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Simplifying the Complexity of Supplementary Pensions: Suggestions for Member-Centred Reforms

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Simplifying the complexity of supplementary pensions:

Suggestions for member-centred reforms

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Abstract

Pension coverage among workers in Ireland is low with only an estimated 41.3% of private sector workers contributing to a supplementary pension. In addition, the system for workplace pensions is considered by many to be unnecessarily complex and beyond the understanding of many workers, without additional advice.

This research aims to look at some areas of pensions that are particularly complex, from a members point of view, and to make suggestions as to how the system could be more member-centred. The research will look specifically at three areas; State support given for pension saving, the structure of pension provision and personalised information given to members.

Tax relief is given on pensions but research indicates that its application and value is very often misunderstood by people. Even those saving for a pension underestimate the value of tax relief. This research will explore how State support could be better understood by members, which may encourage increased saving.

A trust structure allows the member to benefit from having a third party involved, with a legal obligation to act in the best interests of the trust. Large trust based schemes also allow for economies of scale and increased buying power and attract lower costs and charges than any other structure. However this research shows that Ireland has a comparatively large number of small schemes and so members are unlikely to be benefiting as they perhaps could.

Finally, disclosure regulations outline the information member annual benefit statements must contain, however there are views that members are unlikely to read them and even less likely to understand them. Without a reasonable understanding of their likely benefits, it is difficult for members to make informed decisions about their pension provision. This research will look at what information the member should receive and also examines the importance of how that information is structured.

Changes to these three areas, focusing on the members best interests, could have a significant impact on members and prospective members understanding of pensions and encourage engagement and higher coverage in general.

Declaration

I certify that this thesis which I now submit for the award of Masters of Arts in Law, is entirely my own work and has not been taken from the work of others save and to the extent that such work has been cited and acknowledged within the text of my work.

This thesis was prepared according to the regulations for postgraduate study by research of the Dublin Institute of Technology and has not been submitted in whole or in part for an award in any other Institute or University.

The work reported on in this thesis conforms to the principles and requirements of the Institute's guidelines for ethics in research.

The Institute has permission to keep, to lend or to copy this thesis in whole or in part, on condition that such use of the material of the thesis be duly acknowledged.

Signature ________________________ **Date** ____________________

Candidate

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CHAPTER ONE

Introduction

1.1 The current system for pensions in Ireland

The Irish pension system consists of three main components or pillars. The first pillar comprises pensions provided by the State, which can be either based on social insurance payments, the State pension (Contributory) or means-tested for those with insufficient contributions, the State pension (non-contributory). The second pillar consists of supplementary pensions which are paid for by members and/or their employers to increase income in retirement on top of the State pension. The third pillar refers to additional voluntary contributions members decide to make themselves. This research will focus on the second pillar.

There are significant issues with pensions in Ireland, which include the impending demographic 'timebomb', the demise of defined benefit schemes (where benefits in retirement are a percentage of salary), falling participation rates, inadequate contribution rates and growing differences between public and private sector arrangements. While many feel the State pension will be inadequate to meet their needs in retirement, it is estimated that only 51% of workers have some form of supplementary pension.[1] When the public sector, which has almost 100% coverage is excluded, this number falls to 41.3%.[2] To address some of these issues the Government has recently established a high

[1] Central Statistics Office, *Quarterly National Household Survey - Pension Provision, Quarter 4 2009* (CSO 2011)
[2] Organisation for Economic Co-operation and Development, *OECD Reviews of Pensions Systems: Ireland* (OECD Publishing 2014) 47

level working group to develop a roadmap for the introduction of a new universal supplementary workplace retirement savings scheme.[3] Such a scheme is likely to use inertia to increase supplementary provision. That is, rather than workers having to choose to join a pension scheme they will have to choose, and act, to not be in a pension scheme. Workers within a specified income band will be enrolled in a pension scheme and may have a limited window in which to opt-out.

The current regime for pensions in Ireland is one that has evolved over the years, with multiple parties inputting into the development of pensions policy and legislation, each with potentially competing and conflicting agendas and purposes. For example, the introduction of a temporary levy on pension funds in 2011 was led by fiscal considerations but conflicted with pension policy aims to increase coverage and adequacy.

In 2015, this has resulted in a system that is perceived as being overly, and unnecessarily, complex.[4] Many members or potential members do not understand, are not inclined to actively engage or indeed are put off saving for retirement. Given that the Government is choosing to strongly encourage people to save for retirement through tax incentives and now, possibly through auto-enrolling people into pensions, this complexity is something that should be addressed so that members can both understand their pension and understand the benefits of saving for retirement.

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[3] 'Taniste Announces Measures to Widen Pension Coverage and Improve Confidence in Pension System' (Department of Social Protection, 3 February 2015) <www.welfare.ie/en/pressoffice/Pages/ pr030215.aspx> accessed 4 February 2015

[4] Niall O'Callaghan, 'Time to sort out Irelands pensions muddle' *Sunday Business Post* (Dublin, 19 October 2014)

1.2 Aims of thesis

The overarching goal of this dissertation is to examine some aspects of pensions that are particularly complex from a members/potential members point of view and to make suggestions as to how these could be simplified for the member. There are many ways this could be done, for example, the introduction of an auto-enrolment pension scheme will help overcome one of the biggest difficulties people have with pensions, to commence one in the first place. Also, the proliferation of pension vehicles through which retirement savings can be made could be rationalised. Finally, the differing drawdown, transfer and taxation rules could be simplified. However, for the purpose of this dissertation, I intend to focus on three key areas:

- State support for retirement savings - to consider how accurately people value tax reliefs on pensions and to consider alternative methods of State support.
- The structure of pension provision – to consider whether the type of arrangement, i.e. trust or contract, has implications for outcomes and what are the benefits of each over the other.
- The personalised information provided to members – to look at current disclosure regulations and consider what are the key pieces of information annual benefit statements should focus on to best help the member to understand and engage.

1.3 Methodology

Research methods

Traditionally there are two methods available to researchers – quantitative and qualitative. Quantitative design can involve large survey based research and the strategy can be the use of existing data or to produce your own data. O'Leary describes the advantages of survey data as being *"confidential and anonymous; can generate standardised, quantifiable, empirical data; enables you to show statistical significance; and allows you to mathematically establish reliability, validity and generalisability".*[5]

Qualitative methods involves delving further for answers, with smaller numbers than in quantitative methods, for example, through case studies, focus groups or in-depth interviews. Bryman states that qualitative research "*tends to be a more open-ended research strategy than is typically the case with quantitative research*".[6]

A researcher may also consider it appropriate to utilise both methods, for example, to give a broader picture or to help understand the reasons behind responses to survey data. O'Leary suggests that "methodological choice should always be based on what is useful in answering your question*…".*[7]

Adopted method

The methodology I chose as most appropriate to the research questions I want to consider is mixed methods. Firstly, I will use quantitative data gathered from

[5] Zina O'Leary, *The essential guide to doing your research project* (2nd edition, Sage publications 2014) 130
[6] Alan Bryman, *Social research methods* (4th edition, Oxford University Press 2012) 412
[7] Zina O'Leary, *The essential guide to doing your research project* (2nd edition, Sage publications 2014) 147

Pensions Authority nationally representative consumer surveys to look at potential issues. Secondly, I will review available literature related to pensions generally and in the specific areas of focus. Finally, I will use the information garnered from the survey and the literature review to inform questions to be put to interviewees. I have chosen to structure the literature review and interviews around the quantitative data because for reforms to the legislative framework for pensions to be really meaningful they must look at the end user and how the system works in practice.

I have chosen three interviewees:

1. The Pensions Regulator
2. The Pensions Ombudsman
3. Chief Executive Officer, Irish Association of Pension Funds

I selected interviewees with a view to getting potentially different perspectives on issues with the current system and ideas for reform, namely, the members, the industry and the regulators. Together they should represent the relevant stakeholders and provide a meaningful view of the current framework.

Interview process

I first made contact with potential interviewees in late January, providing a background to the research and seeking their agreement to take part. In February, I compiled a list of twelve in-depth questions based on research carried out to-date. The first question was broader to allow the interviewee to speak freely on what they felt were the issues with the current system. This was followed by questions pertinent to the three areas of focus – State support, structure and personalised disclosure documents. The final question was again broad and allowed the interviewee to discuss what changes they would want to see in the supplementary pension system. This structure was adopted to assist in answering the research questions but also to highlight any relevant issues that were outside the areas of focus.

Interviews were held over a period of two weeks in March 2015 and ahead of each meeting, interviewees were provided with an interview guide. This outlined the background to the research project, the particular areas I would like to get their views on and discussed some practical issues. Interviewees were advised that if they were in agreement I would record the interviews purely as a memory aid. I also advised that we would discuss whether they want to be identified in the research output by their name/title or whether they would prefer to speak anonymously. I advised how any confidential information would be securely stored and that their written consent to take part would be requested. Finally, I provided the list of twelve questions to base the interview on. A copy of the participant information sheet can be found at appendix B. A copy of the interview guide can be found at appendix C.

In the interview process, DIT ethical guidelines were taken into consideration. All data will be held securely for a period of two years after completion of this project.

Chapter layout

Chapter one provides a background study of the current environment for pensions generally. It looks at the overall aims of this research project and the particular questions guiding the research. Finally it looks at the particular methodology adopted to produce an in-depth review of these areas of focus.

Chapter two provides a more in-depth background to the three areas of focus of the research project.

Chapter three looks at outcomes of the quantitative survey and available literature relevant to the three areas of focus of the research project.

Chapter four looks at the interview process and analyses outputs from that process.

Chapter five draws conclusions from the research and makes some recommendations for further research on areas that may provide meaningful reform.

CHAPTER TWO

Overview of the current framework

2.1 Introduction

This chapter gives a brief overview of the current framework that exists around the three areas of focus.

2.2 Area of focus: State support for retirement savings

There are good policy reasons why the State should encourage and support supplementary pensions. The State pension is designed to prevent poverty in old age.[8] Additional financial means increases that quality of life and minimises the number of people who depend solely on the State pension. Secondly, the State provides a range of means tested benefits to pensioners such as a medical card, additional allowance for dependants and the household benefits package.[9] Supplementary pension income reduces the amount of pensioners entitled to these means-tested benefits. Finally, additional income in retirement can lead to a higher tax take and increased consumption which leads to higher VAT returns. This will be more relevant as the percentage of pensioners relative to the labour force grows over time.

Those contributing to pensions are entitled to tax relief at their marginal rate, within certain limits.[10] For most employees, this means that contributions to a pension scheme are deducted before PAYE income tax is deducted. So in essence, for a member liable to a pay tax at the highest rate of 40% (single

[8] *National Pensions Framework* (Government Publications 2010) 19.
[9] http://www.welfare.ie/en/Pages/a-retired-or-an-older-person.aspx.
[10] *Tax and Duty Manuals* (Revenue 2013) Section 16, Chapter 26.

assessed, income over €33,800), for every €100 they contribute to their pension scheme they will pay €40 less in income tax. So, for the net result of contributing €100, the cost is actually €60. This would seem to be a return that the best of investments would struggle to compete with, but it is unclear that this benefit is sufficiently understood.

2.3 Area of focus: The structure of pension provision

Supplementary pension provision in Ireland is structured in one of two ways – through a contract or under trust.

In a trust, the assets of a scheme are held by a trustee or trustees according to the trust deed establishing the scheme and the rules of the scheme. Assets are legally held separate from the employers assets. The members of the scheme (and their dependants) are the beneficiaries of the trust. The trustees are the legal owners of the schemes assets and the members are the beneficial owners. There are three parties involved in the trust, namely, the provider, the member and the trustee. Schemes held under trust can be defined benefit (DB), where the benefit in retirement is based on a percentage of salary for each year of service or defined contribution (DC) where benefits at retirement are the total of the contributions made and the investment return received. Occupational pension schemes are regulated by The Pensions Authority.

The second structure is a contract between an investment fund provider and a contributor to an investment fund to be used to provide an income in retirement. These can be either Personal Retirement Savings Accounts

(PRSAs) which are regulated by the Pensions Authority or Retirement Annuity Contracts (RACs), the providers of which are regulated by The Central Bank.

Clearly, from a members point of view, having a third party involved who has a legal obligation to act in the schemes best interest, potentially makes things simpler. Research shows that in schemes where members can choose from a range of funds to invest in, the majority do not choose or opt for the default investment.[11] Moreover the Department of Social Protection's Report on pension charges 2012 concluded that large trust based occupational pension schemes generally have lower charges than small schemes or personal contract based pensions.[12] This is most likely because they have more purchasing power.

However, there is one major proviso to this view - for members to garner benefit from having a trustee as a third party acting in the schemes best interest, the trustees must be effective. That is, they must be more knowledgeable than the member and able to secure better terms than the member alone would.

2.4 Area of focus: Personalised information that is provided to members

Under the Occupational Pension Schemes (Disclosure of Information) Regulations, 2006, members of occupational pension schemes must be provided with a personalised benefit statement at least annually. Schedule D

[11] Irish Association of Pension Funds, *DC Investment Survey 2013* <https://www.iapf.ie/_files/list/IAPF_DC_Investment_Survey_2013.pdf> accessed 4 March 2015.
[12] Department of Social Protection, *Report on Pension Charges* 2012 (Department of Social Protection, 2012) 6.

of the regulations lists the items that are required to be included in the benefit statement. These include personal details, benefits accrued, an estimate what pension the member can expect based on the benefits accrued, information on increasing benefits and contacts for further enquiries.[13] Once these requirements are met the statement is considered compliant. With more understanding of behavioural economics and communications science, more focus on the use of plain English and the advent of electronic communications, the requirements for benefit statements could be updated to ensure information that is provided to members is user-friendly and facilitates increased understanding of decisions to be made.

[13] Occupational Pension Schemes (Disclosure of Information) Regulations, 2006, SI 2006/301.

CHAPTER THREE

Literature review

3.1 Introduction

This section deals with findings both from the review of available literature and from the Pensions Authority's national representative consumer survey. I will first give a background to the consumer survey and will then outline findings under each separate area of focus.

Pensions Authority nationally representative consumer surveys

The Pensions Authority commissions annual consumer surveys on attitudes to pensions. I had the opportunity to add a number of questions to their most recent survey which was conducted in November 2014. The research is carried out by a third party, 'Red C', with a total of 1,005 interviews conducted by phone using a random digit dial sample to ensure all households, including ex-directory were covered. A breakdown of respondents to the survey can be found at figure 1.

Figure 1 – Breakdown of respondents to consumer market research

Gender		Age		Social Class	
Male	49%	18 to 24	11%	ABC1	42%
Female	51%	25 to 34	21%	C2DE	52%
		35 to 44	21%	F	6%
		45 to 54	17%		
		55 to 64	14%		
		65+	16%		

3.2 Area of focus: State support for retirement savings

State support for supplementary pension contribution is provided primarily by way of tax relief on an 'exempt exempt taxed' or EET basis[14], that is, exempt from tax on contributions, subject to limits, exempt from tax on interest and growth and taxed on its drawdown, although members will usually also benefit from a tax-free lump sum portion.

Certain limits are in place to focus state support on retirement income provision rather than tax planning. There are age related percentage limits which give the maximum percentage of salary that a member can contribute and get tax relief on. These limits are outlined at figure 2. There is also an overall cap on the earnings that can be used for tax relief purposes of €115,000. In addition there is an overall fund cap of €2,000,000 (which roughly equates to a lump sum of €200,000 and an annual pension of €60,000) and finally the maximum benefit allowed from an occupational pension scheme is a pension of two-thirds of the members final salary.

Figure 2 – Age related tax relief limits in Ireland

Current age	Maximum % of salary member can contribute to a pension and receive tax relief
Under 30	15%
30 to 39	20%
40 to 49	25%
50 to 54	30%
55 to 59	35%
60 plus	40%

Source: Revenue

[14] Organisation for Economic Co-operation and Development, *OECD Reviews of Pension Systems: Ireland* (OECD Publishing 2014) 35.

In 2007 a Green Paper on pensions was published which, among other things, looked at incentives for retirement savings. It states that "there are a number of differences in the tax treatment of pension contributions across the various pensions products. This is notwithstanding that some changes made in recent years were intended to standardise tax relief".[15] Effectively this recognises that there are different pension products available to people with differing tax treatments and that this is something the State has sought to standardise but has not yet achieved.

In seeking to understand what these inconsistencies might include I have found the following:

- Age related percentages do not apply to employer contributions to occupational pension schemes, but employer contributions to PRSAs (a contract-based personal pension that an employer can contribute to) or personal pensions (also called RACs) are included for the maximum percentage contribution allowed.
- The earnings cap of €115,000 does not include employer contributions to occupational pension schemes but would include employer contributions to a PRSA or RAC.
- Employer contributions to PRSAs are considered a benefit-in-kind (BIK) whereas employer contributions to occupational pension schemes are specifically exempted from BIK.
- The employers contribution to a PRSA is effectively treated as the employees and is subject to PRSI and USC. This can result in a higher

[15] Government of Ireland, *Green Paper on Pensions* (Government publications 2007) 105

PRSI and USC liability for the employee then if their employer did not make a contribution.

A table outlining the differing tax treatments of various pension vehicles can be found at appendix A.

These inconsistencies clearly provide more of an incentive to set up an occupational pension scheme over a PRSA in an employment (or self-employed) situation. According to latest statistics there are in excess of 50,000 single member occupational pension schemes in existence in Ireland.[16] We will see in the section on structure how this may not always be in a member's best interest.

We have discussed before the policy reasons why the State would offer financial incentive to encourage people to contribute to a supplementary pension. That is to:

- Increase the standard of living of pensioners above mere prevention of poverty
- To minimise the number of people solely dependent on the State pension
- To potentially reduce entitlement to means-tested benefits in retirement such as the medical card or household benefits package
- To increase income tax return of those in retirement
- To increase consumption, leading to higher VAT returns

[16] Pensions Authority, *Annual Review 2014 and 2015 Forward Look Report* (Pensions Authority 2015) 14

However, pension coverage has remained relatively static over the years as figure 3 demonstrates.

Figure 3 – Pension coverage for persons in employment aged 20 to 69

Q1 2005	Q4 2005	Q1 2007	Q1 2008	Q4 2009
52%	55%	52%	54%	51%

Source: CSO Quarterly National Household Survey, Quarter 4 2009

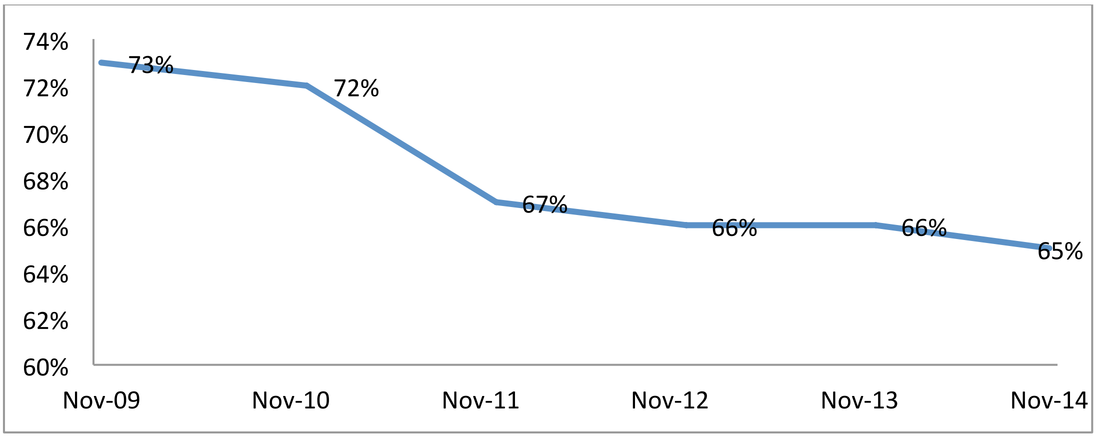
The current 'net pay' method, whereby contributors receive tax relief at their highest rate, has one very obvious advantage in that it is relatively straightforward to deliver, however it is questionable whether it is understood by members and potential members to achieve its objective of incentivising retirement saving. In the UK the issue of tax relief was investigated by the Pension Policy Institute in their report published in July 2013 entitled *Tax relief for pension saving in the UK*. This looked at the extent to which pension tax relief meets its stated objective of incentivising pension saving. The UK has a similar system to Ireland in that tax relief at the members highest rate is available on contributions to pensions. The report concluded that tax relief is poorly understood and there is little evidence that it encourages pension saving among low and medium earners.[17]

Looking at the Pensions Authority consumer research undertaken in December 2014, all participants, which included those with a pension and those without, were asked whether they were aware that there is tax relief available when a person contributes to a pension. The results indicated that 65% were aware and 35% were not. This level of knowledge has declined

[17] Pension Policy Institute, *Tax relief for pension saving in the UK (*Pension Policy Institute 2013) 27

slightly over the last few years as shown in figure 4. Given that only an estimated 51% of workers contribute to a pension, the fact that one in every three people are totally unaware that such incentives exist is discouraging.

Figure 4 – Awareness of tax relief for pensions contributions



Source: Pensions Authority consumer research, December 2015

When those not working and those without a pension are stripped out from the data the awareness level jumps to 85%. Of those who were aware there was tax relief available, 52% were unaware what the rate of tax relief is, 5% estimated it to be 19% or less, 12% estimated it to be 20%, 5% estimated it to be 21 or 22% and 27% estimated more than 22%.

To try match the estimates with the actual tax-relief rate the person might be in receipt of, I matched the estimates with salary band, where it was provided, and included those with a pension only. The results were as shown in figure 5. The figure of €32,800 was the cut–off point for the higher rate of tax at the time the survey was undertaken. In January 2015 the cut-off point was increased to €33,800 and the higher tax rate decreased to 40%.

Figure 5 – Estimates of tax relief by income bands

Estimate given	Total %	Income under €20,000	Income €20,000 to €32,800	Income €32,801 to €50,000	Income over €50,000
Base size	248	30	59	79	54
19% or less	5%	6%	9%	5%	2%
20%	12%	16%	10%	14%	9%
21%	2%	0%	2%	2%	3%
22% to 30%	6%	2%	2%	7%	12%
31% to 40%	6%	4%	6%	7%	10%
41% to 50%	10%	4%	1%	12%	22%
51% to 60%	1%	0%	0%	0%	4%
61% +	3%	5%	1%	5%	5%
Don't know	55%	63%	69%	48%	33%

Source: Pensions Authority consumer research, December 2015

Taking people with income of under €32,800, who were likely to be in receipt of tax relief of 20%, 67% said they did not know what the tax relief was, 12% guessed correctly, 8% underestimated and 13% overestimated.

Looking at people with income of over €32,800 who were likely to be receiving tax relief of 41%, 42% said they did not know what the tax relief was, 35% underestimated it and 23% guessed correctly or over estimated.

This indicates that at lower income levels most people say they do not know the level of tax relief they receive on contributions to their pension. At higher income levels, while the number of people who said they did not know the rate of tax relief was still high, more people were able to provide an estimate. Of those who did guess most underestimated the relief.

Turning to an alternative method of State support where the Government would make a contribution to a pension, all surveyed adults, excluding those who are retired, were asked whether they would prefer a Government top up of €1 for every €3 they contribute to a pension scheme (i.e. equivalent to a 33% tax relief). The results show that 72% indicated they would prefer this method, 22% said they would prefer tax relief and 6% said they did not know.

In order to further understand what this choice means, the data was narrowed to those who are working and who gave their annual salary. The salary bands were chosen to indicate whether the person was likely to get tax relief at 20% or 41%. The overall numbers were broadly similar with 71% indicating they would prefer a €1 for €3 top-up, 24% indicating they would prefer tax relief and 5% saying they did not know.

Looking at the salary break down for the 71% who said they would prefer the €1 for €3 top-up, the results were as shown in figure 6.

Figure 6 – Breakdown of those who prefer €1 for €3 Government top up over present tax relief across salary bands

Salary band	**%**
Under €20,000	31
€20,000 to €32,800	36
€32,801 to €50,000	25
€50,000+	8

Source: Pensions Authority consumer market research, December 2015

This table indicates that one in three people entitled to 41% tax relief have stated a preference for a Government top-up equivalent to 33% i.e. they have indicated a preference that is more visible but less financially beneficial.

Looking at those who stated a preference for tax relief as is currently available the results were as shown in figure 7.

Figure 7 - Breakdown of those who prefer present tax relief over €1 for €3 Government top up across salary bands

Salary band	**%**
Under €20,000	27
€20,000 to €32,800	22
€32,801 to €50,000	27
€50,000+	24

Source: Pensions Authority consumer market research, December 2015

This table indicates that 49% (27% + 22%) of people entitled to 20% tax relief have stated a preference for a tax relief over a Government top-up equivalent to 33% i.e. they have indicated a preference that is less financially beneficial.

The research indicates that tax relief is not understood or valued and therefore it is unlikely to be encouraging pension provision as perhaps it could be. As an alternative, a State contribution would be very visible for the member and would bring about standardisation but would not be without its difficulties to deliver and it could increase administrative burden. However, this must be evaluated in terms of achieving the objective of providing State support for pensions, to encourage take up of, and contributions to, occupational pension schemes[18], particularly among those who otherwise would be solely reliant on the State pension for income in retirement.

Having an alternative method for State support to savings has been previously considered for Ireland. The Commission on Taxation report published in 2009 looked at the tax incentives for retirement savings. It recommended that “tax relief for personal retirement provision should in the medium to long-term be replaced by a matching Exchequer contribution of €1 for each €1.60 contributed by the taxpayer”.[19] It further recommended that “an employee’s payslip should show the amounts contributed by the Exchequer to the employee’s retirement savings” and that “anomalies in the treatment of different retirement arrangements should be eliminated as far as possible”.

The National Pensions Framework published in 2010 proposed the introduction of a national auto-enrolment pension scheme with a State contribution equal to 33% tax relief. It further proposed that for existing occupational and personal provision, the current system of tax relief at the standard and higher rates of tax be replaced with a matching State contribution equal to 33% tax relief ‘to improve the equity and transparency of tax incentives available for pension contributions’.[20]

3.3 Area of focus: The structure of pension provision

As discussed earlier, supplementary pension provision in Ireland is delivered though two mechanisms, trust and contract.

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[18] Government of Ireland, *Green Paper on Pensions* (Government publications 2007) 6
[19] Commission on Taxation, *Commission on Taxation Report 2009* (Government publications 2009) 401
[20] Government of Ireland, *National Pensions Framework* (Government Publications 2010) 37.

In a trust, the assets of a scheme are held by a trustee or trustees according to the trust deed establishing the scheme and the rules of the scheme. The main duties under trust law are:

- to administer the trust in accordance with trust law, all other law and the terms of the trust deed and rules
- to act in the best interests of beneficiaries
- to act fairly between beneficiaries
- to act prudently and diligently
- to exercise care and utmost good faith in all trustee duties
- to seek professional advice as necessary
- to supervise those to whom functions have been properly delegated
- to not make personal profit from the trust
- to be aware of possible conflicts of interest.[21]

In addition to trust law, trustees are subject to obligations under the Pensions Act, 1990. These can be general obligations under Section 59 or other specific obligations. General obligations include ensuring contributions are received and invested within a prescribed time-frame, providing for the proper investment of the resources of the scheme in accordance with Regulations and the rules of the scheme, making arrangements for the payment of benefits as provided for under the rules of the scheme, as they become due, net of any taxes and ensuring that proper membership and financial records are kept.[22]

[21] Pensions Authority, *So You're a Pension Scheme Trustee* (Pensions Authority 2004) 5.
[22] The Pensions Act 1990, s 59(1)(a), s 59(1)(aa), s 59(1)(b), s 59(1)(c) and s 59(1)(d).

Specific obligations under the Pensions Act, 1990 include:

- Ensuring the scheme complies with the preservation or transfer of benefits requirements for early leavers.
- For defined benefits schemes, ensuring the scheme complies with the minimum funding standard requirements. An actuarial valuation of the scheme must be prepared and submitted to the Pensions Authority every three years. Where the valuation indicates that the scheme has insufficient assets to satisfy the funding standard the trustees must ensure that a funding proposal is also submitted, outlining how the scheme could reasonably expect to satisfy the funding standard for the next actuarial valuation.
- Ensuring that specified documents and information on the scheme and its operation are provided to scheme members in certain circumstances e.g. on joining the scheme, on leaving the scheme, on retirement and annually.
- Ensuring the scheme complies with the principle of equal pension treatment.[23]

The obligations for scheme trustees are serious and “once appointed, the trustee assumes onerous duties and is usually given wide-ranging discretionary powers”.[24] Trustees are potentially open to litigation as has

[23] Pensions Authority, *Trustee Handbook,4th edition* (Pensions Authority 2013)
[24] Kevin Finucane and Brian Buggy, *Irish Pensions Law and Practice* (1st edition, Oak Tree Press 1996) 108.

recently been demonstrated in *Greene & Ors v. Coady & Ors*[25] and *Holloway & Ors v. Damianus BV & Ors*[26].

Greene & Ors v. Coady & Ors[27], known as the Element Six case, concerned a defined benefit scheme. The Regulator requires a minimum level of funding, the minimum funding standard (MFS), which requires that the assets of the scheme are sufficient to meet the liabilities of the scheme were to be wound up on the date of valuation. The scheme in question was underfunded by €129 million. The sponsoring employer had decided to wind up the scheme and offered €23.1 million as a final contribution, in addition to making a €14 million contribution to a defined contribution scheme for employees. The employer had indicated that if the offer was not accepted they would have to liquidate the operation. It was arguable whether the value to the scheme on liquidation would be lower than the employers compromise offer. The trustee board comprised of three employer nominated and three member nominated trustees. The chair, who was employer nominated, had the casting vote. The member nominated trustees voted to reject the offer and the employer nominated trustees voted to accept. The offer was accepted on the chair's casting vote.

The members of the pension scheme issued proceedings against the trustees of the scheme for breach of duty for failing to make a contribution demand for the full amount of the deficit, that they had a conflict of interest and considered irrelevant factors in making their decision.

[25] [2014] IEHC 38
[26] [2014] IEHC 383
[27] [2014] IEHC 38

The Court dismissed the members' claim finding that the trustees decision to accept the contribution was not "influenced to any degree by any conflict of duty or interest", that they were entitled to take account of issues beyond the scheme where they were in the beneficiaries' wider interests and that "the decision.....was not one with which any court could take issue". The appropriate test was whether no reasonable body of trustees could have come to the same decision.[28]

Holloway & Ors V Damianus BV & Ors[29], known as the Omega Pharma case, involved a defined benefit scheme which was fully funded according to the MFS valuation. The sponsoring employer gave notice to terminate contributions and wind up the scheme. The scheme rules stated that the trustees could set the contribution rate and on this basis the trustees issued a contribution demand in excess of the MFS. The employer did not engage with the process and the trustees issued proceedings against the employer.

The trustees claim succeeded with the Court finding that their decision to issue the demand was 'not unreasonable' and that they appeared to "have been acting in good faith in pursuit of what they believed to be the best interests of the members of the scheme".[30]

In both cases the courts found in favour of the trustees, but this demonstrates the level of involvement required by trustees of pension schemes. A level

[28] Willam Fry, *6 Lessons from the Element Six Pensions Case* (William Fry, March 2014) <http://www.williamfry.com/newsandinsights/news-article/2014/03/07/6_lessons_from_the_element_six_pensions_case> accessed 7 November 2014.
[29] [2014] IEHC 383.
[30] William Fry, *Lessons from the Omega Pharma Pensions Case* (William Fry, July 2014) <http://www.williamfry.com/newsandinsights/news-article/2014/07/31/lessons_from_the_omega_pharma_pensions_case> accessed 12 November 2014.

which may be at odds with the requirements for being a trustee under the Pensions Act, which are outlined below.

Under Section 59(A)(1) a person shall not act as a trustee of a scheme where the person:

(a) is an undischarged bankrupt, or

(b) has made a composition or arrangement with this creditors and has not discharged his obligations under that composition or arrangement, or

(c) has been convicted of an offence involving fraud or dishonesty, or

(d) is a company and any director of the company is prohibited under this section from being a trustee of the scheme, or

(e) is a person who is for the time being subject to the restrictions imposed by section 150 of the Companies Act, 1990.[31]

The Occupational Pension Schemes (Trustee) Regulations deals with qualifications of trustees and requires trustees to "...possess, or employ or enter into arrangements with...advisers who possess qualifications and experience appropriate and relevant to investment of the resources of the scheme". Trustees are regarded as possessing such qualifications and experience of they enter into a contractual arrangement with an investment manager to provide investment services. Where one trustee meets the regulations all trustees are deemed to satisfy the requirements.[32]

Finally, from February 2010 all trustees are required to receive training on

[31] The Pensions Act 1990, s 59(A)(1).
[32] Occupational Pension Schemes (Trustee) Regulations, 2006, SI 2006/293

- The Pensions Act, the regulations made under it and any other law that affects the operation of their scheme, and
- The duties and responsibilities of trustees generally.[33]

Trustees are required to receive training within six months of their appointment and at least every two years thereafter.[34]

The number of schemes and their active membership are outlined in figure 8. Active members are members who are contributing to the scheme or contributions are being made on their behalf. In addition to active members there are also deferred members in pension schemes. These are members who have left the scheme but have not yet retired so their assets remain invested with the scheme.

Figure 8 – Pensions schemes under trust and their membership

Year	DB schemes	Active members	DC schemes	Active members
2009	1,307	586,488	82,939	266,909
2010	1,108	550,229	75,183	259,732
2011	1,098	532,728	65,770	239,150
2012	1,040	527,681	60,192	232,939
2013	998	507,054	61,123	241,317
2014	886	469,766	61,309	263,261

Source: Pensions Authority Annual Reports 2009 to 2013 and Annual Review 2014

The second structure is a contract between an investment fund provider and a contributor to an investment fund, to be used to provide an income in retirement. These can be either Personal Retirement Savings Accounts

33 The Pensions Act 1990, s 59AA(1).
34 The Pensions Act, s 59AA(2).

(PRSAs) which are regulated by the Pensions Authority or Retirement Annuity Contracts (RACs), the providers of which are regulated by the Central Bank. While there is no reliable figure for the number of RACs in existence in Ireland, the number of PRSAs commenced and their assets are outlined in figure 9.

Figure 9 – PRSAs commences and total assets held

Year	PRSAs commenced	Assets
2009	170,862	€2.05 billion
2010	187,114	€2.74 billion
2011	198,038	€3.03 billion
2012	206,936	€3.46 billion
2013	215,892	€3.99 billion
2014	226,605	€4.66 billion

Source: Pensions Authority Annual Reports 2009 to 2013 and Annual Review 2014

As previously mentioned, from a members point of view, having a third party involved who has a legal obligation to act in the schemes best interest, potentially makes things simpler for the member. However, for members to get the most benefit the trustees would have to be more knowledgeable than the member and able to secure better terms than the member alone would. However we have seen above that almost anyone can be a pension scheme trustee, that knowledge and experience can be satisfied by having an investment manager and that some level of training is required every two years.

It is estimated that there may be around 200,000 pension scheme trustees in Ireland. It seems unlikely that this number could have the knowledge and be able to devote sufficient time to be able to add value for the member. This is significant given that there an estimated €91.5 billion in assets in pension schemes held under trust in Ireland.[35]

This issue can be highlighted by the Report on Pension Charges published by the Department of Social Protection in 2012. As part of their research for the project, the Pensions Authority wrote to a sample 1,015 schemes, selected randomly, though in a manner to give a representative range and volume of schemes. Trustees were asked to complete a short survey on charges related to their scheme. The response rates received from the trustees is outlined in figure 10. The defined contribution scheme responses are broken down between insured schemes, where the benefits are paid by a life company and non-insured where benefits are paid directly from the scheme.

Figure 10 – Schemes surveyed by scheme type/size and response rate

Membership size	Scheme type	Scheme type	Scheme type	Total sample
	Defined benefit schemes	Defined contribution insured schemes	Defined contribution non-insured schemes	
1 to 50	59 (14 or 24%)	536 (127 or 24%)	25 (10 or 40%)	620 (151 or 24%)
51 to 500	108 (53 or 49%)	187 (62 or 33%)	54 (37 or 69%)	349 (152 or 43%)
501 to 1,000	30 (25 or 83%)	8 (4 or 50%)	8 (8 or 100%)	46 (37 or 80%)
Totals	**197** (92 or 47%)	**731** (193 or 26%)	**87** (55 or 63%)	**1,015** (340 or 34%)

Source: Report on Pension Charges in Ireland, 2012, Department of Social Protection

[35] Irish Association of Pension Funds, *Pension Investment Survey 2013*, (IAPF 2014)

While response to the survey was entirely voluntary, the response rate was low. It is clear that engagement was much higher in larger schemes with an 80% response rate from trustees of schemes with more than 500 members. However, the response rate from smaller schemes was worryingly low, with only 24% response from schemes with less than 50 members. There are over 60,000 schemes in this category.[36]

Also of note is that 63% of respondent trustees indicated that they did not have all of the required information available to hand and had some level of difficulty completing the survey.

The report concluded, among other things, that the low response rate potentially indicated that trustees "may not always be fully engaged in the management of their scheme and/or they may not be engaged in determining the most reasonable rate of charges".[37]

In addition, in 2013 the Pensions authority audited trustee compliance with their training obligations under the Pensions Act. While overall the results were considered satisfactory, the Authority said it had concerns with "...the attention to detail by some trustees when it comes to compliance and reporting obligations by small and particularly one member schemes".[38]

[36] Pensions Authority, *Annual Review 2014 and 2015 Forward Look Report* (Pensions Authority 2015) 12
[37] Department of Social Protection, *Report on Pension Charges 2012* (Department of Social Protection, 2012) 17
[38] Pensions Authority, *Annual Report and Accounts 2013* (Pensions Authority 2014) 9

3.4 Area of focus: Personalised Information given to members

Members of occupational pension schemes are provided with personalised benefit statement annually. The statement includes, among other things, some personal details, the benefits the member has accrued to date, an estimate of the pension the member can expect based on the benefits accrued, information on increasing benefits and contacts for further enquiries.[39]

Central Bank annual statement focus groups

In 2014 the Central Bank published details of their review of annual personal pension statements provided by life assurance firms to ascertain compliance with the Consumer Protection Code 2012. As part of that research the Bank held focus groups to identify what consumers felt was of benefit in pension benefit statements. It should be noted that this research was based on personal, contract based pensions and not on occupational trust based pensions, however the principles of what the consumer wants to know about their pension are likely to be broadly aligned.

The following are the outcomes of the focus group research:

- The use of 'plain English' and clear distinct headings in the presentation of the statement.
- Details of the projected retirement income expressed as a monetary value, with information on what they could expect to get from their pension product when they retired.

[39] Occupational Pension Schemes (Disclosure of Information) Regulations, 2006, SI 2006/301

- Information on the investment funds, including risk and the type of fund to be clearly highlighted on the statement including the location of the investments.
- Historical information on the performance of the policy.
- A link to a pension calculator so consumers can see whether they will have enough money built up in their fund for when they retire.
- Charges to be broken down into a euro value in the annual statement and for all fees and charges to be provided in one location with a monetary total.[40]

EIOPA Good Practices on Information Provision for DC Schemes

In 2013, the European Insurance and Occupational Pensions Authority (EIOPA) published a paper which examined good practices in the various member states in personalised benefit statements provided to members of defined contribution pension schemes. It produced a checklist of considerations for those drafting benefit statements, looking at the preparation, drafting and testing phases. The checklist is outlined in figure 11 below.

[40] Central Bank of Ireland, *Central Bank publishes findings of review of annual personal pension statements* (Central Bank 28 May 2014) <http://www.centralbank.ie /press-area/press-releases%5CPages%5Creviewofannualpersonalpensionstatements.aspx> accessed 6 January 2015

Figure 11 – EIOPA checklist for drafting information requirements[41]

Preparation	1	Have a behavioural purpose
	2	Provide a first layer of information that answers key questions for members
	3	Ensure that information is retrievable
	4	Ensure that information provided is comprehensible
Actual drafting	5	Optimise attention
	6	Reduce complexity
	7	Provide figures that enable personal assessment and understanding
	8	Show potential implications of risks and ways to deal with them
	9	Support readers as much as possible towards financial decisions
Testing	10	Ensure thorough testing among members

IORP II Directive

EU Directive 2003/41/EC on the activities and supervision of institutions for Occupational Retirement Provision (the IORP Directive) came into force on 23 September 2003. This was a pan-European directive which aimed to introduce a minimum common standard of governance across pension schemes and facilitate cross-border pension schemes, seemingly to provide conditions under which a single market for occupational pension services could start developing. This Directive is currently under review with a follow-up 'IORP II' directive being negotiated by Member States. This aims to further strengthen governance, which was considered necessary after the global financial crisis. It also focused more on defined contribution schemes then the previous

[41] European Insurance and Occupational Pensions Authority, *Good Practices on Information Provision for DC schemes* (EIOPA 2013) 5.

Directive, recognising that membership in defined benefit schemes has fallen while defined contribution membership has increased, a trend that can only continue.

The explanatory memorandum, in discussing the context for the proposal, states that “there is evidence of significant gaps in the level of information provided to scheme members”. The Directive proposes a standardised Pension Benefit Statement (PBS), running to two pages in length, with a standardised format “to facilitate the understanding of pension entitlements over time and across schemes and serve labour mobility”. [42]

The draft suggests the kind of information that a member should have, but also underlines how important the format of such documents are considered in aiding members understanding.

The draft IORP II directive is currently being considered by the EU Parliament in the context of dialogue between the Parliament, the EU Council and the European Commission. It is expected that negotiations on the draft will re-commence in late 2015.

[42] European Commission, *Proposal for a Directive of the European Parliament and of the Council on the activities and supervision of institutions for occupational retirement provision (recast)* (European Commission 2014)

CHAPTER FOUR

Analysis of interview data

4.1 Introduction

Following analysis of quantitative data gathered from the Pensions Authority nationally representative consumer survey and a review of available related literature I compiled a list of twelve in-depth questions to be put to interviewees. The first question was broad to allow the interviewee to speak freely on what they felt were the issues with the current system. This was followed by questions on the three specific areas of focus of the research – State support for supplementary pensions, structure and personalised disclosure documents. The final question was again broad and allowed the interviewee to discuss what changes they would like to see in the supplementary pension system. This structure was adopted to try to answer the research questions but also to highlight any relevant issues that were outside the areas of focus.

Three interviewees were approached:

1. A senior figure in pensions regulation
2. The Pensions Ombudsman
3. Chief Executive Officer, Irish Association of Pension Funds (IAPF)

I selected these interviewees with a view to getting potentially different perspectives on issues with the current system and ideas for reform, namely, the members, the industry and the regulators. Together they should represent all the relevant stakeholders and provide a meaningful view of issues with the current framework.

4.2 Issues with the current system

Interviewees were initially asked what they thought were the main issues with the supplementary pensions in Ireland. The major issues raised here were low coverage, complexity, lack of trust and pension scheme governance. Other issues were adequacy, security of defined benefit schemes, low interest rates, compulsory annuity purchase and the fragmentation of schemes leading to an inability to secure economies of scale.

Low coverage was cited by both the Chief Executive of the IAPF and the Pensions Ombudsman. As previously mentioned, excluding the public sector an estimated 41.3% of workers have some kind of supplementary pension.[43] This has led the Government to establish a high-level interdepartmental working group to look at establishing a new pension savings scheme.[44]

The Head of the IAPF commented that "we don't have enough people saving so we need to do something about that. There are lots of reasons for this – affordability, apathy, confusion. We are looking at what other countries have done and will have to do something to address it."

The Pensions Ombudsman stated that he felt "the main issue is low coverage. Outside public sector coverage is very patchy. It's clear that there are various sectors that have grossly inadequate cover. The self-employed at the middle

[43] Organisation for Economic Co-operation and Development, *OECD Reviews of Pensions Systems: Ireland* (OECD Publishing 2014) 47
[44] Emma Kennedy, 'State seeks advice from OECD and British experts on key pension scheme' *The Sunday Business Post* (Dublin, 22 March 2015).

and lower levels and women are inadequately covered as are hospitality and retail sectors". He also suggested that the focus of increasing cover should not necessarily be the lower paid saying that there are "three categories – first of all the lowest paid people for whom the State pension was near enough to an adequate replacement income, at the other end you have Denis O'Brien who doesn't need a pension, but it's the people in the middle who are most in need of proper pension coverage and these are the ones we need to look at."

The Head of the IAPF raised complexity as the initial issue for discussion. He commented that a lot of extra regulation had been added, particularly on the tax area, "mostly because people were availing of loopholes and moves were made to close these off." He suggested that regulation in this area had been "heaped one on top of another, but as things have changed some may no longer be relevant." For example, he suggested that there are many requirements on how much someone can contribute to a pension in a particular year such as the age related contribution limits (see figure 2), but there is also an overall maximum fund level so he questioned the need to retain the age related amount, saying "should there just be one overarching limit and it doesn't really matter how you get there – if the limit is €2 million in a defined contribution pension does it matter if you pay it over forty years or one?" However there may be an element of smoothing of the 'cost' to the exchequer here - the impact of forgoing income tax from a member over forty years being less than having it all in one year.

He suggested that while these rules were all "put in for good reason, it is the piling stuff on top of each other" that leads to such complexity which is very off-putting. He also expressed concern over the language people tend use around pensions saying there is a "tendency for people who work in the area to use very technical language and to think about really complex scenarios that might not ever happen in real life and phrase everything around that rather than what they think most people need to know."

The Pensions Regulator felt that the complexity of the system is "just a historical accident. The system wasn't designed, bits were added on over time, each for an individually good reason and it becomes complex". He highlighted that the Irish system its actually by international standards not particularly complex, but that doesn't mean that the amount of complexity is acceptable because the benchmark "isn't how complex are we versus say the Austrians, it should be how complex are we versus what the average non-professional man or woman can deal with. And it is too complex".

The Head of the IAPF suggested that a lack of trust is considerable issue. He referred to people saying that their pensions were entirely decimated during the economic down turn, however he "finds it very difficult to see how people's pension could have been wiped out completely, unless they were invested in something very risky, e.g. property. People would have suffered big losses in one year but would have more than bounced back by now, but people tend to discount that. Behavioural science comes into this – people much more impacted by heavy losses than by gains, losses stay with them longer". He further suggested that part of the pensions industry were somewhat to blame, saying they were "very close to ripping people off". He also felt that the introduction of a temporary levy on pensions by the Government in 2011 may have made some people feel “why should I bother, they’ll just take it all, they can do what they want”. He suggested that if a State retirement savings system was established “it has to be in a way that they feel that their pension is secure and safe and it’s going to be properly looked after”.

The Pensions Regulator also mentioned a lack of faith as being one of the major issues with the system for pensions in Ireland today, saying that it was “probably justified”. The lack of trust is “partly a function of complexity, partly a function of outcomes. A lot of people have been unsatisfied with their pensions both because of investments losses and often times because of costs. Their lack of trust is also a function of when they do make the effort to understand they find, the communication, the jargon, the difficulty of navigating it, the unfamiliarity - all that contributes to a lack of trust”.

The Pensions Regulator highlighted poor governance as his third issue. “The problem is that pension schemes are run by people who do not have the necessary experience or knowledge to run what is essentially a large scale financial institution, in aggregate. And that has happened because originally pensions were very small scale and they were invented in a much more financially stable environment so running them wasn’t actually particularly hard. Two things have happened then, the scale of pensions has expanded dramatically in the last thirty years and the financial environment has become a lot more complex but the tendency, sometimes explicit in pension legislation, has been to tailor the obligations to the ability of trustees rather than the needs of the members. It hasn’t been member-centred in that sense”.

4.3 Area of focus: State support for retirement savings

Interviewees were asked how well understood they through tax relief was among pension scheme members. Universally it was thought that tax relief was very poorly understood.

The Head of the IAPF commented that “it is described in a very complex way and people don’t really understand. It’s not hard to turn it into something that is much easier to understand, I’m not sure why people don’t do that more”. He added that members “see money coming out of their payslip, if they even look at that they don’t realise the tax bit. Some schemes do give a breakdown, your fund is this, X amount is what you’ve put in, X amount is what your employer has put in and X is what the Government put in. People follow this a lot better”.

The Pensions Ombudsman felt that people were only really conscious of tax relief when they are signing up to make additional payments to their scheme – “apart from that the deduction of contributions at source means that tax relief is not really noticeable or visible”.

The Pensions Regulator said that anecdotal evidence implied that people don’t seem to be aware that there is tax relief available. “Obviously people who are well informed, people who have financial advice particularly accounting advice and the better-off self-employed would be very aware of it but there are many people who aren’t aware”

The Head of the IAPF further commented that he felt there was an “overselling of tax relief” which was “really just a deferral of tax”. He argued that pension scheme members are choosing to give up some of their salary now, either through their own contributions or that the employer might otherwise have paid them, and are deferring that income for forty years and “the obvious tax implication is we’re not going to tax you on it now we’ll tax you when you get the money”. He felt this can give tax relief on pensions “a bad name in a way where people think the only reason you’re saving for retirement is for a tax break where it should be about long term retirement planning”.

This concept was echoed by the Pensions Regulator who said there was two schools of thought on the origins of tax relief for pensions. Many debates about State support for pensions tend to see the purpose as encouraging pensions but it could also be just to reflect the financial reality that people were deferring their income. “If I as a top rate tax paper don’t draw a certain part of my income this year it is fairly reasonable that I don’t pay tax on it. And if I defer drawing that income until a later year there is a logic that says I should only pay tax when I actually get the income, that paying the tax in a year that I don’t get the income is unfair”. “A lot of people criticise the current system because the cost of tax relief on pensions disproportionately goes to those who pay the highest rate of tax and pay the most pension contributions, that looks unfair if your objective is State support. If however you see the objective as not being the State subsidising the better-off people’s pension contribution, but that the better-off people are reducing their taxable income and therefore they are logically paying less tax. It’s not a subsidy, it’s simply a reflection of the fact that they are getting less income. This interpretation is as valid - I’m not saying one is right or wrong, there are arguments on both sides but it is at least as valid".

Interviewees were then asked whether they think an alternative method for State support would be better, such as a State contribution. There was general agreement that this would be more easily understood by members but that there would be a few issues to consider.

The Head of the IAPF said that a State contribution would be easier to understand and quite popular. He felt it "dealt with a subsidy for people who don't pay tax and therefore don't get tax relief". He commented that "it would work very well if you had a straight contribution of the amount of tax relief", but pointed out that "it is not that straight forward as people can also move between tax bands although it is unlikely that they would be paying standard rate tax while working and higher rate in retirement. It tends to work the other way which is an advantage to the member".

The Pensions Ombudsman commented that something similar to the "SSIA idea of the State Paying an amount that can be seen would have a much more visible effect and I think would be more beneficial". He suggested that a compromise amount of 33% (between the 40% and 20% tax rates) "would have a beneficial transfer effect in terms of the lower paid people, who are getting 20% or maybe no relief depending on their tax status. So in terms of generating a social good the institution of a payment like that would effectively be a transfer from the higher paid to the lower paid and progressive in that respect".

The Pensions Regulator said that “a straight forward subsidy, be it just a straight subsidy or a contribution match would be clearly much better understood, it would be much more popular, it would be much more visible. Those are all the advantages and those are unambiguous”. However he went on to mention two potential issues with a State contribution, “first is the Department of Finance, it would probably be much more expensive”, second is the objective of tax relief in the first place (also referred to in the previous question). “All of the debate about State support for pensions tend to see the purpose of that as encouraging pensions rather than reflecting the financial reality. One of the challenges for deciding what is the most suitable way of providing State support, if any, is to be clear about what the objective is”.

4.4 Area of focus: The structure of pension provision

Interviewees were asked which they felt was the better structure for supplementary pensions – trust or contract and for what reasons?

There was differences of opinions here with two interviewees suggesting one was not better than the other, and one interviewee expressing a preference for trust-based pensions. All agreed that trust has potential advantages and that there would continue to be a place for contracts.

The Head of the IAPF felt that there shouldn’t be a fundamental difference - both have their advantages. “Contract allows for people to take their pension with them when they move from job to job. Trust does have a slight advantage in that it brings a governance structure with it, again in that in theory you have someone else looking out for your interest rather than you just dealing directly with the provider. You should have people looking out for you who know what they are doing, who can get the benefit of scale and make sure you are getting best in class in terms of administration and investment which people may not be getting themselves".

The Pensions Ombudsman also agreed that one is not better than the other, however he did suggest that the size of scheme is relevant. For large defined benefit schemes "the trust model is far better, largely because trustees are taking responsibility for a whole range of things including investment and if the trustees are taking proper advice and so on then they are the proper people to be in charge of large pension funds". For very large DC schemes he said the "cannot see any reason why they should not be under trust". For smaller schemes, he said the contract model "is probably best". He also suggested that some schemes under trust would be more appropriate as contracts giving examples of self-directed schemes where the member channel the investment, small self-administered schemes and group additional voluntary contribution (AVC) schemes that are not sponsored by the employer who sponsors the main scheme. In these cases "you are very much reliant on the direct relationship between the provider and the member, there's no-one else intervening, the trustees don't have any function in those schemes".

He went on to voice concerns with the number of schemes in Ireland, "perhaps transferring the whole thing to one to one contracts might be a way out except for the charges. The question then is how you find the structure that will bring all these multitudinous small schemes together". He suggested the high number of small trust based schemes "is partly the fault of the laziness of the pensions and life assurance industry because half the time you find that instead of having a small group scheme for the ten employees, they issued ten letters of exchange and created ten schemes and the employer has no idea that he is the trustee of ten schemes”.

The Pensions Regulator felt that “for most people I think trust would be the better structure so long as you’re happy that the trust works properly. That means specifically, informed, engaged, knowledgeable trustees. I think given most people don’t understand financial savings, don’t understand finance, are not equipped to make the many decisions that are involved in pensions. It seems to me to be sensible that you can have someone who is a trustee, who will make decisions on your behalf regarding investment, communication, structuring, these kind of decisions”. He also went on to say that contract based pension are still needed “because there will also be people who want to make their own decisions”.

He then went on to outline some difficulties with contract that he felt are better dealt with in trust based pensions. “Pensions are long term savings, so the environment is going to change over time and if someone goes into a contract, you have to write a contract that tries to anticipate all the changes in the environment – it’s impossible to do that. Whereas trustees have a discretion, they can respond to life as it changes so that’s the reason I think trusteeship is a better idea”.

The second issue with contracts was the asymmetry of knowledge between the two parties, “a contract is always going to be made between a financial institution and a saver so you've got an asymmetry of knowledge there. Obviously the purpose of regulation is to intervene and try to put the finger on the scales to level the balance but that presumes that regulation can always overcome that asymmetry and actually that's not always true and that's why I prefer trusteeship, that said you're always going to have contracts, but I think we have to be realistic and face up to the fact that most people aren't able to, don't want to, aren't informed enough to make many of the decisions necessary for pension savings and a trustee should be someone who knows enough about these decisions who is unambiguously aligned with the interests of the person for whom they are making the decision, so there is no conflicts and has enough discretion built into the system they can make the appropriate decisions".

Interviewees were then asked about the role of the trustee. Given that the obligations are serious, do they think that most trustees understand the obligation they are undertaking?

There was mixed feelings about this question. All agreed that some trustees do understand their obligations but many do not. The size of the scheme was relevant, with most considering trustees of large schemes, who may have the bulk of the assets in pension schemes in Ireland, more engaged generally than small schemes. Two interviewees particularly mentioned issues where the employer was acting as trustee in its corporate capacity.

The Head of the IAPF felt that a lot of trustees do understand their obligations but "it clearly tends to be larger schemes where you have got more company involvement, more HR involvement. A lot of people are incredible engaged and work very hard”. However he also said “there are a lot of people who don’t know they are trustees, who might be trustees who just sign-off the accounts every year. Overall he felt that the level of understanding varies hugely and again the size of the scheme was relevant, “if you were to count it by the number of schemes you’d say the majority aren’t engaged, if you were to count it on the assets the majority are engaged because they are more concentrated in a smaller number of schemes”. He further suggested that a lot of trustees may not understand the level of obligations before taking on the role, “a lot of trustees, and even those who end up becoming engaged don’t necessarily understand what they are getting in to at the beginning – a lot of them have a very steep learning curve”.

The Pensions Ombudsman also agreed that the size of scheme is relevant, saying “I think that trustees who are appointed to the large schemes do understand their obligations, whether they are employer appointed or member selected trustees. Sufficient precautions are taken nowadays to ensure that the trustees are educated in their responsibilities. Some employers may even send prospective candidate on trustee training courses before the election and see who withdraws”. However for small schemes he felt “the answer is almost a categoric no, I don’t think they have a clue as to their obligations and some of them don’t even know they are trustees. And the notion that every director of going to be au fait with the duties of trustees and have undergone training etc is farcical”.

The Pensions Regulator suggested that most did not understand their obligations. He pointed particularly to where the company is acting as trustee that “people don’t actually realise they are trustees as directors of the corporate”. He also indicated that in general the more people know about trusteeship the less willing they are to be trustees “which does certainly indicate that ignorance must be playing a part in at least some of their decisions”. He said that from the Pensions Authority’s experience most trustees “don’t just rely on third parties to fulfil their functions they rely on third parties to know what those functions are then fulfil them”. He also stated that in many cases, although he particularly clarified that it was not true in all cases, trustees “are not overseeing the running of their scheme, they are participating in it. Obviously trustees are ultimately responsible and in theory people should be doing what the trustees tell them but in practice, in many cases the trustees are being told what to do”.

Interviewees were asked what they saw as the differences or benefits between schemes that have engaged trustees who understand their obligations and those that do not.

Generally there was agreement that schemes with engaged trustees could provide better outcomes for members.

The Head of the IAPF felt that such schemes had better outcomes “because the trustees will be constantly looking at new ideas, looking at improving investment management services, improving administration, lowering costs, improving benefit structures, looking at issues as they develop and coming to good solutions on them”.

The Pensions Ombudsman thought the advantage of engaged trustees was that they were “conscious of their obligations and generally speaking conduct themselves properly and take proper advice from people qualified to give that advice”. He went on to say that trustees are not expected to know everything but they should be conscious of their own limitations, “the trustee who knows what he is doing realises the limitations of his own knowledge and expertise and goes to an investment manager for investment advice and so on. You don’t find a trustee sitting up at night doing the actuarial numbers, nor should he”.

The Pensions Regulator commented that the difference between “good trustees and not so good trustees can be pretty stark”. He felt that there could be “dramatic differences in the experiences and the outcomes for members depending on their trustees”. He went on to specifically highlight what benefits more informed trustees brought to their schemes, “value for money, appropriate and understandable member communications, members presented with appropriate investment choices and particularly in defined benefit schemes informed trustees are way more likely to manage the risk of the scheme appropriately”.

Interviewees were asked about the requirements for trustees under the Pensions Act. The Act says who cannot be a trustee and regulations require them to appoint an investment manager where they do not have qualifications and experience appropriate and relevant to the investment of scheme resources. There are also requirements for trustee training every two years. Do they think the requirements for trustees should be higher to take account of the seriousness of their obligations i.e. to be a trustee in the first place and/or ongoing requirements?

The responses here were very mixed with one interviewee saying obligations should not be higher, one saying they should be considerably higher and the third saying that if they are to be higher the obligations should be across all trustees attached to the scheme rather than on each trustee individually.

The Head of the IAPF while not disagreeing with higher requirements did express a preference for these standards to apply across the board of trustees rather than applying to every trustee because he felt “lay trustees have a huge part to play, they bring the dynamic of the workforce, the company, they’re looking out for their colleagues. I think if you just have professionals involved, who are really only involved because they are being paid to do it, they still obviously have their trustee obligations but they don’t necessarily know the ethos of the company, they may never get to learn it. Having a link between the members and the scheme is important and lay trustees bring that”. He also mentioned that having professional trustees with lay trustees on the trustee board could be an option.

He felt that ongoing training and education was very important for trusts and particularly networking with other trustees. “It’s important if they have an issue with a scheme that there is someone they can ring and ask have they come across this problem. While they are probably going to still need advice, when they go to get that advice they are better informed and they might be able to bring their advisors a list of questions that might not have otherwise been covered off, just to make sure they are going down the right track." He highlighted that schemes "have got very complex and while trustees have advisors who they rely on quite a lot they all have to be able to be sure that they are asking their advisors the right questions not just blindly taking advice without considering alternatives".

The Pensions Ombudsman did not think higher requirements were necessary because the obligations under the Pensions Act also refer to the duties of trustees generally. "You've got it all there, because it drags in all the body of trust law that always existed and the statutory requirements to boot. When you have that kind of very onerous structure, it's enough".

The Pensions Regulator thought that the obligations should be considerably higher, commenting that "if all the schemes in Ireland were in one scheme and an individual was running a €90 billion (the estimated assets in pensions in Ireland), there is no way you would allow that person, or those people to do it with the level of qualification that's needed currently. And just because you happen to have divided that €90 billion up doesn't mean it's ok that they have lesser qualifications, everyone is looking after money".

4.5 Area of focus: Personalised information provided to members

Interviewees were asked about personalised information given to members which are important to help them understand their financial position and the benefits of saving for retirement. Do they think annual benefit statements generally are read and understood by members?

Generally there appeared to be agreement that it is not very likely that benefit statements are read and even less likely that they are understood. All interviewees also felt that some good work was being done in this area to increase member engagement.

The Head of the IAPF said “you are very lucky if benefit statements are read and I doubt if they are understood”. He added that from his own experience the quality of benefit statements differ and some can be much more conducive to reading and understanding. He gave an example of a good statement he had read that “had lots of colour coding and all the information you really want to see is set out on the first page”.

The Pensions Ombudsman agreed that benefit statements tend not to be read “until they are dragged out in the course of a complaint to me in which case they become gospel”. Particularly in defined benefit schemes he mentioned that “benefit statements, as required under the disclosure regulations, give the persons pension expectation on the basis that their full service will be completed and people don’t necessarily understand what the implications of that are”. Regarding defined contribution schemes the Pensions Ombudsman was particularly scathing of the requirement to give members a Statement of Reasonable Projection (SRP) with their benefit statements. The SRP outlines projects the benefits a member in a defined contribution scheme might expect to receive in retirement, It assumes contributions will continue at the same rate and also assumes a level of investment return and inflation. These assumptions could transpire to be reasonable or they may not. “One of the most dangerous animals in the whole jungle are the SRPs, I hate them. They are a time bomb, essentially. They are trotted out as gospel, this is what I was led to expect and it isn’t and you can put in as much small print as you like”. He went on to say that the disclosure regulations are too strict that trustees could be tempted to “send their documentation to the legal department and ask if all the requirements are being met, is it correct, is the Pensions Authority going to be up my back for some defect or deficiency in this documentation, instead of sending it to NALA to ensure use of plain English – would my granny understand this. If the answer is no don’t issue it”. He did say that he felt things are getting better, “the use of jargon is less prevalent than it used to be but at the same time there is so much small print, terms and conditions. People never read these. It’s very easy for members to misinterpret what their entitlements are”. He also said that the advent of online solutions had the potential to be “more valuable and more powerful than the average written benefit statement”.

The Pensions Regulator said reading and understanding of benefit statements varies. He suggested that “some schemes, but very few make efforts to make sure that their members do engage. These tend to be bigger schemes. They would make efforts to draw their attention to benefit statements, they might have annual or less frequent presentations to members, give them updates. Occasionally, but it’s obviously very expensive and employer might even give their members the opportunity for one on one discussions”.

He felt that for smaller and less actively managed schemes, “obviously we can’t know whether members read their benefit statements, we all strongly suspect they don’t. And we’d be close to certain that if they do read it, they don’t understand it”.

However he did add that a lot of good work was being done by bigger schemes and some insurance companies in this area but that certainly anecdotal information is that “the level of engagement is very low and you cannot help but be sympathetic because your typical benefit statement is an ugly thing”.

He also pointed to online statements as having real potential, but that “as a general rule, schemes where there is online information available tend to have a higher level of communication anyway”.

He commented that as Pensions Regulator “we need to improve the regulation so that communications are better but trustees also need to look beyond the regulations as well and not just think once I have fulfilled the regulation I’ve fulfilled my obligation, that’s simply not true”.

Interviewees were asked what improvements do you think could be made to disclosure regulations to help members engage with their pension and understand the information they are given?

There was suggestions that disclosure was too voluminous and that less is more. It was also suggested that distinctions must be made between disclosure and information for the member. Finally, that information needs to be member-centred, it must be tailored and structured to how people process information.

The Head of the IAPF suggested that a step back needs to be taken and look at each piece of information you are giving and “ask why are you giving that information, what do you expect them to do with it”. He also suggested that the timing of information was important too. “The information needs to be tailored for when you are giving it to the member, for example, when people are joining schemes initially lots of information is given - what happens when they die, what happens when they leave service, what happens when they retire – that’s probably three quarters of a scheme booklet but they’re not really relevant to a person who is 25 and just come out of college. That’s probably information that should be available somewhere in the background, whereas what they really need to know is what does a pension scheme do and what decisions do I have to make now”. In defined benefit schemes initially members might want to know “what funds are you going to invest in and how much are you going to invest, that’s what the information should be about”. As to annual benefit statements, “you do want to know what sort of a fund you are building up but also including things like changes that can be made for example, increasing their contributions and the difference that will make. Again thinking about what would you like the person to do with it, is it purely just for information or are there some things you would like them to make decisions about, like are they still happy to be in this fund”.

He went on to say that there was a limit to how much can be achieved in a regulatory environment but there are things schemes can do. “Some schemes will particularly contact scheme members when they hit age 40, age 50, they are kind of moments when you’re thinking about your life, certainly when you hit 50 obviously you’re going to be thinking more about retirement they when you hit 30. Also around pay-rise time, encouraging people to put some additional money in because you’re now putting money in you never had, you’re not missing it from your pocket as such. So I think there is a lot of tailored information but I’m not sure it would be appropriate to regulate for but schemes should be encouraged to do that”.

The Pensions Ombudsman commented that “less is more when it comes to disclosure regulations”. He mentioned previously analysing disclosure requirements in respect of one particular aspect, pension adjustment orders (PAOs). He concluded that a life company would need to draft 19 standard letters to deal with all the circumstances that could come up. “This is crazy, just to deal with one small aspect”.

The Pensions Regulator commented that “disclosure regulations are not as good as they should because they have been thought in terms of disclosure. For good governance such and such a bit of information shouldn’t be hidden it should be made available to members so you add it to the list”. He added that it is worth drawing a distinction between disclosure and information. “Disclosure is stuff they have a right to know, information is stuff that they need to know in order to make decisions”.

He said that information should be structured to be aligned with how people think and prioritised. What are the basic decisions I need to make and therefore what information in an understandable form is necessary for that. Other information should perhaps be available to them or should only be pushed at them in particular circumstances, like if they are coming up to retirement". However for the typical member of a scheme who is not currently on the point of retirement or on the point of leaving employment, what decisions do they need to make, what information do they want? "The two decisions they need to make are, firstly, it would be no harm to check their contribution rate and the second is maybe they should think about their investment, although I'm very inclined to think maybe they should put it in the default investment strategy. Those are the priorities, yes it would be nice if they were informed about whether the trustees had done their annual training, it would be nice for them to be aware of say the cost level of the scheme but none of those are actionable. There's no decision that the member can make even if they wanted to, on the back of it so yes, here is where you can find it if you really want it but let's not clutter your life with it".

He said that in designing information as distinct from the disclosure "firstly decide what decisions the member may want to make or we may want them to make, or at least consider and then think about how people process information. What information do they need to make the decision, how do they process information, what is likely to overload them". He felt that information has to be structured and "it all comes back to, everything about pensions comes back to, we have got to think about member centred. It's easy to be theoretical about it. We have made a lot of progress in that at least we are aware of where we should be coming from which greatly increase our chance of doing it”.

Interviewees were asked what information they think is most important for the member to understand from their benefit statement?

There was general agreement that balance (or current fund value) and contributions paid were most important. This would give a sense of the return the member was making. There was also a suggestion that highlighting the difference higher contributions would make was important for the member to make decisions.

The Head of the IAPF said that balance and contributions made are really important together with “showing what difference you could make by setting different contribution levels”. This encourages members to increase their contribution. He said that trying to provide a projection of what their pension might be in retirement is “a difficult one because it relies so heavily on assumptions and I’m sure assumptions that were done five years ago and today would be vastly different because the cost of buying an annuity has changed so much”. In terms of innovation he suggested there was merit in setting short term targets for the fund, “so not thinking at 25 about the pension I want to get at 65, but more about what do I want my fund to be by age 30 and what do I need to do to get to this”. He also said that instead of an employer matching the contributions an employee makes to the scheme, they could “say if you get your fund to €30,000 we will put €2,000 in and people might find that more attractive, the idea of a bonus as against an ongoing payment that you don't really see the benefit of". He said ultimately what you are trying to do is get members to "not necessarily save more bit to think about the consequences of what happens if they don't save more. So having some targets in place and encouraging people to get to them whether they are short term or long term".

The Pensions Ombudsman suggested of most importance was the balance and the amount paid in, which should provide a sense of the return the member is getting from the fund. He said that charges are not necessarily visible "and I think they should be". He also suggested some generalised notes would be useful in terms of the information given to people. "An asterisk against the benefit that part of this benefit may be available as a tax free lump sum, please refer to the scheme booklet for further information. Where the investment fund is exposed to volatile investment products there should be a standard health warning on that, literally every year but particularly in the years approaching retirement age".

The Pensions Regulator said that the contribution is the single most important decision. "I'd be wary of people who every year go in and restructure their investment, the great majority of people don't know about investment and a lot of those who think they do, don't. The people who are most correct about investment are the people who don't think they know anything about investment and they're right. The people who are going to do most damage are those who don't know anything about investment but think they do. But they have the right to make changes, and you've got to give them information, if they want to but it's not a high priority decision".

Interviewees were then asked what their thoughts were on the proposals in the draft IORP II directive for a European-wide benefit statement.

Generally there was not huge support for the proposals, with broad principles for benefit statements seen as more appropriate. Two interviewees referred to the EIOPA paper on Good Practices in Information Provision for Defined Contribution Schemes as being the direction to go for benefit statements.

The Head of the IAPF said that he thought it would not be practical to do as pension systems differ too much across Europe. He expressed a preference for the Directive to "set out some principles around information". He referred to the EIOPA paper, saying "I think some of the principles set out in that which were about targeting information, what people need to know, what they make decisions on and then all the other stuff sits in the background. So if people do want to find out say what does happen if I leave service, it is there rather than telling them the first day they join". However he said as the deliberations of the draft Directive progresses he thinks it is heading more towards "broad principles". He also highlighted that "there are other countries that are way ahead of us in terms information and disclosure, for example the Netherlands pull in all the information from any other schemes you can have and you'd almost be forcing them to undo some of that which can't really be the purpose".

The Pensions Ombudsman agreed that “because of the way pensions are organised in different jurisdictions a single European-wide benefit statement carries with it dangers of interpretation and understanding. The background that the person comes from is going to give them a completely different picture than someone with a different background would take from it, that’s why I think it’s probably biting off a bit much. In practice it could give rise to all kinds of misunderstandings on the part of people and generally I feel that interference by Europe on pensions matters has not been bright at the best of times and I’d prefer they kept their nose out of it quite frankly. I don’t see how in practice it’s going to be an advantage to people”.

The Pensions Regulator felt that the pension benefit statement from the draft IORP II Directive “was very disappointing”. He also referred to the Good Practices in Information Provision for Defined Contribution schemes paper saying that EIOPA had been “pioneering from a European pension point of view this sort of member-centred layered information approach”. While the suggestions in the paper were not original in themselves, “being applied to the regulation of European pensions was definitely fresh, and the Commission had been party of those discussions and it was very disappointing to see them producing a draft benefit statement that was back into the disclosure bit, lets dump a whole bunch f information on people”. He commented that while the benefit statement requirements were potentially a step backwards, he understood that “the proposal on the benefit statement is pretty much dead and to the extent that it does survive I think we can be fairly confident that we will end up with a more sophisticated proposal. I think it is quite likely that they will end up with a set of principles that members should have access to specific information but how it's actually delivered can be country specific and that would be certainly better".

He added that there is a difficulty with regulation in this area in that there is a natural tendency to always add to the list of disclosure because if something were to go wrong people cannot say they were not given the information. "You never, and furthermore it is very rare if it has ever happened in the history of civilisation that people actually take things off the list. Because what happens if once in a million years the flood comes back and Noah is on this ark and we didn't disclose ark related facts or something. This also acts in the interest of the commercial providers".

4.6 Aspirations for the future

Finally, interviewees were asked what reforms they would you like to see to the supplementary pension system in Ireland.

There were differing answers to this question, as you would expect given the interviewees were all involved in differing aspects of pensions. The main items mentioned were simplification of the pensions system, a dormant account fund to help limit unclaimed or lost pensions, higher trustee standards and a higher level of oversight of pension scheme governance.

The Head of the IAPF suggested the most important issue was simplification of the pension system making provision more straight forward. He also mentioned that employers should continue to be encouraged to provide pensions for their staff “because it would be very easy for them to say no-one really appreciates this any way, it’s getting too hard. I do think to get to the next level in terms of coverage we have to do something, auto-enrolment or mandatory provision, whatever it is. He commented that whatever system is decided on in the future, it must be “planned very carefully and has to be something people can buy into because it could very quickly become something that’s seen as another charge, more tax, another Government scam, another scam by the financial services industry and the only way it will be successful is if people actually do buy-in to it and do feel it is something they can trust, they’ve got ownership of it, it is their money”. He suggested that people don’t really seem to see their pensions as their money. “People who might check their bank balance on an app or online account every day will never check their pension account and it’s going to be hopefully more money that they will ever have in their bank account. It’s almost like this funny thing in the background that’s not really theirs so I do think we have to instil some sense of ownership, this is your money, this is your future and you have to have some control over it or take some control over it. At the same time, fine if you don’t want to take control over it you have to be comfortable that it’s in the right place, it’s doing the right thing. I think you have to try get people more involved and more engaged”.

The Pensions Ombudsman said he would like to see a statement going out to members in their annual benefit statement “where some significant change has taken place in the external environment in which pensions live”.

He also is concerned about lost or unclaimed pensions. To help reduce the likelihood of this happening he had two suggestions Firstly, he felt it would be much more beneficial that “when people are permanently leaving the jurisdiction that they go back with a nest egg, rather than something that would never be claimed”. He quoted Australia as an example of where this is practice. Secondly, he also suggested establishing a dormant account fund for lost benefits similar to what is already in place for life assurance policies. “Trustees have an obligation to wind-up the scheme without undue delay, however there may be a number of people they are not able to reach because no-one bothered to give them their change of address or whatever. In these cases the trustees will transfer without the members consent to a bonds with an insurance company. You need a properly documented statutorily backed regime to enable any such schemes to be transferred to the NTMA. This would make things easier, trustees have it hard enough. Members routinely omit to tell trustees that they have changes address or emigrated”.

The Pensions Regulator suggested that higher standards of trusteeship was an aspiration. He also wanted to see more “oversight of governance of pension schemes, in other words supervision, not just defining what trustees should do but ongoing supervision of how they do it with interventionist powers for the Regulator when it’s not clear that they are performing to a reasonable standard”. He felt that this would “essentially, in principle, bring pension supervision into line with other financial institutions”. While pensions are not commercial financial institutions, “they are financial institutions in so far as they are someone looking after a lot of money for someone else, that’s a financial institution. Pensions are unambiguously financial institutions". He added that "people have as much right to know that their money is well looked after in a pension as they do anywhere else. And there is as much money in pension funds in Ireland as there are in insurance companies. So we need a higher standard, we need a higher level of oversight, we need fewer pension schemes to do the oversight and to maximise the limited pool of pension expertise and to save money. I think if we achieved these we'd be happy. It all comes back to building a system not just that people will trust but that their trust is justified".

CHAPTER FIVE

Conclusions and recommendations

5.1 Introduction

The main aim of this research was to look at some aspects of pensions that are particularly complex from a members/potential members point of view and to make suggestions as to how these could be simplified for the member. Three key areas were focused on:

- State support for retirement savings - to consider how accurately people value tax reliefs on pensions and to consider alternative methods of State support.
- The structure of pension provision - to consider whether the type of arrangement, i.e. trust or contract, has implications for outcomes and what are the benefits of each over the other.
- The personalised information provided to members - to look current disclosure regulations and consider what are the key pieces of information annual benefit statements should focus on to best help the member to understand and engage.

5.2 Conclusions: State support for retirement savings

It would be fair to conclude that State support for tax relief is not very well understood by members.

Survey data found the following:

- Of all participants, with a pension and without a pension, 35% were unaware that there is tax relief available when a person contributes to a pension.
- Of those who were aware that tax relief was available, 52% said they were unaware what the rate was.
- Of those with income levels likely to give them tax relief of 20%, only 12% guessed correctly.
- Of those with income levels likely to give them tax relief of 40%, 23% guessed correctly or overestimated.

As to an alternative method of State support, participants when asked whether they would prefer a Government top-up of €1 for every €3 contributed to a pension:

- 72% said this was preferable
- 22% preferred tax-relief
- 6% said they did not know.

This data when matched with salary bands showed that:

- Of those likely to be entitled to tax relief at 20%, 49% stated a preference for tax relief even though it was less financially beneficial.

- Of those likely to be entitled to tax relief at 40%, 33% stated a preference for a €1 for €3 State contribution even though it was less financially beneficial.

This clearly points to a lack of understanding across members and non-members of pension schemes of tax reliefs available on contributions.

This was echoed in the interview process, with all interviewees agreeing that tax relief was not well understood. Interestingly, two interviewees questioned the intention behind the provision of tax relief. That its purpose was not necessarily to incentivise pension provision but merely recognising that income was being deferred and so appropriately taxed when it was being drawn down.

In a broader sense of tax relief, the research also indicated some inconsistencies which were disadvantageous to contract-based pensions over trust-based where an employer wishes to contribute. This is likely to be encouraging the establishment of small trust based schemes where otherwise contract may be more appropriate.

The data also indicated a preference for a State contribution to pension schemes to replace the current system of tax relief. While there are clear advantages of this in terms of incentivisation, transparency and understanding for the member, it would not be without difficulty to introduce. In addition, there is a strong argument that pension saving is deferred income and that maintaining tax relief is equitable.

5.3 Conclusions: the structure of pension provision

Pension schemes in Ireland can be structured as contracts or under trust. In 2012 the Department of Social Protection published a report which looked at pension charges. The report concluded that large trust based occupational pensions generally had lower charges than small schemes or personal contract based pensions.[45] This is most likely because their size allows for potential economies of scale and increases their bargaining power with service providers.

Trusteeship allows for a third party to balance the scales in terms of the asymmetry of knowledge that can exist between the pension provider and the member. While regulation can overcome some of this imbalance, it is difficult to draft a contract that will cater for all likely eventualities. In a trust, the trustee will have discretion to deal with challenges that can arise over the long term investment period needed to fund a pension.

Clearly there is a demonstrated financial advantage to be gained by retirement saving through a large scale well run trust – simply put, lower costs equate to better outcomes. But it must be argued that the advantage does not come from simply being in a trust based scheme, the advantages come from having a scheme that is large enough to allow economies of scale and increased bargaining power, and by having trustees with the knowledge, experience and the impetus to get the best possible outcomes for members. Without this it is difficult to say that trusts have many advantages over contract based pensions.

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[45] Department of Social Protection, *Report on Pension Charges 2012* (Department of Social Protection 2012) 6 - 8

There are over 140,000 pensions schemes in operation in Ireland today. Of these, 62,121 are active schemes where contributions continue to be made. This figure compares with 44,600 active schemes in the UK, 178 in Germany, 381 in the Netherlands and 310 in Italy.[46] Of the 140,000, only 909 schemes have over 50 members. With these numbers it would be arguable that the advantages of trust might not be being gained in many Irish trust based schemes to the extent that they could be.

5.4 Conclusions: Personalised information provided to members

In 2013, the Pensions Authority published a synopsis of responses it had received to a consultation on defined contribution schemes. General consensus was that the quality of member information was poor. Some respondents blamed the requirements under the disclosure of information regulations.

Interviewees echoed this to a degree feeling that while some schemes and service providers make great efforts to aid understanding and draw the member in, they would tend to be larger schemes. In many cases it is suspected that members probably do not read their annual benefit statements and when then they do, they are not well understood.

Work has been undertaken in this area by the European Insurance and Occupational Pensions Authority (EIOPA) which is considered particularly

[46] European Insurance and Occupational Pensions Authority, *Market Development Report, 2014* (EIOPA 2015) <https://eiopa.europa.eu/Publications/Reports/EIOPA-BoS-14-083-Market-Development-Report-2014-deff.pdf> accessed 26 May 2015

worthy. The EIOPA Paper makes several suggestions as to how pension benefit statements could be structured to help members understand and engage.

Currently, a revision of EU Directive 2003/41/EC on the activities and supervision of Institutions for Occupational Retirement Provision (IORP Directive) is being considered. The initial draft contained a provision of a European-wide pension benefit statement. Interviewees expressed disappointment with the initial draft feeling that the proposed pension benefit statement could be better and could have incorporated more suggestions from the EIOPA paper. However, it seems that the requirements will likely be rowed back and will ultimately be more principles based.

Regulation outlines the items that must be disclosed to the member. In the case of benefit statements they are quite detailed. It is possible that to a trustee, or indeed a life company who is drafting disclosure documents on their behalf, compliance with the legislation might be seen as the primary purpose of the benefit statement. This simply should not be the case, the purpose of the benefit statement is to inform the member.

Based in the EIOPA paper on Good practices on information provision for DC schemes, the outcomes of focus groups held with personal pension members by the Central Bank and the interviews conducted, the most important items a member should get from their benefit statement are:

- the current value of the fund
- contributions paid in

- return on investment (a sense of which can be garnered from the above)
- what the fund is invested in and the risk level
- historical performance of fund
- charges
- projections to help show what they might get in retirement (these have to be based on assumptions so provide outcomes based on positive, neutral and negative scenarios, in terms of inflation, investment return etc.)
- the effect of higher contributions
- next steps should they want to increase their benefits.

In addition how the information is presented is important to encourage the member to read and aid understanding. The information should be structured with understandable headings, it should be written in as plain English as possible, most important information should appear first and the member should be supported to make any decisions that are required.

5.5 Recommendations

In terms of recommendations resulting from this research project, a state contribution to pensions replacing the current system of tax relief would bring many benefits; it would be easier for members to understand, it would standardise the State's contribution for all members and it would increase relief for lower income earners which would likely be seen as more equitable. However, it could be difficult to implement and may conflict with the original intention which is unclear. In the absence of this, efforts to make tax relief more visible to the member, for example on an annual benefit statement, would be of significant value.

Secondly, the State should strongly consider encouraging pension provision through larger trust-based schemes, for example the establishment of master-trust structures. This could be achieved through incentivisation or through regulation. In tandem with this knowledgeable, experienced trustees are vital.

Finally, it should be made clear that disclosure regulations require certain information not to be kept from the member, however this is separate to providing information. Perhaps in addition to disclosure regulations, a code of practice on additional information and its structure would be a substantial driver for increasing standards of communications.

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Appendices

Appendix A:	Overview of tax treatments of various pension vehicles
Appendix B:	Participant information sheet
Appendix C:	Interview guide
Appendix D:	Consent form

Appendix A

Overview of tax treatments of various pension vehicles[47]

Vehicle:	Tax treatment employer contribution:	Tax treatment employee contribution:	Limits:	Transfer options:
DC Occupational Pension Scheme (OPS)	Employer contribution not treated as BIK Employer contribution not included for age related tax relief limits	Age related tax relief limits for employee contribution only €115K earnings cap on EE tax relief only No relief for PRSI & USC	2/3 final remuneration for 10 yrs + Tax free lump sum 150% (20 yrs+) or 25% up to 200k tax free, next €375k @ 20% and balance at marginal rate + USC SFT €2m	Permitted to transfer to another OPS, a PRSA (scheme rules permit & <15 years scheme service), a BOB or an overseas arrangement. Transfers to RACs not allowed.
DB OPS	As DC OPS	As DC OPS	2/3 final remuneration for 10 yrs + Tax free lump sum 150% final salary (20 yrs+) SFT equates to max pension of €115K pa	As DC OPS.
PRSAs	Employer contribution treated as a BIK for EE, EE must claim matching tax relief ER contribution liable to USC in hands of EE Age related tax relief limits on combined EE & ER contribution	Age related tax relief limits on combined EE & ER contribution Earnings cap on combined ER & EE No relief for PRSI & USC	No limit, limit on tax relief on contributions only SFT €2m Lump sum 25% up to 200K tax free, next €375k @ 20% and balance at marginal rate + USC	Permitted to transfer to an OPS, an overseas pension arrangement or another PRSA (warning declaration). Transfers to BOBs or RACs not allowed.

[47] Based on unpublished Pensions Authority paper the author was involved in producing

Retirement Annuity Contracts (RACs)	As PRSA	As PRSA	As PRSA Lump sum as PRSA	Permitted to transfer to another RAC or PRSA. Transfers to OPS, an overseas arrangement or a BOB not allowed.

Appendix B

Participant information sheet

Many thanks for agreeing to take part in this interview for my MA Law dissertation.

The title of the dissertation is ‘simplifying the complexity – ideas for member centred reforms to the supplementary pension system’. While there could be many ways this could be achieved, for the purposes of the dissertation I intend to primarily focus on three:

- Method of State support
- Trust V contract
- Member communications.

I am hoping to seek your views on the above but also issues with the current system and what reforms generally you would like to see. You will see a list of specific questions for discussion at the end of this document.

It is my intention to record the interview if you are in agreement. This purely as a memory aid and the full interview will not be transcribed.

You can advise whether or not you wish to be identified in the thesis, either by your name/title or, for example, a senior figure representing pension funds/industry. If you decide against this, you name will only be revealed to my thesis supervisor and your responses will be referred to in the thesis by code, such as interviewee 1. The recording and notes of the interview will be kept on a password protected computer or in a locked cabinet.

Before we begin, or at any stage, please feel free to ask any questions you have about the study. You will be asked to read and sign a consent form agreeing to take part in the study, the results of which are likely to be published. This consent form will be kept in confidence.

Appendix C

Interview guide

Q1. What do you think are the main issues with the system for supplementary pensions in Ireland. How have these issues come about?

Q2. The State incentivises supplementary pensions in a number of ways, including by giving tax relief on contributions. How well understood do you think the reliefs available are?

Q3. Do you think an alternative method for State support would be better, such as a State contribution? What do you think would be the issues with such a method?

Q4. Which is the better structure for supplementary pensions – trust or contract? For what reasons?

Q5. Regarding the role of the trustee – the obligations are serious, do you think most trustees understand the obligation they are undertaking?

Q6. What do you think are the differences or benefits between schemes that have engaged trustees who understand their obligations and those that do not?

Q7. The Pensions Act says who cannot be a trustee and regulations require them to appoint an investment manager where they do not have qualifications and experience appropriate and relevant to the investment of scheme resources. There are also requirements for trustee training every 2 years. Do you think the requirements for trustees should be higher to take account of the seriousness of their obligations i.e. to be a trustee in the first place and/or ongoing requirements?

Q8. Personalised information given to members is important to help them understand their financial position and the benefits of saving for retirement. Do you think annual benefit statements generally are read and understood by members?

Q9. What improvements, if any, do you think could be made to disclosure regulations to help members engage with their pension and understand the information they are given?

Q10. What information do you think is most important for the member to understand from their benefit statement e.g. balance, likely pension etc.?

Q11. The draft IORP II directive proposes a European wide benefit statement, what are your thoughts on this?

Q12. Generally, what reforms would you like to see to the supplementary pension system in Ireland?

Appendix D

Consent form

Researcher's Name: (use block capitals)	**Title:**
Faculty/School/Department:	
Title of Study:	
To be completed by the: **subject/patient/volunteer/informant/interviewee/parent/guardian *(delete as necessary)***	

1. Have you been fully informed/read the information sheet about this study? Yes/No

2. Have you had an opportunity to ask questions and discuss this study? Yes/No

3. Have you received satisfactory answers to all your questions? Yes/No

4. Have you received enough information about this study and any associated health and safety implications if applicable? Yes/No

5. Do you understand that you are free to withdraw from this study?
   - at any time
   - without giving a reason for withdrawing
   - without affecting your future relationship with the Institute Yes/No

6. Do you agree to take part in this study the results of which are likely to be published? Yes/No

7. Have you been informed that this consent form shall be kept in the confidence of the researcher? Yes/No

Signed________________________________ Date ________________

Name in Block Letters ____

Signature of Researcher _________________________ Date ________________

Please note:

- For persons under 18 years of age the consent of the parents or guardians must be obtained or an explanation given to the Research Ethics Committee and the assent of the child/young person should be obtained to the degree possible dependent on the age of the child/young person. **Please complete the Consent Form (section 4) for Research Involving 'Less Powerful' Subjects or Those Under 18 Yrs.**

- In some studies, witnessed consent may be appropriate.

- The researcher concerned must sign the consent form after having explained the project to the subject and after having answered his/her questions about the project.