



Law Society
of Scotland

Consultation Response

Pensions dashboards: Working together for the
consumer

January 2019



Introduction

The Law Society of Scotland is the professional body for around 12,000 Scottish solicitors. With our overarching objective of leading legal excellence, we strive to excel and to be a world-class professional body, understanding and serving the needs of our members and the public. We set and uphold standards to ensure the provision of excellent legal services and ensure the public can have confidence in Scotland's solicitor profession.

We have a statutory duty to work in the public interest, a duty which we are strongly committed to achieving through our work to promote a strong, varied and effective solicitor profession working in the interests of the public and protecting and promoting the rule of law. We seek to influence the creation of a fairer and more just society through our active engagement with the Scottish and United Kingdom Governments, Parliaments, wider stakeholders and our membership.

The Society's Pensions Law Sub-committee, together with the Consumer and Privacy Law Sub-Committees, welcomes the opportunity to consider and respond to the consultation on *Pensions dashboards: Working together for the consumer*.¹ We have the following comments to put forward for consideration.

General remarks

We support the objective of creating a platform which would allow individuals to access their pensions information in a single location. This could be an excellent way to encourage individuals to engage with pension planning and provide them with an overview of their likely financial situation in retirement.

However, we are concerned about some of the practical aspects of implementation. One of the most important objectives is to ensure that people are able to understand and correctly interpret the information contained on the dashboard: warnings may be needed to ensure that people do not rely on information, which is a forecast only and aware of the impact which various factors might have on their anticipated retirement income. We are also concerned that the scheme could be costly and that ultimately these expenses will be borne by the public purse and individuals. We therefore consider that there should be a thorough cost benefit analysis and impact assessment of the proposal.

¹<https://www.gov.uk/government/consultations/pensions-dashboards-feasibility-report-and-consultation/pensions-dashboards-working-together-for-the-consumer>

Response to questions

Wider benefits of a dashboard

I. What are the potential costs and benefits of dashboards for: a) individuals or members?

Individuals/members may benefit from the ability to see an overview of their various pension pots. Greater movement between jobs over the course of working life and the new auto-enrolment scheme mean this is of relevance to an increasing number of individuals.

In the first instance costs of creating the dashboards may be met by pension funds, but it is important to recognise that in practical terms, these costs will ultimately be borne by the members themselves.

b) your business (or different elements within it)?

We have no comment on this question from an organisational perspective.

However, we consider that any obligation to provide data would create costs for businesses – either employers or the pensions funds themselves. The pensions dashboard would be more accurate if it were to run on “live” data but we anticipate that this would prove very costly – both in terms of the cost to the public purse of creating the architecture to support the system and to the businesses which would need to supply that information. Even a system relying on regular updates could prove costly.

Architecture, data and security

II. Do you agree with:

- a) our key findings on our proposed architectural elements; and**
- b) our proposed architectural design principles?**

If not, please explain why.

Providing a complete picture

We have no comment on this question.

III. Is a legislative framework that compels pension providers to participate the best way to deliver dashboards within a reasonable timeframe?

We agree that the effectiveness of the dashboard depends on it being as complete as possible. Compulsion is therefore likely to be necessary to complete the project but the timescales need to be sensitive to the other demands on schemes.

IV. Do you agree that all Small Self-Administered Schemes (SSAS) and Executive Pension Plans (EPP) should be exempt from compulsion, although they should be allowed to participate on a voluntary basis?

We agree that members of SSAS and EPP are less likely to have need of the dashboard and are also more likely to have financial advisers. An exemption is therefore a reasonable balance between likely use and costs.

The paper does not define 'pension schemes' (though it could be assumed that it is the same as section 1(5) of the Pension Schemes Act 1993) and this needs consideration. If the aim is present as near a complete picture of an individual's pension provision then, in addition to the state pension, it will necessary to consider whether or not it is intended to cover the Pension Protection Fund, immediate and deferred annuities written in the individual's name and retirement annuity contracts.

V. Are there other categories of pension scheme that should be made exempt, and if so, why?

If the definition of 'pension schemes' extends to deferred annuities and retirement annuity contracts, there will be older insurance contracts (usually with profits contracts) where the policies are less automated, are of small value and are small in number. The cost/benefit ratio would suggest that these contracts should be exempt and participation should be voluntary. We would suggest that contracts written before 1988 are excluded along with individual contracts written after that date which replace, in identical terms, a pre-1988 contract.

If a scheme is in the process of being wound up, it should also be exempt.

Implementing dashboards

VI. Our expectation is that schemes such as Master Trusts will be able to supply data from 2019/20. Is this achievable? Are other scheme types in a position to supply data in this timeframe?

We consider that Master Trusts will be better placed to respond to this question. However, the answer may also depend on the extent/frequency of information required.

VII. Do you agree that 3-4 years from the introduction of the first public facing dashboards is a reasonable timeframe for the majority of eligible schemes to be supplying their data to dashboards?

We would expect it to be challenging for all schemes to have reliable live data available in that time, and also question the usefulness of providing that data given the amount of explanations/caveats/health warnings required to make the data meaningful to members.

VIII. Are there certain types of information that should not be allowed to feature on dashboards in order to safeguard consumers? If so, why? Are there any other similar risks surrounding information or functionality that should be taken account of by government?

Embedding information security within all aspects of the dashboard architecture will be of paramount importance. Similarly, data protection and privacy rights will need to be fully respected and safeguards put in place to ensure that personal data of individuals is not compromised.

IX. Do you agree with a phased approach to building the dashboard service including, for example, that the project starts with a non-commercial dashboard and the service (information, functionality and multiple dashboards) is expanded over time?

We have no comment on this question.

X. Do you agree that there should be only one Pension Finder Service? If not, how would you describe an alternative approach, what would be the benefits and risks of this model and how would any risks be mitigated?

We have no comment on this question.

Protecting the consumer

XI. Our assumption is that information and functionality will be covered by existing regulation. Do you agree and if not, what are the additional activities that are not covered?

We do not consider that data as available through the dashboard would be subject to the GDPR Right to Data Portability. However, we consider that it could be very helpful to individuals if the data were treated as if subject to this right, allowing them to easily get opinions on the best use of funds from pensions advisers or other financial services professionals as appropriate.

Accessing dashboard services

XII. Do people with protected characteristics, or any customers in vulnerable circumstances, have particular needs for accessing and using dashboard services that should be catered for?

We have no comment on this question.

Governance

XIII. The department has proposed a governance structure which it believes will facilitate industry to develop and deliver a dashboard. Do you agree with this approach? If not, what, if anything, is missing or what workable alternative would you propose which meets the principles set out in this report?

We agree with this approach.

Costs and funding

XIV. What is the fairest way of ensuring that those organisations who stand to gain most from dashboard services pay and what is the best mechanism for achieving this?

As referred to above, we anticipate that the cost of dashboard services will ultimately be borne by individuals. It is therefore difficult to envisage how the objective outlined above would be achieved.

If there is to be a pension scheme-based levy. It would be sensible to use the existing tPR collection method for the general and fraud levies.

General

XV. Do you have any other comments on the proposed delivery model and consumer offer?

Some consideration will have to be given to changes of pension scheme. For example, if a defined benefit scheme goes into the Pension Protection Fund, one entry would disappear and the PPF would appear in its place. A similar scenario applies where a scheme is wound up. If the scheme had the individual's address, then they would know about the change (and the same is true of transfers with consent). If the scheme had lost contact with the individual, the individual may be unaware of the change.

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