

# **Association of Pensions Lawyers in Ireland – submission on Green Paper**

## **Chapter 6 – The Social Welfare Pension: Reform Options**

- 1. In light of the reforms in the social welfare system undertaken in the 1970s, 80s and 90s which will, in future see most people qualifying for contributory pensions, are there implications for people who are at present not receiving support through the social welfare pension system?**

At present, there would appear to be approximately 47,000 people on average who remain outside the social welfare pension system. These are mainly retired public servants and self employed people together with their spouses and partners. The APLI would be of the view that some analysis of these groups would need to be undertaken to identify those who have a clear need for retirement provision. Presumably, certain people e.g. former civil servants would be in receipt of some other form of retirement income. While it would be preferable to make provision for all of those who appear not to be covered under the present arrangements, in light of the limited resources available, an analysis of the excluded categories should be undertaken to identify where the real need exists.

- 2. Is the introduction of a universal pension arrangement a desirable and feasible option?**

While the APLI recognises the benefit of introducing a guaranteed form of State Pension for all, the additional costs that would be incurred may make this proposal unfeasible. The possible effect on the funding of not only the State Pension system but also the social insurance fund cannot be ignored. Ease of administration may reduce the associated costs somewhat, but this reduction may not be sufficient when balanced against the additional cost of providing such a pension for those who may not be in financial need of a State pension.

- 3. If universal provisions are not considered appropriate then what groups, if any, currently outside the social welfare pension system should be targeted for action?**

1. The self employed;
2. farmers;

3. civil servants;
4. those who have had long absences and insurance contribution holidays.

Following on from the comments made in respect of question 1, the limited resources available suggest that an analysis of the above categories should be undertaken to identify those who have a real and genuine need to be brought within the system. On the identification of these individuals, appropriate mechanisms should be put in place to bring them within the system.

4. **Policy in relation to pensions has, for many years concentrated on improving the position of all pensioners. Is this the most appropriate way of improving pensioner income or should there be a much more targeted approach using measures such as the living alone increase?**

The APLI is of the view that improving the position of all pensioners is a worthwhile and valid objective. The use of the living alone increase or other mechanisms may not catch all worthy applicants. While the use of a more targeted approach might be deemed to give greater equity overall, it is submitted that in practice it may be too subjective and difficult to operate from an administrative perspective. Care would need to be taken to ensure that the cost in administering such an approach does not outweigh the benefits.

5. **If the basis of qualification for contributory pensions was changed from average contributions made, to one based on total contributions, what would be an appropriate level of contribution a person should be required to have to receive a full pension?**

The APLI cannot comment on this question as it is outside the remit of lawyers.

6. **Should a formal indexing arrangement linking pensions to some level of prices, earnings or risk of poverty threshold be introduced? How would a formal indexation mechanism be operated having regard to the overall budgetary and economic position?**

The APLI believe that the introduction of a formal indexing arrangement would be beneficial in achieving the aim of improving the position of all pensioners and of ensuring that pensions are not devalued due to economic circumstances. Government increases in recent years have resulted in the State Pension having reached or at least become close to a reasonable level. Arguably, now would be a

good time to introduce a formal increase mechanism to the State Pension. This would give a degree of certainty to the recipient and to the State at a budgetary level. In addition, it would remove pressures on the State to provide for an above then average pension. The APLI would be of the view that on balance the best indexing arrangement would be to use a cost of living basis but perhaps to exclude interest rate changes as these are unlikely to impact on retired people.

7. **Given the issues raised in this chapter, in chapter 3 and in the green paper in general in relation to the long term affordability of existing arrangements, how can the challenge of the growing cost of social welfare pensions be addressed?**

It would seem that advanced pre funding the State Pension would be desirable. A comprehensive study should be carried out to properly value the future cost of State Pensions (contributory and non-contributory).

## Chapter 7 “Supplementary Pensions – Incentives for Retirement Savings”.

8. **Can tax incentives be better targeted to encourage improved coverage in a cost-effective way?**
  - 8.1. The APLI is not qualified to comment on the cost-effectiveness or otherwise of tax incentives. The APLI does, however, have the following comments on the current system of tax incentives.
  - 8.2. The APLI thinks that one of the reasons why pensions coverage is not as high as it could be is because the system of tax reliefs appears unduly complicated to most people. The APLI thinks that the following general principles are readily comprehensible:
    - (1) contributions are paid gross of tax,
    - (2) there is tax free roll up of investment within a pension arrangement, and
    - (3) pensions in payment are taxed under the PAYE system.
  - 8.3. Beyond this, however, we think that the following are perceived to be confusing by most people:
    - (1) the age-related limits on the employee contributions,
    - (2) the remuneration cap for the purpose of calculating maximum employee contributions,
    - (3) the €5 million cap on the value of benefits,
    - (4) the differing tax treatment (from the perspective of an employee) of employer contributions to occupational schemes and PRSAs,
    - (5) the current rules for funding occupational scheme benefits set out in

paragraphs 7.26 and 7.27, and

- (6) referring to tax relief on contributions being granted at the “marginal rate”.
- 8.4. The APLI thinks that if the confusing elements of the existing tax incentives could be removed or simplified and be clearly communicated to contributors, this may encourage more people to save towards their retirement by making contributions to supplementary pension arrangements.
- 8.5. The issue of coverage goes beyond targeting tax relief. Based on a small sample of responses to some basic questions we asked employees about pensions, it seems to us that there is a generally poor level of understanding about the specifics of pensions e.g. the difference between defined benefits and defined contributions. Without improving on this low level of basic knowledge, we doubt that any changes in the system of tax reliefs will increase coverage.
- 8.6. The APLI wonders whether there is a role for the inclusion of classes on financial planning, personal taxation and retirement planning in the school curriculum. Even a simple understanding of the long term effect of compound interest might make people start saving a small amount earlier in their working lives, rather than realising at a later date that they need to save an exponentially increased amount to reach the same level of benefit.
- 8.7. The Green Paper refers to the successful SSIA scheme. The success of the SSIA scheme suggests to us that given the right incentives people will save on a long term basis. For whatever reasons, people seem disinclined to think about retirement planning. This is despite the availability of retirement products and significant tax relief and the requirement for employers to provide access to a standard PRSA for excluded employees.
- 8.8. The APLI notes the Pensions Board’s suggestion that there be matching contributions from the Exchequer (see paragraph 7.67(a)). The APLI thinks that this could turn out to be a more easily understood incentive to save for retirement than altering tax relief. It may also “appear” more beneficial in the sense that the Government would seem to be “giving” a matched contribution rather than “not taking away” money that would otherwise

have to be paid in tax. We agree that a system of matching contributions would require a rethinking of the general system of using tax reliefs to encourage pension saving (see paragraph 7.75).

- 8.9. The current system of tax relief would, on the figures given in paragraph 7.79, seem to discourage contributions by the 38% of people who are tax-exempt. While 100% of the income of such people is tax free, there may be a perception among them that they should be “rewarded” for making contributions to supplementary pension arrangements. There may be room here for some kind of Exchequer matching arrangement on a tapered basis.
- 8.10. The APLI also notes the Pensions Board’s second suggestion to apply higher rate relief to all personal pension contributions (see paragraph 7.67(b)). This may deal with claims that the current system of tax relief favours the higher rate taxpayer more than the standard rate taxpayer. Any such move would only merit consideration if it could be shown that it would lead to increased coverage. See 2.6 below.
- 8.11. The APLI also wonders whether a small mandatory employer contribution (e.g. 3% of basic salary) to its nominated PRSA would increase coverage. Anecdotally, it appears that where an employer matches contributions to a PRSA, employees seem to take up the offer soon after joining their employer and then seem not to notice the deduction of their own contributions.

9. **Should the overriding principle be coverage or equity and should incentives be offered at marginal, standard or a hybrid rate?**

- 9.1. We presume that the starting point when considering the encouragement of voluntary pension provision is to ensure that pensioners’ basic needs are met (e.g. housing, heating, food etc) and then to aim to facilitate things so that pensioners have sufficient funds in addition to the funds needed to meet these basic needs to enable them to buy non-essential items and have a degree of choice over how they spend their money. It seems good economic sense, in the context of an aging population, to try to preserve the purchasing power of pensioners so that they can provide continued consumer demand for goods and services past retirement.
- 9.2. The State pension is designed to enable pensioners to meet their very basic economic needs. To meet the second aim of giving pensioners sufficient

additional funds, there are encouragements through tax reliefs for people of working age to save money into supplementary pension arrangements. The APLI thinks, in principle, that this is a legitimate aim and perhaps a necessary economic objective. While we appreciate the cost of providing tax relief to the Exchequer, this must be balanced against the need to sustain reasonable spending power among tomorrow's pensioners.

- 9.3. The APLI agrees that the object of tax relief must be to incentivise and support those less able to make adequate supplementary pension provision and not necessarily to subsidise those who are in the strongest position to do so. In terms of collective future spending power, we suspect that ensuring that those on low to medium incomes have a reasonable standard of living in retirement will provide far greater collective economic benefits than incentivising only those on the very highest incomes to make supplementary pension provision.
- 9.4. In our view, it does not really matter whether pensioners' incomes come from pension arrangements or any of the other forms of retirement provision mentioned in paragraph 7.40. That said, the APLI thinks that supplementary pension arrangements are probably the most effective vehicle through which to provide retirement incomes for most people.
- 9.5. The issue of equity is one we find slightly troubling. The charge appears to be that the better off are benefiting most and that more support should be directed towards those on lower incomes. It appears to us that this is only really relevant to tax relief on contributions to supplementary pension arrangements. Once contributions are invested, every contributor benefits from gross roll up. Once benefits come into payment, ordinary tax rules apply. This means that a person in receipt of a sufficiently large pension will be paying income tax at a higher rate than someone on a lower pension (who will pay income tax at the standard rate). It seems that the contributors who benefit most from the current tax arrangements are those whose contributions attract relief at the highest rate but whose pensions fall just below the threshold for applying the higher rate of tax when the pension comes into payment.
- 9.6. To deal with the charge that supplementary pension provision is not "vertically equitable", tax relief for all contributors could be made at the same level. This could be more "equitable" than the current system and

may be easier to administer (although how it would work in practice would need to be reviewed). The chosen level could be at the highest rate of tax for all contributors as suggested by the Pensions Board (see above). Providing uniform relief on contributions at the standard rate would seem to act as a strong disincentive for higher rate taxpayers to continue making contributions to supplementary pension arrangements and may encourage them to find more tax efficient alternatives. Maintaining incentives at the marginal rate of relief would continue whatever inequalities some claim exist in the current system. The introduction of a hybrid rate would, we think, have the effect stated in paragraph 7.47 and may discourage higher income earners from making supplementary pension provision.

9.7. The APLI does not have the relevant figures but we suspect that higher rate taxpayers are more likely to make adequate pension provision. The key need, it seems to us, is to incentivise the lower paid and not to discourage the higher paid.

10. **Should pension arrangements (e.g. the ARF option) differentiate between individuals or be open to all on the same basis? Where is the proper balance to be struck between the competing calls for equitable treatment of all pensioners, appropriate protection for vulnerable pensioners and the costs involved?**

10.1. As a matter of principle, it seems to be difficult to justify restricting the ARF option to proprietary directors, self-employed individuals and PRSA contributors. The restriction seems clearly to discriminate against ordinary employees whose employers operate occupational schemes.

10.2. The APLI agrees with the arguments in favour of the case for extending the availability of the ARF option set out in paragraph 7.63. Of the arguments listed in paragraph 7.64 against the extension of the option:

- (1) we would be surprised if the Exchequer did not find an imaginative alternative way to recoup any tax cost connected to the extension of the option,
- (2) the investment risk argument does not make sense. Investment risk can be managed by investment in capital secure products. Excessive drawdown could be regulated and the AMRF requirement, sensibly applied, should avoid demands for income support, and



- (3) the other two arguments against appear to us to be insignificant.
- 10.3. The existence of the AMRF requirement should provide the appropriate degree of protection. The requirement should be reviewed.
- 10.4. The question of costs attaching to the extension of the ARF option is one for the Government. It is part of the general consideration over diverting money now at the expense of making money available to future generations of consumers in an aging population.

## Chapter 8 – Possible Approaches to Pensions Development

### 1. Is the current system appropriate?

As outlined in the Green Paper and in the various reports prepared by the Pensions Board, there are issues around coverage, adequacy and complexity in the current system. In relation to coverage however, the introduction of SSiAs shortly before the introduction of PRSAs may have slowed down PRSA take up somewhat, and this should be taken into consideration when deciding whether any changes should be made in this regard. A review of any increase in take-up in the last two years and in the near future would be suggested before major changes are made to deal with this issue.

One of the major concerns around adequacy of pensions under the current system is the likelihood that DC benefits will not prove sufficient. As they are a relatively recent concept, the true impact of the move from a largely defined benefit based private sector towards defined contribution may not be realised for some years when larger numbers of DC scheme members come to retire.

Providing higher pensions through social insurance would presumably be done on a DB basis, i.e. a set amount of pension. DB is the only way to ensure adequacy as DC benefits are dependent on such a large number of factors, some of which, e.g. interest rates and the associated cost of purchasing an annuity, continue to have a strong impact right up to the date of retirement. However, pensions through social insurance have always been provided at a relatively minimal level (although clearly there have been substantial increases in recent times and the targets outlined by recent Governments are to be commended), and increasing such pensions to a level

where they would provide adequate replacement earnings for middle earners may prove prohibitively expensive.

## 2. Supplementary pensions: Voluntary or mandatory provision?

While mandatory pensions offer an easy solution to the issue of pension coverage, this needs to be balanced against the need for pension adequacy. There is a danger that employees who currently feel the need to establish supplementary pension provision themselves would, under a mandatory system, be content that they have made pension provision, despite the fact that the benefits to be offered under a mandatory system may be less than those which they would otherwise have obtained in a voluntary scheme. Therefore, at least at present, the APLI would be in favour of simplifying and enhancing voluntary provision.

We note at para. 8.24 of the Green Paper that the State incentive for PRSAs is recommended to be a matching contribution rather than the current tax relief incentive, whereas for occupation schemes it is suggested that tax relief would continue, although at the higher rate for all. Given the high rate of take-up of SSIA's, which, it has been suggested, was partly due to the clarity of the incentive given, the APLI would suggest that a similar matching contribution could also apply to occupational schemes.

Such a change would obviously have implications for the administration and rules of occupational schemes: the employee contribution rule in such schemes usually requires a set % deducted from salary as a contribution, which has a lesser impact on the employee's take-home pay than apparent due to the tax relief. This would have to be revised if a move was made from tax relief to matching contribution incentive, particularly in the case of defined benefit schemes to ensure that employees and the State did not end up paying a greater share of the cost of the benefit while the employer as a result paid less.

Also at para. 8.24, the APLI notes that a cap on incomes for contribution and benefit purposes is suggested. The Revenue Commissioners have already imposed such a cap in recent years, although it is set at such a high level that we wonder to what extent the tax savings arising from it actually could balance out the additional costs of incentivising the lower paid. Reducing the cap would of course bring about further savings, although care should be taken not to reduce it to an unreasonable level.

In relation to the details of the proposed soft mandatory and mandatory pensions outlined in the tables at paras. 8.34 and 8.43, the APLI would have concerns that the proposed contribution levels would seem to reduce the level of State incentive as compared with the current tax relief system (at least in relation to higher rate

taxpapers). The soft mandatory system proposes a State contribution of 2% (capped at €750) as compared with an employer contribution of 2% and an employee contribution of 5%. Meanwhile the mandatory system proposes a State contribution of 5% as compared with a contribution rate of 10% (unspecified as to how this 10% is split between employer and employee). We would also comment that in relation to the mandatory proposal, 10% of salary, without tax relief, is quite a high rate of employee contribution (particularly if the entire 10% is met by the employee) and while assisting in ensuring adequate income in retirement may have a substantial impact on the adequacy of workers' current incomes.

We note that it is proposed that the soft mandatory system would not apply to those in occupational schemes. The mandatory system proposal is not clear on this issue. The APLI queries whether any (soft) mandatory provision is to be made for occupational scheme members whose overall annual contribution levels to their occupational schemes are lower than the contribution levels set for (soft) mandatory schemes.

## **Chapter 9 - Issues regarding Defined Benefit and Defined Contribution Pension Schemes**

### **1. Are there problems with the current integration arrangements for DB schemes?**

The APLI does not consider that where scheme design includes integration the scheme is inherently problematic. Moreover it considers assertions that they are inherently problematic disingenuous in circumstances where such design has meant employers have borne the brunt of the cost of the State not increasing State pensions in line with pay inflation. After a recent period when the State pension has increased resulting in lower pension payouts for schemes, it is unfair to assert that employers have made "windfall" savings. Regardless of the level of the State

pension, the member receives the amount of pension the scheme was designed to provide.

The APLI does however recognise that the effect of integration on lower paid workers is that workers may not receive a pension from the scheme despite having contributed to it (if the operation of section 35A of the Pensions Act on contributory schemes is ignored). It was considered that this may be dealt with by:

- (a) making alternative, more suitable provisions available to such members such as defined contribution or PRSA arrangements, or such as the public sector “n/200ths” design for those on salaries under 3 1/3 times the State pension – however these are matters of scheme design which have heretofore been in the hands of the employer (with employee input if applicable), and also if State pensions do not increase at a rate greater than pay increases for any period, lower paid workers could then be disadvantaged;
- (b) forthright disclosure – the current disclosure relating to integration is considered by some to be incomprehensible to the lay reader and particularly so in the absence of an example illustrating the effect on a low paid worker.

#### **If so, what are the possible solutions?**

- (a) **Prohibit integration?**

The APLI considered that this would be a further nail in the coffin of defined benefit schemes. Any prohibition on integration could only affect new defined benefit arrangements which are frequently mirror image arrangements established as a consequence of M&A activity. A prohibition would serve only to thwart commercial activity and discourage defined benefit provision.

- (b) **Restrict a reduction in pensionable pay in the last, say 3 to 5 years?**

It was considered that this would not resolve the issue in so far as it affects the lower paid.

- (c) **Have the different integration formula for lower earners, as is the case in the public sector?**

See response to (a).

2. **How can we ensure that savers understand that the level of contributions, the length of time the contributions will be made, and the return on investments will influence the level of benefits in a DC scheme?**

This is a matter of on-going public education. However it was also considered that a standardised basis for calculating projected benefits appearing in projected benefit statements should be imposed by the Pensions Board. Information in statements should be meaningful. For example, while it might appear to the lay reader that a fund of €500,000 is a substantial fund, what this fund actually translates into on retirement is more useful information. Discrepancies appear in projection statements depending on the criteria used in compilation. If the Pensions Board were to propose a particular methodology such inconsistencies would be ironed out. In summary, disclosures made on projected benefit statements should be comprehensible, adequate and meaningful.

3. **What would be considered appropriate security of pension benefits? Does this exist at present?**

The APLI considers that debt on the employer legislation would accelerate the rate of closure of defined benefit schemes.

The APLI suggests that a formula analogous to the formula applied in the case of minimum statutory redundancy might be considered to the effect that the State would guarantee a certain amount of pension benefit for example 50% of the level of benefits prescribed by the Trust Deed and Rules i.e. there would be a State underpin. While it is unlikely that a fund subject to the statutory funding regime would fall to a level such that it could not provide 50% of the benefits to active members and the guarantee would therefore rarely be availed of, the fact of there being a guarantee might give comfort to employees/members.

4. **Are people sufficiently aware of the trade-off between risk and the return on investments i.e. usually the higher the potential return, the greater the risk?**

The APLI considered that there is a requirement for on-going public education in this regard.

5. **What could be done to enhance guarantees of pension benefit? Do guarantees justify the associated costs and risks?**

The Green Paper itself sets out that all guarantees are always conditional to some degree. If the guarantee fails, the question remains who is going to foot the bill and it seems the answer is the employer if it is not to be the State. In other words, a defined contribution scheme with a guarantee underpin is in effect a defined benefit scheme. It is unlikely that any employer will agree to fund a defined contribution scheme on this basis and if the State is not prepared to do so then the

employer is likely to move away from defined contribution pension provision and towards PRSAs. Additionally, if guarantees were to be introduced, it seems likely that insurance companies' charges would increase to offset the risk of increased liabilities. The APLI also considered that guarantees are likely to result in increased regulation.

See also response to 3.

6. **Having considered the discussion, would you be in favour of any of these arrangements [arrangements to meet at least part of a shortfall in the event of a scheme shortfall] having regard to the pros and cons outlined in this chapter?**

See previous responses.

7. **Other related matters considered**

7.1 **DC v DB and the public sector**

The APLI noted generally that the number of persons in the private sector participating in defined benefit schemes continues to fall and, while defined benefit scheme membership is currently split evenly between non commercial public section and private sector workers, it seems likely that the trend towards defined contribution benefit in the private sector will continue with the result that the public sector will have defined benefit coverage and little incentive to engage in debate on the issue while private sector workers (who are in part funding private sector pensions) either have defined contribution coverage which is likely to prove inadequate or no coverage.

It was also noted that while the value of public sector defined benefit pensions was taken into consideration in the latest round of benchmarking, it was considered that the value placed on public sector benefits fell considerably short of the real value of defined benefit pensions thereby understating the ever-widening discrepancy between public and private sector pension provision.

7.2 **ARF**

The facility to ARF funds should be available to all pension scheme contributors or to none. The current system is advantageous to people who earn more whereas lower paid members are obliged to annuitise. While it was considered that if the ability to ARF were to be disposed of entirely the annuity market might be more equitable, it was also considered that this would serve as a disincentive to save.

### 7.3 **PRSA**s

The effective prohibition on transferring a member's entitlement under a scheme (other than the accumulated value of AVCs) to a PRSA, either on the member changing employment or on the scheme being wound up if the individual's scheme membership is more than 15 years, should be lifted as this requirement may be quite easily circumvented.



## Chapter 12 – The Role of Regulation

*Are the State's regulatory objectives in the pensions sector appropriate?*

The State's regulatory objectives as described in Chapter 12 fall into two broad categories as follows:

- ensuring pension benefits are secure; and
- providing information to enable people make informed pension choices.

### Benefit Security

The regulatory approaches taken to ensure the security of benefits vary depending on the type of pension vehicle involved.

In a defined benefit scheme context, Part IV of the Pensions Act is designed to ensure that schemes are adequately funded to match the benefits promised. While the statutory minimum funding standard was originally introduced to enhance the protection of member benefits, it has to some extent had the opposite effect. Over recent years, there has been a sharp decline in the number of companies willing to continue to offer staff a defined benefit pension. This has led to either the closure of existing defined benefit schemes or a move towards a defined contribution or hybrid model. One of the main drivers behind this decline is the volatile funding costs associated with operating defined benefit schemes. It is arguable that the rigours of the existing funding standard are partly responsible for this decline.

We note that the Pensions Board has been asked by the Minister for Social and Family Affairs to examine the operation of the funding standard with a view to issuing a report to the Minister on the matter. We hope to see that report recommending reforms to the existing standard which strike a better balance between protecting member benefits and the associated funding costs.

In the context of PRSAs and defined contribution schemes, the benefits secured by those arrangements will depend purely on contributions paid into them and any investment return on those contributions, after deducting expenses. As members carry the risk of ensuring the fund they build up for retirement is adequate, the regulatory focus should be on ensuring that contributions in respect of members are paid when due and invested appropriately. It is also important that members are

fully informed on the adequacy of contributions and their projected benefits.

The duties imposed on employers under the Pensions Act in relation to the remittance of contributions have assisted in ensuring contributions are collected and remitted to schemes and PRSAs by employers on a regular basis. However, cases do still arise where employers misappropriate contributions and the problem is often only identified at a stage when the employer concerned has gone into liquidation. In such circumstances, there is very little that can be done by way of financial redress for the employees concerned. As a result, State agencies should consider ways in which these problems can be identified and addressed at an early stage.

One suggestion would be to increase the number of scheme audits carried out by the Pensions Board which should thereby encourage a climate of compliance. However, it is important that the Board uses its resources appropriately by targeting schemes where the risk of members suffering financially as a result of non-compliance or poor governance standards is greatest.

The legislation introduced implementing the IORPs Directive means that there now exists quite a prescriptive regulatory regime dealing the investment of scheme resources. However, as scheme trustees include many people who would not have any knowledge of investment management issues they find themselves ill-equipped to make appropriate investment decisions relating to scheme assets. Trustees typically address this knowledge gap by seeking investment advice from and appointing professional investment managers to make those decisions on their behalf. However, the selection and monitoring of such service providers is important and requires at least a basic understanding of investment issues. For this reason, proposals in the Social Welfare and Pensions Bill, 2008 regarding ongoing trustee training are to be welcomed.

#### Information to allow consumers make informed pension choices

In recent years, the trend towards defined contribution arrangements means that more pension scheme members now carry the entire risk in trying to ensure they adequately provide for supplementary income provision in retirement. As a result, information around investment options and adequacy of contributions have become very important.

Many members of defined contribution schemes and PRSA holders are unaware that their current contributions levels are not adequate to provide them with a reasonable level of income in retirement. This has yet to become a serious issue for the State as most members of defined contribution schemes and PRSA holders are relatively young. Therefore, the challenge facing State agencies is to make scheme

members aware of this issue so that they make adequate provision for their retirement.

One method of addressing this issue is through legislative intervention. The disclosure regulations introduced under the Pensions Act require members of defined contribution schemes to be provided with annual member benefit statements. 2009 will see the introduction of a requirement that these statements also include benefit projections. This should assist in increasing awareness amongst scheme members where contribution levels are inadequate. However, the onus is on pension providers to ensure that the information contained in these statements is provided in a clear and understandable format, something not all providers currently manage.

In addition to legislative intervention, awareness campaigns and formal education on pension planning through the secondary school curriculum would be a useful means of heightening awareness around adequacy issues. These initiatives should also serve to inform those who currently do not contribute to any pension vehicle and as a result may improve pension coverage.

Increasing pension coverage as part of an overall strategy to reach the 70% coverage target specified in the National Pensions Policy Initiative One was one of the main reasons behind the introduction of PRSAs. In the report published arising from the Board's National Pensions Review, it was recognised that the increased regulation of PRSAs has resulted in a disincentive to pension coverage.

Certain sensible recommendations were made in that report around the reduction of point of sale regulation which recognised the high level of product approval which applies to PRSAs. The uptake of PRSAs should continue to be monitored so that other means of enhancing and encouraging PRSA sales can be introduced if it is clear that the State is not on target to achieve the desired levels coverage.

*Are there measures that could be taken to introduce transparency in relation to pension fund charges?*

On charging structures, it is accepted that charges on defined contribution schemes reduce the fund that would otherwise be built up for scheme members at retirement. Therefore, clear information on how charges and expenses impact on fund assets is key in allowing employers and trustees make informed decisions regarding who to choose as their service providers on pensions. Such information is currently very difficult to obtain and it would be worthwhile exploring options on how that information gap may be bridged.

Suggestions around mandatory disclosure of charges including well presented

information on the impact such charges will have on projected benefits seem sensible. However, before legislating for this, some assessment needs to be carried out on whether the burden of complying with such a requirement would have disproportionate effect on providers overall costs.

## **Chapter 13 – “Public Service Pensions”.**

### **1. How should the cost of funding public service pensions be met?**

The APLI recognises that the economic and demographic trends which apply to the provision of pensions in the private sector apply equally to the provision of pensions by the State in the public sector. The provision of defined benefit pensions to employees in the public sector is clearly, however, a valuable tool in retaining and incentivising current staff and attracting new employees, as evidenced by the current levels of coverage.

The APLI would not, however, be in a position to comment with any authority in relation to how the cost of funding public service pensions in Ireland in the future may be met.

As a general comment, any measure which was undertaken by the State which resulted in a reduction of future service benefits or which increased the proportion of costs which would or might be borne by a public sector employee may prove difficult in practice to implement and, as has been seen in other jurisdictions recently, may give rise to industrial action.

### **2. Which individual reform options offer the most realistic potential?**

As mentioned above, any measure undertaken by the State which had the effect of reducing the future service pension benefits of a public servant or which removed or modified (with prospective effect) a particular benefit (or an option in relation to

such benefit) may from a legal point of view be deemed a variation of the terms and conditions of employment of the employee. If so, such a variation would require the consent of the employee and, accordingly, any reform of the current system might in practice prove difficult to implement. It would probably be significantly easier if it were only to apply to new rather than existing employees.

One area which the Green Paper does not explicitly refer to but which the APLI believes should be addressed as part of any moves to reform the public service pensions system is the area of scheme and benefit administration and documentation.

As the Green Paper correctly identifies, current public sector pension arrangements are established by or under statute. However, in many cases these arrangements have been subsequently modified by (and therefore administered in accordance with) ministerial circulars and “Agreed Reports” produced following consultation with relevant public sector representative bodies and unions. Over the course of time, it is these circulars and reports – as opposed to the original statutes (and orders made under those statutes) – which have in some instances been relied on by public sector scheme administrators, as well as employees, as the legal basis for administration of the schemes. In extreme cases, primary and secondary legislation in relation to some public sector pension arrangements is significantly out of date, having been replaced for administrative purposes by non-statutory documentation. This is an issue which the APLI strongly recommends is addressed as part of any process of public sector pensions reform.

## **Chapter 14 - Work Flexibility in Older age – A New Approach to Retirement**

### **1. Should measures be put in place to encourage later retirement?**

As the Green Paper points out, with people living longer and, in some cases, healthier lives and with pension costs increasing many people either want to or, of necessity, need to work longer. Indeed the statistics indicate that some older people are choosing to work longer. Given these facts and the difficulty the State faces into the future in providing adequate financial cover for those who fail to, or are not in a position to, provide a retirement income for themselves in

advance there is certainly merit in putting measures in place to encourage later retirement wherever possible. Given the trend toward older people choosing to work longer it would appear that, for some people at least, this would not be an entirely negative proposal. It is necessary, however, to bear in mind that there will be occupations for which this may prove inappropriate due to the physical nature of the occupation and also later retirement may have a disproportionate impact on the less well off and men who have lower life expectancies than the well off and women respectively. These issues would have to be considered if implementing measures to encourage later retirement and consideration given to any means of counteracting these negative impacts.

### **Should measures be put in place to encourage employers to retain older workers?**

It would seem entirely logical that employers need to be encouraged to retain older workers if workers are encouraged to retire later. While many employers, no doubt, value the contribution which can be made by older workers in terms of experience, commitment and loyalty, many employers equally have a number of concerns about increasing the retirement age. As mentioned earlier, it is not practical to expect that workers engaged in certain manual occupations will be able to continue operating effectively in the same roles with increasing age. It might prove necessary to layoff such employees if alternative roles cannot be found for them within their industry. This is unlikely to sit comfortably with employer or employee. Additionally, the cost of health and life insurance benefits and general insurance for employees increases with age so raising or removing retirement ages could result in higher costs for employers. Raising or removing retirement ages would also necessitate a rethink of the promotion structures in many organisations where retirements ordinarily provide such promotion opportunities which are an important factor in reducing employee turnover. All of these issues are well rehearsed within the Green Paper and will impact any measures which may be put in place.

### **What form should such measures take?**

With regard to encouraging later retirement, the measures should probably be phased in gradually to facilitate a change of mindset/culture where necessary and also to facilitate any consequential changes which will be required in the workplace and to address the concerns of employers. These could include improvements to overall skills and training among workers throughout their working lives along with early retraining where necessary. The issue of retraining is particularly relevant to individuals in occupations who may not

physically be able to continue working longer in that occupation. The Green Paper highlights very practical suggestions for supporting cultural changes through reviewing perceived barriers to the employment of older people and considering financial incentives for employers to retain or hire workers post retirement age (e.g. reduced social insurance contributions for older workers and occupational health initiatives). Effective communication of the employment rights and responsibilities, the attractions and demands of staying at work and communicating the business case for employers of employing older workers e.g. broadening the available labour pool, reducing absenteeism and turnover etc. would all appear to be very practical, reasonable and achievable measures.

**2. Should a system allowing for voluntary deferral of the Social Welfare pension be introduced? How should this operate?**

Again it would appear to be entirely logical to introduce a system allowing for voluntary deferral of the Social Welfare pension. Such a system would provide individuals with a choice thereby enabling them to plan their retirement as best suits their needs while not penalising those who either for financial or health reasons or the non-availability of suitable work need to take their Social Welfare pension at 65/66. It might also act as an incentive to workers to remain in the workforce longer particularly if it operated on the basis of making a higher payment to those who defer combined with permitting those with reduced entitlements to count contributions made after age 65/66 so they can improve their position.

**3. Should other incentives be introduced to encourage people to work beyond normal retirement age?**

Any measure which will encourage people to work beyond normal retirement age if they so desire and are fit enough to do so should be considered provided that it does not unfairly penalise those who, for whatever reason, cannot continue to work longer. Such measures could include many of the measures mentioned earlier such as further training or retraining if necessary particularly where an older person can no longer continue in their usual job e.g. for reasons of health or redundancy late in life. Any measures should probably be introduced incrementally e.g. in line with life expectancy for different age groups and perhaps increase the retirement age for younger people coming into the workforce. Perhaps allowing employees the option of continuing to work part-time combined with partial drawdown of any entitlements would be more palatable as part of an overall move to increase the working life. Indeed, such a move could potentially have a beneficial effect on individuals from the



perspective of the psychological aspects of moving from full-time employment straight into retirement. This can often be a daunting and distressing time for many individuals who might otherwise find that they cope better when eased gradually into retirement without the burden of losing out financially.

**4. In order to encourage later retirement, should employers be prohibited from setting a retirement age below a certain age? Should they be prohibited from setting any retirement age?**

If it is accepted that workers are to be encouraged to work longer then it would appear to follow that employers be prohibited from setting a retirement age below a certain age (e.g. 70). This would appear to be necessary to avoid the situation where members of certain occupational pension scheme need employer consent under the scheme rules to retire after the normal retirement age. As with any of the Green Paper proposals an incremental approach will probably be more palatable to both employers and society in general. Indeed an incremental approach may be necessary anyway to facilitate any “infrastructure” changes required. For the reasons mentioned above, retirement at the current Normal Pension Date should, for today’s and the near future’s new pensioners at least, be retained as an option for employees, with no consent required for retirement at that date. Accordingly there may be a need to revise the definition of “Normal Pensionable Age” in the Pensions Act which is currently the earliest age at which benefits may be taken.

**5. In order to contain costs and reflect increased life expectancy, should a change be made to the retirement age for Social Welfare pensions? How should such a change be implemented?**

It would appear to be logical that the retirement age for Social Welfare pensions should increase to reflect increased life expectancy, however, people on lower incomes who are more likely to be fully dependent upon Social Welfare pensions have a lower than average life expectancy. To raise the retirement age for Social Welfare pensions would be disproportionately more favourable to the better off in society. In the absence of initiatives to counter this effect it is difficult to support such an increase in retirement age for Social Welfare pensions. Additionally, as the Green Paper points out such an increase could have a knock-on effect on the benefits provided by occupational pension schemes particularly in relation to integrated defined benefit schemes.