Walking down the path whilst it is being built?

When George Osborne stood up on 19 March 2014 to deliver his Budget speech and declared that defined contribution (DC) members will be able to access their benefits flexibly he took an industry which lets face it likes to speculate on legislative change, by almost complete surprise.

Flexibility has been generally welcomed by the industry but with a General Election date set of 7 May 2015, and flexibility provisions taking effect from 6 April 2015, the Government is attempting to push through perhaps the most fundamental set of changes to pensions legislation since the Pensions Act 1995 in under 13 months.

The communication of the flexibility should be considered alongside the DC Governance Quality Features in which timely and clear communication is deeply imbedded. Trustees would be expected to be communicating with members six months in advance of their Normal Retirement Age detailing all the available options. Information available to date makes this virtually impossible to do with any certainty.

If that objective wasn't challenging enough, two bills (the Taxation of Pensions Bill – covering flexibility, and the The Pension Schemes Bill – providing for legislation supporting the concept of Collection Defined Contribution), we have a Command Paper on Scheme Governance (Better Workplace Pensions – Putting Savers' Interests First) , a consultation on flexibility within defined benefit (DB) schemes (yet to be launched), and IORP II looming in 2016 which as currently drafted includes provisions for amendments to such wide issues as Disclosure Requirements and qualifications and experience of trustees.

We are over two thirds of the way through that 13 month period. The Bills are at the report stage. The Financial Conduct Authority haven't responded to the consultation on the Guidance Guarantee. The consultation on DB flexibility hasn't been launched. The industry seems to be reasonably slow to develop the new products which the Government believed the changes would generate.

There were a number of issues driving the Government's changes including a growing lack of confidence in the UK pensions industry combined with a move away from DB to DC schemes which, according to the September 2013 Office of Fair Trading Report frequently represent poor value. There were also concerns about the multiple tax regimes impacting on pension savings and the rise in pension liberation fraud.

These proposed changes, introduced alongside plans to offer a new state pension up to £7,500 per year, are all aimed at restoring confidence and encouraging more people to contribute to occupational pensions. The logic is that if members feel less constrained around the way in which they are to receive their benefits they will be encouraged to save more. Such encouragement seems slightly at odds with automatic enrolment regulations which require minimal levels of contributions. The pensions which such schemes are going to deliver are going to be woefully inadequate, and the industry's reputation damaged yet further.

Estimates as to how many savers will access their benefits flexibly vary. The Government believes that approximately 320,000 scheme members per annum will be affected with approximately 25% of them seeking guidance. That guidance will be delivered either face-to-face by the Citizen's Advice Bureau (CAB), or via the Pensions Advisory Service (TPAS) helpline. That is 80,000 people seeking Guidance. The FCA, CAB and TPAS openly state that they will be learning through this process, and that the approach will be refined post-April 2015. The challenge for those organisations, and the risks are high.

The changes are perceived by the Government to be a win-win. Members get flexibility, and the Government gets an additional £1 billion per annum in tax receipts. The political arguments for the changes sticking are therefore strong.

As a trustee, considering these changes and their impact on the decisions I need to take, be they related to default investment strategies, communications or governance, it is hard not to get the feeling that I am walking down an unfinished path. Clearly it is possible that the flexibility changes may be of interest to scheme members. But until the legislative backdrop becomes clear, both communication to members and decision making by members are difficult. It may be a case of waiting for interest and take-up rates to become clear. But by that stage, may I have disadvantaged someone who would have benefited from the freedoms on offer?

If there is any change in Government at next year's general election, let's also hope that this will not trigger further upheaval with pension legislation.

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**Stats quoted in the article come from budget consultation papers and financial impact figures. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/301563/Pensions_fact_sheet_v8.pdf*