fund value and the calculated depleted "annuity" fund which the insurance industry might have held if an annuity had been purchased.

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I suggest that a marked improvement would be to define "dependant" (to whom pension fund residues may be passed without a tax charge) as "any person who is or was at any time a dependant of the deceased".
That would encourage the concept of family pension schemes with the benefit of removing reliance on state benefits to a second generation. Of course by opening up this possibility there is a short term loss of revenue to the exchequer, but this could be compensated for by allowing

such transfers to dependants' pension schemes subject to a tax charge at the standard rate of income tax at the time.
This favourable treatment would only apply if both the deceased and the dependant(s) were UK resident for tax purposes.

All other transfers I suggest should be subject to a tax charge of the higher of:
(i) the standard rate of income tax at the time; and
(ii) The highest marginal rate of income tax paid by the deceased in any of the three years prior to his death.
That would be fairer by not over taxing the small funds and yet catching the high rate taxpayers currently liable for 40% and 50% marginal rates.
The blanket 55% rate is probably too high in this context, but brought into line with the 50% highest income tax rate would be seen to be fair. There will of course need to be drafting to prevent abuses and deal with non-residents, non doms etc.
Finally the fact that a pension may be passed to a spouse or civil partner without tax charges could perhaps be made crystal clear.

There seems to be an anomaly in that the 25% tax free sum must still be taken by 75 when that date has no other significance.
It is more logical that it has to be taken at the time of taking an annuity or going into drawdown.

Finally, my compliments to the draftsman of the consultation document. It is a model of its kind.

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Income from an annuity bought with non-pension money (purchased life annuity) is partially tax exempt because such income is deemed in part a return on capital and in part the result of interest which would be taxable.

ISAs are tax incentivised savings based on the model of taxed, exempt, exempt (TEE).

I would like to propose that if a person chooses to use ISA funds to purchase a life annuity then the income from such annuity should be completely tax free. This is fair because it maintains the TEE model which applies to ISA savings.

This is relevant because many people arrive at retirement date with a mixture of ISA and pension savings and must consider how best to use all their savings to achieve retirement income. Some people may wish to use ISA funds to purchase a life annuity. However at present there is a disincentive to use ISA savings to purchase an annuity because the TEE status of ISA funds is lost on annuity purchase.

Since annuity purchace is no longer to be compulsory, it becomes more important to the annuity industry that people should not face a disincentive to purchace an annuity using ISA savings when this may be an appropriate option for many people.

An appropriate purchaced life annuity could count towards the MIR thus unlocking greater drawdown flexibility from any pension funds.

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Background.
I am aged 65 enjoying good health and continuing to work part time, which I expect to do until 70 when I will start to draw the state pension. My income requirements are met by investment income and two small pensions in payment together with my modest earnings. I anticipate that situation to continue after age 70. I have built up 2 pension schemes from which I am making no withdrawals and therefore wish to delay payments for as long as possible to be enabled to maximise the income in the most flexible way to meet possible care costs for myself and my wife.
Consultation comments
The main proposals are very welcome and will provide the flexibility needed to ensure independence from the State. This is something which my wife and I particularly value and are pleased with the ideals behind the changes.
Proposal
However I consider there is a trick being missed by the proposals which could have a longer term benefit to the State and help reduce the pension burden for future generations.
The ability to pass on unused benefits or pension pots to dependents (in my case my wife) is excellent as this aids independence. However the high tax charge for any unspent balance on our joint deaths, whilst benefiting the Treasury in the short run, is not the best way of ensuring the general thrust of the whole proposal of limiting State dependence on retirement.
Would it not be better to allow such balances to be passed on to the next generation (either by Will or some nomination process) but ringfenced in a way that ensures it can only be used for pension provision for themselves and their dependents? The application of a lower tax charge and a suitable investment vehicle for this purpose would make this an attractive proposition. There need be no ability to draw a tax free lump sum as a fiscal balance.
It would go some way towards lightening the burden of the deficit on the next generation and reduce their likelihood of being dependent on the State in their own retirement in the future.

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Inasmuch as it is a reasonable premise that the UK state pension is set at a level which allows modest - if not luxurious - survivability in retirement, it would seem equally reasonable that the MIR should be set as a multiple of the UK state pension.

This avoids any issues associated with:

* Separating incomes, MIR's or state pensions (or other parameters) into housing and non-housing costs.
* Identifying specific deflators to use with MIR as opposed to state pension.
* Separate and non-automatic calendars / mechanisms for adjustment of the MIR.

A factor of 2 - 3 would seem to give a pretty conservative value for MIR.
IE If the individual / couple have a demonstrable income (pensions, inc state - actual drawdown or what drawdown would be in today's money for people under state retirement age; sustainable investment income etc) of 2 x state pension they should be able to start drawdown in excess of the cap and realise full drawdown at an income of 3x state pension.

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Age 75 consultation, Pensions and Pensioners Team:

Response to A1, A3, A4, A5, A8 particularly from point of view of a couple who have worked in EU and have difference in age...

A.1 The level of an appropriate annual drawdown limit for capped drawdown.

Whilst setting a limit too high could lead to over-drawing and associated problems, too low a limit is equally problematic in that it could lead to individuals being led into taking annuities earlier than they would otherwise wish; either due to short-term financial necessity, or through aggressive sales practices by annuity providers.

In defining the appropriate limit, the focus needs to be on keeping options open for the individual. It is important not to create situations whereby the individual perceives short-term gain from either annuity or draw-down at the time they are reviewing their options. That is, the potential for the individual to switch to annuity should be continuously open and imply neither immediate income reduction nor increase at whatever time the switch is contemplated. Thus, the annual limit for Capped draw-down should be _computed such that the individual retains funds that can be reasonably expected as sufficient to purchase an annuity in 12 months* time that will provide an income level thereafter equivalent to that income obtainable if an annuity is purchased with all current funds this year_.

If calculating this is too complicated then a close proxy may be appropriate, say at or about 100% of equivalent annuity income, and that being reassessed every 12 months*.

*assuming 12 months is the normal review period; alternatively 24, 36 or 60 months.

A.3 What income should be considered 'secure' for the purposes of the MIR and whether proposals for the life annuity income that can be considered for the MIR are practical and appropriate.

Annuity income that is NOT index linked also needs to be considered 'secure', but valued at a discount to allow for the effect of inflation over time (per life expectancy).

This is necessary as index-linked annuities represent very poor deals for a lot of retirees, especially if ongoing benefit for their partner is a priority, and most critically where there is an age difference between the partners. Requiring annuity income to be index-linked for inclusion in the MIR assessment will have the effect of leading some individuals into taking annuities which are not the most suited to their circumstances, i.e. creates incentive towards index-linked without provision for a younger partner. So, whilst defining annuity income only 'secure' if it is index-linked may avoid having the retiree requiring state support, it may increase the likelihood that their surviving younger partner ultimately requires state support instead.

Pension income needs to include state pensions from other countries, and pension income from overseas private pensions (at a minimum from EU). Valuations of overseas pension income should not be subject to spot exchange rates on a particular date, but use some form of historic average.

A.4 What an appropriate level for the MIR should be and how the MIR should be adjusted for different ages.

The ONS expenditure needs at circa £337.70 per week for a couple seems sufficient at age 55 assuming they own their home, yet not excessive for active 80+ year olds.

There is no reason to adjust for age. It's fundamentally wrong to assume 80+ year-olds in thirty years time will be as inactive, economically or physically, as those who are 80 now. It is more meaningful to look to Florida and see just how active 90+ year olds can be when they have the benefit of decent incomes.

A.5 Whether a different MIR should be set for individuals and couples.

It is essential that MIR is set for couples as it will be mostly couples making use of draw-down. Annuities are better deals for single people, offering poor value to many couples. Relative to annuities, the draw-down schemes are most advantageous to couples with significant age difference between partners; it will be this sub-group that will take advantage of the scheme in proportionately higher numbers than other groups.

A.6 How often the MIR level should be reviewed.

To be fair and equitable from one year to the next, MIR will need to be adjusted annually to allow for inflation and budgetary changes to income tax rates or personal allowances.

To meet the MIR objective of ensuring participants do not fall back on the state prematurely, it will also need to be reviewed at the time of introduction or removal of principle state benefits. For example, if a national care service or national care insurance scheme were to be introduced then this would materially affect income requirements in the last years of life, and the MIR calculation impacted.

MIR should not need to be reviewed at any other time unless there is evidence that the take-up rate for flexible draw-down is unnaturally low, or that MIR is failing to protect the Exchequer. There will need to be regulatory oversight of the scheme, and the regulator should be expected to recommend or instigate a review if quantitative data is available to show that this is appropriate. Fixed frequency reviews should not be required.

A.8 Whether other legislative or regulatory barriers remain whose removal would enable industry to provide consumers with more attractive products without incurring fiscal or avoidance risks.

Need to promote use of more substantive underlying income generation as the basis for annuities, reducing reliance on bond and equity returns. In the Netherlands, for example, pension funds are major players in the residential rented property sector, letting residential property on contracts with index-linked annual increments to rental income; thereby generating income that is highly predictable, index-linked, and that outperforms bond returns over the long-term. Providing a framework for pension companies to invest directly in the construction of a substantial amount residential rental property could also help address the nation's housing shortage without producing another credit bubble.

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I am delighted that the Government announced in the Emergecy Budget that it plans to stop the requirement to buy an annuity by the age of 75 from April 2011. Also relieved to see that the Emergency Budget stated that "Legislation for transitional arrangemtns will be introduced.......for those ......... who will reach 75 in the meantime". That's me, with my birthday next January! Although I don't yet know what these transitional arrangements are.

The reason I am so pleased is that when I first took out a "drawdown" pension scheme, and having other and sufficient sources of income and investments, it was my intention to "build" (perhaps to the benefit of my heirs), not "milk" my fund ......but Labour changed the goalposts! So I am very pleased that both Conservatives and Lib-Dem pledged to change the requirement, particularly with annuity rates so poor. This is a much fairer arrangement, particularly for those with other finances.

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The Government's proposals are sure to be generally welcomed but I feel that in framing the forthcoming legislation, the Government will have an opportunity to remedy a long existing anomoly.

Having regard to the Government's desire that as many of the population as possible should be encouraged to make provision for later years so as not to be a burden on the State, it is surprising that a section of the population is prohibited from making pension contributions.

Under current legislation an individual is, subject to overriding limits, permitted to make pension contributions up to the limit of his or her earnings. An individual with similar income derived not from earnings but as an example, from property letting, cannot make pension provision in the same way except for an insignificant £3600 per year. Why should there be this distinction? Both will have similar needs in later years and both could be a burden on the State if adequate provision is not made.

I accordingly submit that it would be just and equitable that a taxpayer be permitted to make pension contributions in any year up to the total of his or her taxable income from all sources subject to whatever overriding limit is considered necessary. I further submit that there should be provision for persons without taxable income to be eligible to make nominal annual contributions of £3600, this figure being revised to current value and indexed in future years. The £3600 limit was set in 2001 and has never been revised.

If the Government sees merit in these proposals but is prevented from enacting them on account of cost to the Exchequer, I submit that the extra cost should be taken into account in setting the level of the proposed overriding annual limit on contributions so that the resulting cost is neutral.

I commend these proposals to the Government as a way of ensuring that a wider section of the population will have an opportunity to make pension provision currently denied to them and I hope they will find their way into the proposed legislation

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Developing a new tax framework for retirement (Chapter 2)

A.1 The level of an appropriate annual drawdown limit for capped drawdown.

Currently as this is linked to the annuity return presumably this will continue unless the MIR is achievable through other pension sources. Once this is achieved is the only point of capping drawdown would seem be  to avoid engineering taxation avoidance?

A.2 Its intended approach to reforming the pensions tax framework, in line with its commitment to end the effective requirement to purchase an annuity at age 75.

A very sensible and overdue amendment to legislation.

Minimum Income Requirement (Chapter 3)

A.3 What income should be considered 'secure' for the purposes of the MIR.....

A difficult question:

. MIR should be sufficient that the pensioner will not need to receive any additional income related benefit from the State, but,

. How does the Government intend to factor in the possibility of the need for residential/nursing care in later life?

......and whether proposals for the life annuity income that can be considered for the MIR are practical and appropriate.

The proposals seem generally to be practical and appropriate but they need to take sufficient account of the increased and increasing cost of care to the infirm and the support needed for elderly.

A.4 What an appropriate level for the MIR should be and how the MIR should be adjusted for different ages.

Provided that an inflationary figure is included the MIR should keep pace but on the one hand there could be a scaling down as age increases and the need for income possibly reduces but on the other the cost could escalate exponentially where professional residential/health care is required.
Perhaps this demonstrates the need for actuarial assessment or the need to build insurance into the MIR even if this means the MIR appearing to be high.

A.5 Whether a different MIR should be set for individuals and couples.

Simple answer - Yes.

A.6 How often the MIR level should be reviewed.

In order for the scheme to work it seems that , once set, the MIR must remain at the same figure for the lifetime of the qualifying pensioners.
Every five years a general reassessment for future pensioners could then take place.

A.7 How to minimise unnecessary burdens for individuals and industry in the assessment of the MIR.

Accuracy and fairness in assessment should be regarded as more important than burdens on industry and individuals.

The UK annuity market (Chapter 4)

A.8 Whether other legislative or regulatory barriers remain whose removal would enable industry to provide consumers with more attractive products without incurring fiscal or avoidance risks.

No comment

A.9 How the industry, Government and advice bodies such as CFEB can work to ensure that individuals make appropriate choices about what to do with their retirement savings in the absence of the requirement to purchase an annuity by age 75.

Ideally the Government should provide the unbiased advice the industry might not . The unusually clear information on the consultation paper is a good start ! Tthe use of IFAs could be recommended - although my experience is that these are rarely truly independent and of very limited value.

A.10 Whether the proposed reforms have unintended consequences that may affect the market's ability to supply annuities at attractive rates or prevent the annuity market being able

to meet likely demand for annuities.

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I have read the document but I question the proposed very high tax recovery rate of 55%applicablele to unused funds where no "dependent " applies. Such amount is exorbitant considering that so many folks have only enjoyed standard tax relief.
When the pension payee dies its almost certain the only dependent is the spouse (children are likely to be over 23 at that time). Then on death of the spouse the 55% tax kicks in.! The position is even worse if pension payee is single. The reality is that 55% tax is unjust to most folk and needs to be lowered substantially - otherwise Treasury is giving with one hand and taking with the other. It certainly won't encourage folks to effect pension policies if they appreciate the enormous clawback.

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I propose a person should be able to transfer their pension fund to the treasury at age 60-65, then draw on it at say 5% per annum. The remainder returning to the person's estate should they become deceased. Very few people actually reach 80 years old, so after the fund is expired, you return to basic state pension. The treasury would become trustees of a huge pension fund, people would not lose out on the pension fund should they have a premature death. Its a win-win situation.

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I have a 42% share in a self administered pension scheme and the value of my share is approximately £550,000. I am aged 73 (dob 03/08/37) so have been very concerned that I might have to take out an annuity at age 75 as, having looked at the annuity rates I would only get less than half the income I am able to draw now. In addition, if I die before attaining age 75, I would be able to pass on my share of the scheme to my wife, whereas should I wish to protect her for the future, I would have had to have taken a joint life annuity which would have given even less income.

I have been drawing 120% of the current means of assessing the amount I can draw, but have reduced this to 100% for this current year as the income coming into the scheme has dropped. As our assets are all in commercial property, it would be necessary to sell one of them to meet the income as by drawing 120% I am drawing more from the fund than my share of the income from rents.

I feel that if I can draw down the income (less costs - which are minimal as we administer the fund ourselves with just a consulting actuary to pay), hopefully the rents will in future increase again, increasing the income which in turn allows something towards inflation without reducing the capital in the fund.

My wife is 5 years younger than I am, so I want to be sure that she can benefit from the scheme to the full assuming I predecease her.

You have asked for opinions on the new proposals.

1/ I certainly do NOT wish to but an annuity in 2 years time.
2/ The maximum draw down level, namely 120% should continue without having this 'magic' age of 75 taken into consideration.
3/ It may be that there should be a minimum percentage to stop people accumulating large amounts of capital to hand on to the next generation - say 50% or even 60% (i.e. half 120% above).
4/ Transfers between husband and wife should be allowed as now but for all ages.
5/ Dealing with the residuary fund, once both beneficiaries have died could be done in one of two ways:- a) it could be simply added to the estate of the deceased and taxed accordingly, or b) it could be taxed at the highest rate of income tax which in effect means the Treasury gets back both the tax which was originally allowed when the beneficiary was putting money in, and also benefits from any capital gain in the same way.
6/ I do not see any point in having different MIR rates for different ages as this only complicates the issue, but it may help for lump sums to be taken by the scheme (but subject to tax) should this be needed for medical purposes (i.e. pay for health care or a retirement home).

I am not able to comment on other facets for schemes which are different to mine, but hope the above will be of some interest.

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This response considers your plans to set the recovery charge at 55% for all ages.

I think this is a mistake, leading to a lower tax take.

Individuals will take the maximum drawdown income from their fund possible in order to "bust" the fund as quickly as possible. Individuals will then place the funds outside the reach of estate taxes (typically by gifting the monies).

If the recovery charge were at a more reasonable rate of 35-40%, individuals would be more inclined to treat drawdown as a "proper" tool for providing long-term income and much less inclined to "bust" the fund. The monies recovered by HMRC would (in my view) actually be greater with this lower recovery charge.

In my view, when talking to clients about paying tax, an important change occurs in most people's thinking between rates of 40% and 55%:

* At 40% clients (grudgingly) accept the tax. (Probably because they are anchored to this number by the old higher rate income tax and IHT rates).

* At 55% clients say "What? How much? I'm not bloody paying that! What can I do to stop those thieving ****** in the government getting their hands on my money!"

Anger is a powerful motivator.

I do hope you listen.

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I would like to add a comment on minimum income requirement.

I would propose that ALL of a pensioner's income be taken into account and additionally the level of savings and investments outside the pension pot be taken into account too.

Although I do not draw down my pension at all, my income from investments generally is such that I shall never be eligible for additional state benefits of any kind.
I would suggest that at the start
of a drawdown process the pensioner states his/her savings and investments and it then becomes their responsibility to maintain them.

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I have seen comments on the Consultation Meeting held September 8th to the effect that the Insurannce industry has expressed doubts as to its ability to prepare itself for the introduction of the raft of new rules involved in the Consultation Proposals Document of July15th.

Is this not an argument in favour of simply removing from the current Unsecured Pension / Drawdown rules, as laid down in 2005, the requirement to buy an annuity at age 75, and leave all the other rules in place.

I took out such a Drawdown in 1995, and it has served me very well, and I have been perfectly happy with all of its rules with the sole exception of the despicable imposition of the compulsion to convert my fund to an annuity at age 75.

There must be many thousands of other people who find themselves in the same situation.

If the Treasury accepts the Government`s expressed desire to simplify complex regulations, without any interruption of Revenue flow, then this single reform would surely satisfy these conditions.

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For the personal attention of Mark Hoban MP Mark, I have been in correspondence for some time with Gavin Williamson and his predecessor, Sir Patrick Cormack, regarding the horrendous charges imposed by the financial institutions on people's personal pensions.
Today I received a copy of a letter sent to Gavin from yourself in response to items of correspondence sent to Iain Duncan Smith.
I am encouraged by the content of the consultation document which I have looked at on the website. However I wish to stress to you that there is a huge weakness in the content of these proposals in so far as they do not tackle the problem of the charges imposed by the financial institutions. I note the content of the penultimate paragraph of your letter regarding charges not being regulated by government and whilst I respect the comments you make this is not the answer. The fact is that draw down is limited to a percentage of the fund which does vary according to age, but for someone retiring at 60 years old is 6% of the fund. This is regulated by the government, it is part of current pension legislation. The minimum "administration charge" levied by the pension provider is 1.5% of the fund value. You are a Chartered Accountant the same as I am, it shouldn't take you long to work out that for every £100 taken out in pension benefit an individual is forced to pay out £25 at least in charges. However one apportions the responsibility for who regulates and controls what, this outcome is disgusting and totally unacceptable I don't see why I shouldn't be allowed to take the whole of my fund and put it into fixed interest bonds which even today one can easily get between 4 and 4.5% returns on. Two years ago I was getting in excess of 7% on such bonds. There is no risk to the capital and I am saving approximately £7,500 per annum in charges. I encourage you to look at what fixed interest funds are returning for the pension providers at the moment. It is nowhere near what I can achieve for myself.
I am attaching a letter which I sent to Gavin last week which I hope you will find of interest. I have said to Sir Patrick on several occasions that when committees are set up to look into problems, generally speaking their first names are either Lord, Sir, Major, or Colonel, nobody ever has a voice to represent the man in the street.Consequently we invariably end up with inequitable results like this where the real charges imposed are 25% of the benefits. Nobody on these committees ever has the vision to realise how much the Pension providers will take advantage of the situation to rip people off until it is too late, and when challenged the useless ombudsman will hide behind the standby response "It is a commercial decision"
I note that you may be looking to appropriate personnel to participate in consultations. Believe me I am your man.

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I am a private individual who started a personal pension defined contribution (D C) plan in 1975 on the advice of my accountant with Equitable Life (E L) and have regretted it ever since. I transferred my money from Equitable Life to another company before Equitable Life went bust and have sat on the side lines ever since watching the downfall of pensions starting with the Robert Maxwell scandal , the broken government promise to workers that their pensions were 100% save, except for the 140,000 employees whose pension schemes collapsed between 1997 and 2005 . There's the ongoing scandal when Gordon Brown scrapped Advance Corporation Tax (ACT) removing a tax benefit to pensions. The removal of tax credits on share dividends may not sound particularly harmful, but it has resulted in the greatest pension scandal of all time.

There is also the requirement to purchase an annuity by age 75 which is another rip-off. When I started my pension in 1975, Equitable Life told me they would pay me a pension of £12,000 to £14,000 p.a. for every £100,000 in my pension fund at age 65. Firstly Equitable Life no longer exists, and all other companies are only offering between £6,500 and £7,000 to. This is worse than the lottery and that is what I and every body I talk to think of pensions. A half price rip-off, are pensions no more important and probably the reason why so many people ignore pensions and retire unable to support their life styles and rely on government handouts.

I stopped paying into my pension plan after 11 years and have since invested into PEPs and ISAs because I consider retirement income is absolutely essential. PEPs and ISAs do not give tax relief on contributions but are far more flexible compared to pensions. Money can grow tax free and can be taken out tax free at any time.Compare this to an annuity where income is taxed at up to 40% and with tax rates of up to 82% on death. Not giving tax relief on contributions must be a massive short term saving to government on ISA retirement plans.

I therefore recommend that pensions be scrapped with such a bad name and history and replaced by retirement plans based on ISAs. Pensions are so very expensive because they are so complicated and full of legislation which nobody understands. Pension experts are saying that education levels have to be so much higher to understand and sell pensions today which is driving sales costs ever higher.

You could call a retirement ISA a RISA, this is the KISS principal, Keeping It Simple Stupid.

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I have read the proposal with interest and as a 54 year old, married with
2 grown up children we have been looking at all aspects of pension regulation lately.
While I appreciate your propsals I would like to go a little further and offer something that could make more of society totally independant in a quicker manner.

I have a pension from a previous employer - currently held in limbo with a transfer value of 159K. I would like to swap it to a SIPPS but there are 3 catches. Firstly, despite being an accountant I have to join a reistered scheme and pay someone else to vouch for me even if I administer the scheme myself. They will charge if I put mre income in or move things around. Secondly I can invest in shares (bad idea) or commercial property
- I cannot purchase buy to let and use an end of the "needed" market to grow my pension. Finally
- when pension day comes, I can not switch the income from my property into pension earnings and leave the capital to provide a pension for the next generation I must sell up and buy an annuity or go without income.

My proposal is allow those who wish to set up their own scheme to register directly with the Inland Revenue. If the people wish to buy property,governed by the existing limits of borrowing on SIPPS investments they must register each property with the revenue who put a mark on the Land Registry to prevent unauthorised sales. Each property registered can incurr an administration charge of say 100 pounds for administration. The administrator/Pension holder can prepare accounts every year to show the increase in pension funds and at retirement can opt to sell 25% of property as a cash sum and with the remaining investment CHOOSE between buying an annuity or keeping the investment in the pension pot and taking the rental income as their taxible pension. If they choose to keep the investment and take an income from it then they propose the inheritors of the scheme - usually husband/wife first then children etc.

When somene inherits a scheme they could opt to take it as an inheritance and pay inheritance tax on the value (perhaps if they do not live in UK), or they could make it their own scheme and add to it or merge it with an existing scheme. In this way instead of an annuity dying with the holder and profits going to a company some can pass on a "living pension pot"
that increases with every generation and starts to remove people from pensions and benefits provided by the state. The administration fees paid to Inland Revenue/ Land Reistry are not great but they are going directly into the government pot and the provision of rental housing could eventually remove the need of government to invest in new build "council houses" I suppose many will still opt for paid administrators and annuities as currently exist but it would be wonderful to let those of us who want to generate some benefits do so.

If you would like to give this serious consideration, I would be only too happy to be a test case and let the revenue oversee what I will do.

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Question A.3 and A.7

All *non-UK citizens* *residing outside of the UK* should be excepted from complying with the requirements of the MIR since they will never fall back on the state for assistance as they already give up their previous residence in UK and do not intend to return.
Eventually, that could be stipulated as a condition to comply with the MIR requirements!

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Further to our response I would also like to add we question the use of dual rate death benefit taxation. Why a higher rate at an arbitrary age point. Please settle on one rate for all ages e.g. 35%

We see considerable avoidance for the super rich whilst ordinary level savers are penalised.

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I understand you are asking for the public to comment on the above.

Overall it will be a good move if the obligation to buy an annuity is

reemoved.   What however I do not like is to read is the suggestion that
in certain circumstances outlined in your paper, you will apply such a high tax rate (55%).

For example in my case I have always been a standard tax rate payer, so in the circumstances shown on one of your pages, why should such a high tax rate be applied.

Just looke again - circumstances are mentioned on page eleven

My reply as undernoted:

Page 8 box 2, item 5 and moreso page 11, point 2.2   - Peoposed tax rate
of 55%.

I appreciate Trasuey wants their share but :

(a)  You'll encourage pensioners AND subsequent imediate dependents to just "blow" the fund, rather than one day have this 55% rate hanging over dependents in the circumstances described on page 11 etc.

(b)  Single folks , by this high tax rate, will certainly be encouraged to spend much more of their accumulated fund.

(c)  How about all those folks whove only had standard tax relief on the premiums - extortionate to one day think the Treasury will take 55% in teh circumstances outlined in the above m,entioned sections.

(d)  How will Govt encourage folks to effect pensions , once they become aware of the high tax rate in the circumstances outlined in the paper.

(e)  How many pensioners have chikldren under 23? ----- 0.0000001% !

There _must_ surely be a way of  not penalising the average Joe Public who will be  just a standard tax payer when pension fund comes to him/ her.  Its possibly fair to tax the person who is a high rate taxpayer when pension fund is released, but certainly its unfair foer the standard rate payer.

Thank you for acknowledging, subsequent to which I'd like to also  add point regarding taxation:

IF the pension pot (i.e. the 75% balance following a person drawing the pension pot) is taxed at that person's current tax rate, then why should there any unused balance in certain circumstances stated) be again
taxed?   And at 55%!!!
Incidentally I fully appreciate that additionally the persons total estate is subject to inheritance tax  but ignoring inheritance tax, the Treasury is taking two other taxes before inheritance tax applies.

That surely cant be fair.

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Sirs,

Please confirm that the exit tax on all pension funds will be the same [currently pitched at 55%] - except for death before age 75 with an untouched fund in which case 0% tax applies.

Can you also please give an indication of the thinking behind the 0% tax bearing in mind that pension saving is regarded as tax deferred rather than tax free [ item 2.21 of your document ] ?
Surely, if the tax were applied to all funds it could be pitched at a lower level.

*Dear*

*Thank you for your email.*

*I can confirm that the Government is proposing that all unused funds remaining in a pension scheme or drawdown arrangement upon death should be taxed at a rate of around 55%, as set out on p. 11 of the consultation document.*

*The exception to this is where someone dies before age 75 without having drawn any of their pension savings. In this case, death benefits will remain tax-free. This exception maintains the current tax treatment for such funds, which is a long-standing feature of the pensions tax system, and is intended to avoid disadvantaging the small minority of people who die early without taking any of their pension benefits.*

*Best regards,*

*HMT*

Thank you for confirming that the exit tax on all pension funds in drawdown is proposed at 55% - a move in the right direction so far as age discrimation is concerned.

I am, however, quite bemused that the government should wish to continue the existing 0% tax on funds not in drawdown prior to age 75. This is clear age discrimination and means that, for some, pension saving is tax free whilst for the majority - who, perhaps, are in greater need of a fund - [because of their longevity ] pension saving is tax deferred. Equality would be achieved quite simply by one tax on all unused funds which, presumably, could be pitched at a lower level.

Government consultation document ***"removing the requirement to purchase an annuity at age 75"***

A retired person's personal view of current obligatory annuity purchase.

A substantial pension fund I saved through an AVC with Equitable Life was invested when I retired into a with-profits annuity on advice from Equitable. Lack of proper Government and Treasury regulation of UK Life companies combined with the disgraceful management and policy miss-selling by Equitable Life resulted in a substantial loss with a significant cut in income.

Fortunately I had another pension which provides a regular income enhanced annually in line with inflation to a maximum 5% and this rather more stable income is augmented by the state pension.

Nevertheless, I have no control over my company pension and cannot be given an annual statement as to the current value of the original DC fund. It means that I or benefactors of my estate when I die will never know how much of the fund remains on my death and how much will therefore be retained by the life company. This is wrong and all annuity policies should provide an annual statement of the annuity fund value as well as an arrangement that any remaining funds at the death of the annuitant should form part of the estate of the policy holder. It is wrong that a Life Company can retain large amounts of funds secretively. It seems that these funds have accumulated very large surpluses [sometimes called orphan funds] which have been distributed by way of bonuses or dividends to Life Company shareholders. These recipients are not entitled to any such special payment as any funds remaining on death should have been repaid to the estate of the deceased policy holder. It has been legalised robbery.

**The new legislation expected in April 2011 is much welcomed and long overdue.**

I suggest that the consultation process considers the excellent paper written in 1999 by Dr. Oonagh McDonald CBE on behalf of AUTIF after that organisation first raised the matter of changing the annuity purchase obligation in the 1990's. In that paper, it was stated "who in their right mind would hand over voluntarily their capital savings over 40 years or more, losing all rights of control, for an annual return of perhaps less than 5% "? The paper went on to say "It must be a scandal to hand over forever ones hard earned and saved capital at retirement to an insurance company which will pay a return, only while you are alive, of currently less than a third that it will earn on it." This was government forced extortion and a gift for the insurance industry.

It is no wonder that young people fail to save for their future when the law compels an individual to hand life savings to another with no accountability or any right of control.

In March 2000, the Retirement Income Working Party set out an excellent report that outlined the primary objectives to:

*Provide adequate retirement income security for the remaining life of the pensioner*

*And*

*Eliminate the risk that the pensioner outlives his or her resources.*

I recommend that this report should also be carefully considered within this consultative process.

I recommend that the Irish pension scheme introduced in 1999 that abolished the regulation forcing pensioners to take out an annuity on retirement be carefully studied and used to provide a working framework to establish the new annuity rules for the UK. The Irish scheme works very well and seems to be fair both for the pensioner and his estate benefactors as well as for the state regarding taxation.

The consultation process should identify what types of fund managers and organisations will qualify to manage the pension fund capital as well as establish a very rigorous regulation of the industry by Government. A clear set of rules must establish the sound investment criteria that must be followed. It must allow the pensioner with his or her independent financial advisor, as well as the eventual estate trustee and benefactors, full control over the fund and allow for qualified annual statements to be provided by the fund manager that monitor the value and performance of the fund.

A minimum guaranteed income level must be set to protect the Government from becoming a financial support of last resort to any pensioner whose funds fail to provide sufficient income over the retired life span. This minimum income level must be ring-fenced before any remaining capital from pension fund saving can be used for alternative investment income. It would seem fair that some form of taxation on any remaining pension funds at death should be payable to reflect that during the pension saving years no taxation is payable. This part of the estate should be free of IHT if a one off tax is payable on remaining pension funds on death. The tax on dividends payable by pension funds introduced by Gordon Brown should be repealed. Saving for ones future retirement should be given great encouragement to make it attractive and this should be one of the key priorities when setting up the new legislation for pension provision.

I make these observations as a private individual having worked many years in international finance in the City of London and having now been retired has experienced the unacceptable face of current annuity regulation.

Dear Mr Deakin,

Age 75 Consultation

Firstly, many thanks for inviting me to take part in the meeting at the Treasury on Wednesday last which was very helpful in a number of ways.

The discussion raised some issues which we did not adequately cover in our formal Response Document, so I have included further comment below for your consideration

1) Although I was there representing about 1,000 of our members, it was a pity that mine was the only voice putting the pensioners' point of view as opposed to the large majority of other voices that were representing the industry. This lack of balance may be difficult to avoid but it highlights the need to distinguish between what the industry might or might not wish to sell, and what consumers actually wish to buy. No doubt the industry would say it too represents pensioners and it does to an extent, but on occasion the interests of pensioners and the interests of the industry do not coincide.

This was well illustrated by the discussion on flexible drawdown, where the lack of enthusiasm from the industry representatives stood in marked contrast with the views of the people I represent, who strongly welcome the opportunities that flexible drawdown will offer.

Whilst the industry may have commercial reasons for their reservations, their views can not and must not be taken to represent those of the pension holders themselves, whose needs they are there to serve. A stronger customer voice, and more flexibility, is critical to the future strength of the industry.

Flexible draw down will allow prudent pension savers to draw down lump sums of their own savings from time to time as they see fit within the safeguards provided by the MIR requirements.

Flexible draw down will also appeal to future generations of pension savers, who will respond to the flexibility of the arrangement as opposed to being told they can not draw on their own savings as and when they please even though they could satisfy the MIR requirements.

We believe there will be a far greater take up of flexible draw down than the industry representatives were saying at the meeting. This will result in sums being drawn down earlier than would otherwise be the case providing an earlier tax collection point for government, much of it at higher rates of taxation, an added stimulus to the economy and no risk to the state which will be protected by the MIR requirements. In short, we believe the proposals for flexible draw down set out in the consultation document are admirable, allowing the pensioner more freedom and flexibility which is, after all, one of the principal objectives.

2) We are at one with the industry in opposing the proposed 55% rate on the following grounds:

a) for most pension holders, it would be a gross over-assessment of the tax relief they had actually received

b) it would create a powerful deterrent for future generations to save by means of pensions

c) it would not produce revenue for the government due to migration of funds

My impression was that this point was taken on board by you and your colleagues and we therefore await the draft legislation with interest.

3) The narrowness of what is to be counted for the purposes of secure income was fully discussed and we are at one with the industry in recommending that other discounted products and some gilts should be considered for inclusion. .
In addition, there are those pensioners who have a great many non-pension assets that are not "secure" as defined in the document. We feel that consideration should be given to including such assets within the MIR calculations albeit discounted to some extent.

4) Clearly, the PRAG-recommended figures are well apart from the industry when it comes to agreeing the fair and appropriate level of MIR. The figures contained in our document are based on the current pension credit threshold whereas the industry, and I believe your department, considers that other elements of possible cost such as housing benefit and long term care should also be included. We would simply sound the warning that, if the level of MIR is set too high, only the very rich will qualify and the perception may well be that it is a return to the previous government's strategy of forcing the majority of pensioners into the annuity route. This will provide a difficult actuarial assessment and we look forward to receiving your conclusions.

5) It was depressing to hear the industry saying they could not be ready for new legislation in time for April 2011. I do hope the government and your own department will not be too swayed by these appeals. You have obviously worked very hard and very quickly to get these proposals as far as you have which has been most impressive particularly when set against the previous government's attempts to revise pension legislation – it would be a great pity if this government suffered the same ignominy of having to postpone it.

Once again, thank you for your time and attention.

# OBSERVATIONS RE PENSION CONSULTATION

SUBMISSION BY

## Background of author and general observations

I contributed to various self employed pension schemes from 1963 until 2006. I have given internal talks on pensions, investments and savings. I was head of Ropewalk Chambers, Nottingham from 2000 – 2006. For a number of years I was involved in dealing with high value matrimonial settlements. I sat as a Recorder in the County Court for many years. I have both a SIPP income and an annuity.

Having discussed financial matters with a variety of people over the years, including many supposedly well educated professionals, the main conclusion one reaches is that the general level of financial knowledge is poor. The level of advice given by so called professional advisers has frequently been poor. It may improve with the abolition of commission based payments. More often than not the low level of financial knowledge, coupled with stories of poor advice, has meant that too many people leave it too late to start proper consideration of their pension needs and how to satisfy them.

The proposals for an advice service are therefore to be commended. Quite how those advising will be trained is left open. Will there be liability on the body employing them or the advisers themselves should any advice be negligent? If so, will it be liability that is decided by a court or will it be a scheme liability which must be agreed to in writing before advice is given? Will those giving advice be confined to employees or will volunteers be trained to give advice at local centres, as part of the big society? If some scheme for volunteers were to be incorporated it might be possible to utilise the skills of people with years of experience, especially those who are (recently) retired. Would they be exempted from liability or indemnified under the scheme?

QUESTIONS

A1 The current method of calculating the maximum drawdown is too generous. Anyone retiring at 65 with a normal life expectation who takes the 120% maximum cannot realistically expect to earn sufficient in the current climate to ensure that he will have any money to pay a reasonable pension by the time he is say 80. The 120% should be reduced to 100% or possibly 90%.

A2 The requirement to purchase an annuity at 75 should be abolished.

A3 Only a guaranteed lifetime annuity can be considered secure. It should normally increase on a compounded basis by not less than the lower of 2.5% p.a. or CPI. A flat rate annuity should not qualify unless, by reference to life tables, it would be equal to or more than the current basic indexed requirement increased by 2.5% compound from the date of the application to remove the cap until the end of the annuitant's life expectation. It should not be difficult to obtain a certificate from the annuity company of the terms of any annuity. The obligation to request a certificate should be upon the annuitant but it must be sent by the annuity company directly to the SIPP provider so as to reduce the risk of fraud/misinformation.

A4 The appropriate level of MIR depends on what is regarded as needing protection. If the state needs protection from any claim whatsoever then the level needs to include a sum which would mean that the annuitant could pay for residential or nursing care in the event of need. That would require a figure of at least £30,000 p.a. excluding the state pension. If the state is to accept some of the risk of the need for care at some stage during a lifetime, then the figure can be substantially reduced. About, 25% of the population needs residential or nursing home care at some stage in their lives. Many more need home care. It would probably be sensible to factor in some of this risk by setting the MIR at £20,000 p.a. excluding any state pension.

A5 It is essential than any scheme should be:

fair

easy to understand

easy to calculate

not require recalculation

Any attempt to distinguish between individuals and couples would lead to problems. By way of examples:

1 What definition would there be for "couples"? Marriage is no longer a factor which could be used in isolation. Presumably a civil partnership would be construed as a couple. Does cohabitation, absent marriage or a civil partnership, need to be settled cohabitation? If so do you need one year or will 3 months suffice? The risk of dishonest answers is substantial.

2 If someone is divorced do you take into account maintenance payments or receipts?

3 If someone is single how do you take into account that he may marry? Do you impose an obligation to keep HMRC informed and then have a review?

4 What if there is an annuity which is above MIR and the court then orders that a spouse/partner or former spouse/partner has to be given a portion of that annuity?

5 Whether single or part of a couple do you look at other financial obligations, e.g. debts, mortgage or dependants? If a couple do you take the assets and liabilities of the other person into account?

Any system which tried to cover the potential variables would be unworkable. Simplicity requires that the MIR should be based on an individual's position at the date of the application to release the cap. There should be an obligation to inform HMRC and SIPP provider of any change in position between the date of the application and any decision that the cap can be released. Once released there should be no more enquiries. MIR should not be at the low level discussed in the consultation paper because that does not allow for any margin of error in setting up the new system nor does it give any cushion re even home care needs. There should be no enquiry into the state of health of the applicant. Getting involved in such detail is unnecessary and time consuming.

A6 The MIR figure required to satisfy removal of the cap needs to be reviewed every 12 months and rounded up by reference to CPI with a time lapse of 6 months between the date of the CPI and the start of the new amount.

A7 Adoption of the above proposals would keep the system relatively simple. Having set a high MIR, once a person has been released from the cap there should be no need to review his position as he grows older. If the cap is set too low then one might need some review provision to see how the annuitant is progressing in relation to the risk that he might become a burden on the state. The removal of the cap should not be an easy threshold because a lot of people are not good at planning for the future. Despite the fact that we are dealing with people who have had the foresight to plan for the future by joining a pension scheme, some may need to be protected from themselves once retired. A pension “pot” often seems to be a very large sum at the outset. However, unless carefully controlled what seemed a large sum may not be adequate for the current life expectation of the annuitant. Also, as they get older, annuitants should not be troubled by the need to keep on proving that they meet the ever changing threshold requirements. Nor should the scheme add to the burden such enquiries would impose on the industry.

A8 I am not in a position to comment

A9 More involvement with financial planning as suggested in the consultation paper at 1.4 would be a great help. More should be done in schools. However, the problem with having financial advice during the school years is that unless done in a very imaginative way it seems to lack relevance. Trying to keep the interest of a teenager in relation to his position in 50 years time is a true challenge.

A10 Consideration should be given to the question of calculating the Lifetime Allowance. On the assumption that it is kept, can the adoption of 20 years for a final salary scheme and 25 years for the self employed in relation to pensions already being received be justified? Also, 25 years is only really appropriate for a CPI or RPI index linked pension, in that it reflects a return on capital which is close to the cost of an index linked pension. Simplification could be achieved by adopting one figure for a flat rate pension and another for an increasing pension whether by a set percentage or index linked.

I am not able to comment on the commercial impact of not requiring the purchase of an annuity.

18th August 2010

Thank you for your email and in regarding the dispute I still have Barclays Life Assurance and with the terms and conditions, I have enclosed a table obtained from the FSA, moneymadeclear website today made with a few adjustments as the criteria filled didn't allow for ill health/early retirement under 50 and none do, so the formula below was based on:

**Male, aged 50, pot = £21,000 after 25% tax free sum, smoker, 10 year guarantee period, single life. e.g. this shows that using average of £85.00pm = £1020pa = (£21,000 / £1020 = 20.558 years ) to receive and equal to the amount invested, even so adding that the pot will still continue to make a small dividend and increase will not have a loss making effect for further years.**

Secondly I have highlighted in **bold** below my example, in which is similar too the analysis above, in which I feel has not been answered by yourselves, I have also taken this matter to Lord Turner and the FSA to help assist with the current white paper issued for future years.

In regards to your letter dated 8th May 2008, I feel I need to highlight and change the wording and perspective you thought was mine regarding the terms and conditions, **this is it would be better in £cash that the fund was paid as a death benefit in real terms than those asked to accept as payment of my monies accumulated for me**, which is in trust anyway, than too loose the extra 10 years not covered by the guaranteed period by Barclays Life Assurance, why not can the pension companies/annuity providers do this? I was not told that I would not get all of the investment back using the analysis shown.

The terms and conditions are not really set up to pay under early retirement through ill health or a life expectancy of 6 months or less, though Barclays is quite happy to enclose a wavier premium on HIV and pay under the conditions I live, that way they will make even more from me.

Barclays have already sought under it terms and conditions to cover is management costs within the first 4 years and then later want to further seek more from the monies made, **have they not already taken enough?** A question = Have Barclays under it annuities rate taken into consideration my life issues, HIV, the possibility not living like a normal person, having already granted me too access says that my Hospital doesn't think so either!

Thirdly could the FOS check with the number of claimants that have raised the same issues as me and look at the figures that have been upheld and rejected and to look at what grounds these have been, subject to this answer, I will have to wait to respond.

I would have top check the letter of when I first stated to dispute with Barclays Life Assurance. Even under the various options available to me which have pro and cons, none are really set up for my age and condition in the normal sense. Under the current legislation a pot of £16,000 can be paid if someone has less than 6 months to live, as my pot is sum £28K, this would no be applicable. A lump sum can be made upon death, the lifetime allowance on a pension is £1.5m Tax Free 2008/2009.

At the time, I was supplied many documents, brochures, paper etc. and at the age of 17 one didn’t truly under stand the full workings of the pension until the actual reality has a different perspective, 20 years ago and over that time I have had to deal with other matters and one places trust until the moment of now.

I would ask if you could again look at what I am questioning.

**Response to Consultation Paper issued on 15 July 2010 regarding the removal of the requirement to annuitise pension arrangements by age 75**

I am responding to the Consultation Paper as an individual with a Self Invested Personal Pension who has taken a keen interest in the legislation regarding the requirement to annuitise my Self Invested Personal Pension Fund by age 75 or suffer from political dogma.

This led me to exchange lengthy correspondence on the subject in 2007 with Edward Balls, who I knew personally, although I failed to convince him of the logic of my argument, let alone get any change in legislation from the Labour Government. This was followed up by correspondence with Kenneth Clarke, in December 2009, who I also know well.

I am therefore delighted that the present Government is prepared to effect a change in what are unfair and politically driven rules and would like to make the following observations which hopefully will be helpful in the consideration of the subject.

1. *It is agreed that there should not be any specific age by which people should be forced to annuitise.*
2. *Capped drawdown from a SIPP beyond age 75 is not unreasonable if kept at the level pre age 75, i.e. 120% of the amount of an equivalent annuity. However, if an individual can show a minimum additional income to that from the SIPP, say a full State plus Serps pension of around £14000 p.a. it is unnecessary to restrict the drawdown at all as the State would not have any additional obligation should the SIPP's assets be depleted through excessive drawdowns. If the figure of £14000 be considered too low then it should be possible to include income from the SIPP to meet the MIR which is deemed appropriate and the relevant capital sum determined necessary to produce this required to be preserved. The balance of the SIPP's funds should be available for use as desired by the individual.*
3. *The minimum drawdown proposed of 55% is reasonable.*

4. *It is accepted that unutilised pension savings at death, which have been accumulated with tax relief should be taxed, unless used to provide a pension for a dependant. However, I do not see how the suggested rate of 55% is justified and this seems to be too high. Surely a simple solution would be to just include the value of the SIPP at date of death on the individual's estate for the purpose of calculating Inheritance Tax attracting a charge of 40% on present rates. This would then be the same as the rate of tax on drawdowns from the SIPP whilst alive, which could be an alternative rate to apply regardless.*
5. *It should obviously continue to be possible for a SIPP in drawdown to be passed on to a spouse to continue to use as before without any tax charges on the first death.*

**31 August 2010.**

10TH SEPTEMBER 2010

REMOVING THE REQUIREMENT TO ANNUITISE BY AGE 75.

THIS WAS ANNOUNCED AT THE EMERGENCY BUDGET IN JUNE 2010.

YOUR DOCUMENT STATES “WHO SHOULD READ THIS?”
IT THEN LISTS ANNUITY PROVIDERS, PERSONAL PENSION PROVIDERS, INSURANCE INDUSTRY REPRESENTATIVE BODIES, CONSUMER ORGANISATIONS, INDUSTRY ADVISORS, PROFESSIONAL BODIES AND ALL OTHER ORGANISATIONS AND INDIVIDUALS WHO HAVE AN INTEREST IN ANNUITIES AND PENSIONS TAXATION.

IT IS REGRETTABLE THAT INDIVIDUALS ARE MENTIONED AT THE END OF THE LIST. ALL PREVIOUS PARTIES WHO HAVE A VESTED INTEREST, UNDER CURRENT LEGISLATION, IN NOT CHANGING THE EXISTING ARRANGEMENTS, ARE MENTIONED AT THE BEGINNING. I AM SURE THEY WERE INVITED TO THE CONSULTATIVE MEETINGS – HOW MANY PRIVATE INDIVIDUALS WERE INVITED?

IN ORDER FOR THE GOVERNMENT TO CONVINCE INDIVIDUALS TO SAVE MORE FOR THEIR RETIREMENT, INDIVIDUALS SHOULD BE EMBRACED AND RE-EDUCATED, RATHER THAN JUST THE ORGANISATIONS THAT EARN HIGH FEES/COMMISSION BECAUSE INDIVIDUALS ARE CURRENTLY PREVENTED FROM TAKING CONTROL OF HOW THEY SPEND THEIR PENSION FUNDS.

MARK HOBLAN, MP, SAYS, “THE GOVERNMENT WANTS TO FOSTER A CULTURE OF SAVING IN THE U.K. THIS MEANS THAT SAVING HAS TO BECOME MORE FLEXIBLE AND ATTRACTIVE IN ORDER TO ENCOURAGE PEOPLE TO TAKE GREATER RESPONSIBILITY FOR THEIR FINANCIAL FUTURE.”

PAGE 5 OF THE DOCUMENT STATES, “THE GOVERNMENT IS ALSO COMMITTED TO REINVIGORATING PENSION SAVING BY GIVING PEOPLE MORE FLEXIBILITY TO CHOOSE RETIREMENT OPTIONS THAT ARE BEST SUITED TO THEM.”

CURRENTLY, BEFORE AGE 75, INDIVIDUALS CAN DRAWDOWN THEIR PENSION (USP) AT 120% OF GAD RATES.
AFTER 75, INDIVIDUALS CAN ENTER AN ASP WHICH IS SIMILAR TO A USP, BUT HAS MORE RESTRAINTS – I.E. 90% OF GAD RATES (MAX); MIN DRAWDOWN LIMIT OF 55%.

CURRENTLY, AN INDIVIDUAL WHO DIES BEFORE AGE 75 BEFORE HIS PENSION HAS BEEN VESTED, CAN PAY OUT THE ENTIRE FUND AS A TAX-FREE LUMP SUM.

CURRENTLY, AN INDIVIDUAL WHO DIES AFTER AGE 75 (WHO IS IN ASP) CAN EITHER LEAVE THE REMAINDER OF THE FUND TO DEPENDENTS AS

PENSION OR DONATE IT TO A CHARITY. IF NEITHER OF THESE OPTIONS IS TAKEN, ANY UNUSED FUNDS ARE SUBJECT TO A PAYMENT CHARGE OF UP TO 70%. IHT MAY BE CHARGEABLE, RESULTING IN A TOTAL TAX OF 82%.

WHY IS THE CURRENT REGIME PENALISING THOSE WHO I) WISH TO USE THEIR PENSION AS INCOME VIA USP (PRIOR TO AGE 75); II) HAVE ENTERED AN ASP (AFTER AGE 75)?

THE GOVERNMENT STATES THAT THE PRIMARY CONSIDERATION FOR PENSION FUNDS OUGHT TO BE USE AS PENSION INCOME. YET IT SUGGESTS IT WILL ALLOW INDIVIDUALS WHO HAVE NOT ATTEMPTED TO USE THEIR PENSION (VIA USP OR ANNUITY) TO RECEIVE PREFERENTIAL TREATMENT BY REWARDING THEM WITH NO TAX CHARGE. THIS DOES NOT MAKE SENSE.

IT CLEARLY STATES ON PAGE 8, “THE PURPOSE OF TAX-RELIEVED PENSION IS TO PROVIDE AN INCOME IN RETIREMENT”, BUT IS CLEARLY GIVING PREFERENTIAL TREATMENT TO THOSE WHO HAVE NO INTENTION OF USING IT TO THIS END.

I AGREE THAT INDIVIDUALS SHOULD HAVE THE FLEXIBILITY TO DECIDE WHEN AND HOW BEST TO TURN THEIR PENSION SAVINGS INTO RETIREMENT INCOME, PROVIDED THEY HAVE SUFFICIENT PENSION INCOME TO AVOID EXHAUSTING THEIR SAVINGS PREMATURELY AND FALLING BACK ON THE STATE.

IT SAYS THAT PENSION BENEFITS SHOULD BE TAXED AT INCOME TAX RATES. IF ONLY BASIC RATE TAX IS ALLOWED ON THE WAY IN, THE AMOUNT OF TAX OWED SHOULD NOT BE PAYABLE AT, SAY, THE 40% LEVEL. PROTECTED RIGHTS PENSIONS, EVEN IN THE PAST, HAVE ONLY BENEFITED FROM THE BASIC TAX RATE. IT IS HARDLY ENCOURAGING, IF INDIVIDUALS COULD BE PAYING MORE IN INCOME TAX THAN THE INCOMING TAX BENEFITS RECEIVED.

THE DOCUMENT STATES THAT ON DEATH, ACCUMULATED PENSION SAVINGS SHOULD BE TAXED AT AN APPROPRIATE RATE TO RECOVER PAST RELIEF GIVEN (IF NOT TO PROVIDE A DEPENDENT PENSION).

SURELY, IF ONLY BASIC RATE TAX BENEFIT IS PROVIDED ON THE WAY IN, IT WILL NOT BE DEEMED ATTRACTIVE TO INDIVIDUALS TO PAY 55% AFTER DEATH, ON THE WAY OUT.

MY CURRENT FUNDS ARE IN USP. I COULD MAKE THE DECISION AT THE TIME TO PROVIDE PENSION INCOME (RESULTING IN 35% TAX ON DEATH). YOU ARE NOW RETROSPECTIVELY INFORMING ME THAT YOU INTEND TO CHARGE 55% ON DEATH. THIS IS CLEARLY UNFAIR; HAD I KNOWN AT THE TIME THAT 55% WOULD BE THE CHARGE, I VWOULD HAVE LEFT SOME OF MY FUNDS UNTOUCHED (SINCE THERE WOULD HAVE BEEN NIL DEDUCTION ON DEATH). I BELIEVE ANY INDIVIDUAL

WHO HAS ENTERED INTO A USP ARRNGEMENT SHOULD HAVE THIS “DEATH PENALTY” RING-FENCED AT 35%.

THE GOVERNMENT IS AIMING TO GO FURTHER THAN CAPPED DRAWDOWN. INDIVIDUALS WILL BE ABLE TO DRAW DOWN UNLIMITED AMOUNTS FROM THEIR PENSION POTS, PROVIDED THEY MEET MIR.

I AM AGED 60 AND TAKE MY RETIREMENT FUND VIA USP. I SUGGEST THAT MIR SHOULD CONSIST OF:

A) MY AMOUNT OF PREDICTED STATE PENSION AND PREDICTED ADDITIONAL PENSION (EVEN THOUGH NOT YET IN PAYMENT), AND:

B) A RING-FENCED AMOUNT THAT IS IN MY PERSONAL PENSION.

IF YOU ALLOW PEOPLE TO DETERMINE WITHIN MIR CONSTRAINTS HOW MUCH THEY WISH TO TAKE FROM THEIR PENSION, THIS WILL THEN FLOW BACK INTO THE ECONOMY AND REDUCE THE LIKELIHOOD OF THEM DYING, THEREBY LEAVING A HUGE PENSION POT THAT WILL INCUR A 55% TAX PENALTY. GIVING PEOPLE CONTROL OF THEIR OWN MONEY WILL MAKE THEM MORE LIKELY TO SAVE FOR RETIREMENT. HOWEVER, I FEEL THAT THE TAX RATE ON MONEY COMING OUT (EITHER VIA ANNUITY/USP/DEATH) SHOULD NOT SWAMP THE AMOUNT OF TAX BENEFIT GOING IN. ALSO, UNVESTED FUNDS WHERE INDIVIDUALS HAVE REACHED RETIREMENT AGE SHOULD NOT BE FREE OF TAX ON DEATH. A FAIRER TAX REGIME SHOULD BE CONSIDERED.

I CAN SEE THAT THERE IS GOOD REASON FOR INSURANCE COMPANIES TO OPPOSE ALLOWING UNLIMITED DRAWDOWN FO INDIVIDUALS BECAUSE THEY EARN 1% + IN MANAGEMENT FEES BY CONTROLLING THE USE OF PENSION POTS. THIS CONTROL SHOULD BE PASSED TO THE INDIVIDUAL, WHO SHOULD BE THE PRIORITY HERE. THIS POWER, CONTROL AND DEDUCTION OF FEES ON AN ONGOING BASIS, MUST BE BROUGHT UNDER THE CONTROL OF THE INDIVIDUAL, THEREBY ENCOURAGING SAVING FOR RETIREMENT.

REGARDING MIR:
AS WITH THE STATE PENSION, IF AN INDIVIDUAL, IT SHOULD BE A DIFFERENT CALCULATION FOR AN INDIVIDUAL COMPARED TO A MARRIED COUPLE.

# SUPPLEMENTARY OBSERVATIONS RE PENSION CONSULTATION

SUBMISSION BY

My earlier submission was dated 18th August. It did not discuss the 120% rationale nor did it deal with taxing the balance left in a SIPP.

## REDUCING THE MAXIMUM CAPPED WITHDRAWAL

An insurance company issuing a number of policies can rely on an average life expectation when setting its rate of return on a capital sum. However, some companies are now taking advantage of more accurate life expectation calculations and relate the return to post codes. This results in a lower rate of return for those who live in the more prosperous areas of the country. If properly advised a person with a SIPP would have started with a very significant fund, probably in excess of £250,000. It can reasonably be assumed that the majority of such people will not have a lower than average expectation of life.

The annuity rate for an insurance company normally assumes the depletion of the fund by the end of the average expectation of life. On the assumption that the majority of SIPP holders will live beyond the average life expectation age it is likely that at a 100% withdrawal rate the fund, given a reasonable investment policy, will be exhausted before the date of death. It is even more likely to run out if the rate is allowed to remain at 120%. The limit is proposed to apply only to capped funds. Since the stated object of the whole review exercise is to try to ensure that a pension fund keeps the beneficiary off state benefits for as long as possible, preferably his lifetime, then there can be no basis for retaining the 120% limit and there is a good argument for a 90% limit.

I am not an actuary but spent many years dealing with pensions and damages, including arguing a pension point in the House of Lords. (Longden v British Coal [1998] A.C. 653). I am sure that an actuary would be able to devise a clear argument for a more realistic limit than 120% once one makes certain assumptions re the life expectancy of the average SIPP holder.

# TAXATION OF THE FUND REMAINING AT DEATH

This matter is discussed at 2.22 of the consultation paper. No analysis is given for the suggestion that the rate is expected to be in the region of 55%. However, for those who have a SIPP this is a welcome proposal compared with the ASP rate of 82%.

There is no mention of the fact that the retention of an LTA should, in itself, be a disincentive to acquire large pension funds for the purpose of IHT avoidance. The twin aims of encouraging pension saving and avoiding their use for tax avoidance have to be carefully balanced. It would be very easy for those of pension age to plan their finances if they knew precisely the number of years for which they need to plan. However, that is not possible.

Even though annuity rates are currently very low it is sensible to ensure that there is an annuity in payment which cannot run out and which forms a solid base for financing retirement. A SIPP, ideally, is a back up to such an annuity. However, it does not seem to be put forward as such by many advisers who collect the annual management charge based on the value of the fund under management and further income from the charges for the sale and purchase of shares or units. Many clients are, in any event, reluctant to buy an annuity at current low rates.

Most people funding their own pension cannot afford to pay for an RPI linked pension. The best current rate appears to be offered by Canada Life. A joint life annuity where both male and female are 65 with 2/3 to the survivor provides a return of only 3.57% for a fund of £100,000. A single male life at 65 increasing by RPI receives a return of 4.18%. Both are guaranteed for 5 years. Even these are only indicative rates since the final offer is based on the annuitant’s post code.

A person with a SIPP who has little other retirement funding would be well advised to have less than 50% in equities but would struggle to get a good return without buying bonds outside the gilt market. It needs a large fund to have a SIPP only pension. Since the person with that large fund cannot predict the time of his death, absent a terminal illness, he should not be penalised if at the date of his death he has no dependant but a significant sum left in the SIPP. He may have assets which would not take up all his IHT allowance so that should the money go into the estate at death he would pay no tax on it. In that event the suggested 55% charge would be punitive.

In reality he is being taxed, in almost all cases, for being cautious by trying to ensure that he does not run out of funds prior to death, or in some cases prior to his death and that of his wife/partner.

If there is to be a special charge then given the availability of some degree of limiting effect of the LTA with regard to the build up of "excessive" funds, the fairest way to deal with the matter may be to say that the fund post death should be taxed at the highest rate applicable to income tax. If his "fault" was that he did not withdraw all the money (even though he did not know for how long he needed it), then he can be deemed to have withdrawn it at the highest income tax rate applicable during the last year of his life. If there was a change during that year the average of the highest tax rates in that last year could be used.

In my view the policy aim of trying to ensure self sufficiency would best be met by have no special charge. The fund should simply go into the estate. This avoids any incentive to withdraw more than a sensible amount.

Only if one avoids a penal imposition on the fund on death with no dependant can one ensure that the SIPP holder will not try to draw out all his money possibly long before death so as to avoid what he sees as a penal tax rate. Depending on investment policy and the years to death even a capped fund could be depleted.

I can give my own case as an example of the incentive to deplete the fund excessively to avoid the penal 82% tax liability. Until the prospect of the coalition government reducing the 82% tax was announced I withdrew funds at the 120% limit. I have now reduced the amount to 90%.

26th August 2010