

September 2014

ESB RETIRED STAFF ASSOCIATION

**SUBMISSION TO THE PENSIONS AUTHORITY
CONSULTATION ON**

FINANCIAL MANAGEMENT GUIDELINES

FOR DEFINED BENEFIT SCHEMES

Background:

The ESB pension scheme is a statutory contributory defined benefit scheme established under the Electricity Supply Board (Superannuation) Act, 1942 and as amended in 1970 & 1982. There are over 7,000 pensioners in this scheme in ESB and the ESB Retired Staff Association represent the vast majority of these pensioners. They have in the main contributed for forty years and more to our DB Scheme and are not eligible to contribute to or benefit from the State Social Welfare/ Pension Scheme.

We are therefore substantially STAKEHOLDERS and as such entitled to certain levels of information and access. Our pensioners have been excluded from access to the Trustees or Management of OUR scheme. We feel very strongly that any guidelines or rules applicable to pension schemes should include arrangements for interaction with its' long time contributors who are now at the benefitting stage of their membership.

Heretofore the elected Trustee, who is a pensioner, was in a position to inform and discuss matters relating to Trustee business with his/her electorate. However in recent

years elected trustees are bound by confidentiality and not allowed to discuss such matters with pensioners/ members. This puts the elected trustee **at a disadvantage** and prevents a natural exchange of views and communications with pensioners on issues of concern in their pension scheme. The new confidentiality clause militates against the effectiveness of elected trustees insofar as it deprives them of the opportunity of access to expert/ informed views and opinion from sources in their electorate. This does not provide equality of treatment or representation.

The position has now deteriorated considerably and the Trustees of our defined benefit pension scheme refuse to meet with us or answer any written queries we raise with them in relation to the governance, operation, management or financial health of our pension scheme. Their constant response is that they only communicate with members through the annual report.

This is in fact incorrect information, as the Trustees communicate regularly with other key stakeholders in the defined benefit pension scheme, namely active members through their Trade Unions via Forums and the sponsoring employer. The only stakeholder with whom they do not communicate at all is, in fact, the key stakeholder – the pensioner. It is the pensioner who has fully contributed to their scheme for over 40 years, in many cases, and whose livelihood is now wholly dependant on the interactions & decisions of the other key stakeholders without the opportunity for input by the pensioners themselves.

In the interests of transparency and accountability all contributors should be treated equally and should have access to the same level of information and opportunity to articulate their queries and point of view. Pensioners are particularly vulnerable in the recent and current financial climate and in recognition of the falling investment returns which will be reflected in actuarial calculations.

As your Consultation paper is on Financial Management Guidelines, the issue of Transparency and Accountability to stakeholders, including pensioners, is very relevant although not particularly mentioned in your publication.

Our comments regarding your paper on Financial Management follow.

Comments on Consultation Document:

In addition to the above concerns, we wish to see the following addressed:

1. The role and responsibilities of the employer as the main sponsor of defined benefit schemes will be clearly identified.
2. The introduction of a **pension protection scheme** paid for by the employer will be addressed as a matter of urgency.
3. All Pension schemes will hold an Annual General Meeting where queries & concerns of pensioners/ members will be addressed.
4. Equality of basis for pension increases for all the scheme's pensioners will apply.

With the announcement by the Pensions Authority of a Consultation on Financial Management Guidelines for Defined Benefit Schemes, we were very disappointed to once again find that the KEY stakeholders - pensioners - are not even mentioned.

In responding to the consultation document, it is necessary, at the outset, to take into account the difference between a 'defined benefit' and a 'defined contribution' pension scheme. With a defined contribution scheme, it is the individual (the future pensioner) who carries the entire risk for the scheme. In the case of a defined benefit scheme, it is the sponsoring employer who carries the entire risk for the scheme. The individual doesn't get much choice, you must join whatever scheme your employer is operating. Clearly it is more beneficial to the individual to be in a defined benefit scheme. Defined Benefit pensioners have fully paid into their schemes throughout their working lives including making additional contributions when deficits arose in the past. These pensioners now expect the sponsoring employer to honour its commitments to them into the future.

However when one reads the consultation document, the tone that is clear to us is that this document is attempting to make defined benefit schemes fit the rules that apply to

defined contribution schemes by reducing the responsibilities of the employers and increasing the risks to be carried by the pensioners/ members. At all times the interests of pensioners/ members of defined benefit schemes should be fully protected.

Actions Necessary to Protect Key Stakeholders – Pensioners:

Governance Issues:

1. It should be a requirement that the Trustees of all pension schemes hold an Annual General Meeting, where they would present their report for the year and answer pensioner/ members queries. This would be a big step towards improved governance of all schemes.
2. The detailed annual accounts of the scheme should be circulated to all pensioners/ members in advance of the AGM. The accounts should include a statement & information on the governance of the scheme over the period.
3. The Governance Rules, under which the scheme & the Trustees operate, should be documented clearly and circulated to all pensioners/ members. Any changes to governance rules should be advised to all pensioners/ members as and when they occur.
4. In the case of the ESB pension scheme, the Chairman of the Trustees has traditionally been held by a former senior Executive Director in ESB. This creates a clear conflict of interest. We believe that the Chairman of the Trustees should be appointed independently of the Company and the appointee should have a proven track record of experience in the pensions industry.
5. Where Investment Analysts/ Advisors are engaged by the Trustees to control and manage investment strategy on their behalf, these Advisors should be required to attend the AGM of the pension scheme to answer queries from pensioners/ members in attendance.

6. There should be a requirement that the Trustees of pension schemes meet with representatives of pensioners at least once a year, as well as attending the AGM to address queries of pensioners/ members. It should also be possible for Pensioner representatives to meet with Trustees outside of these two occasions should exceptional circumstances arise.

7. The ESB pension scheme provides for the election of a pensioner representative on the Trustee Board. However recently introduced confidentiality, imposed by the Chairman of the Trustee Board, prevents our Trustee representative from meeting with its electorate – the pensioners. It must be a requirement that elected Trustees meet with the pensioners who elected them, and account for their stewardship of the pension scheme.

8. Our pension scheme allows for the election of a Trustee, who acts as pensioner representative. However the sponsoring employer has recently introduced a selection process where, the sponsoring employer, along with representatives of the Trustees & the Active Members, selects who will be presented to the membership for election. This is unprecedented in any election process and is undemocratic. This selection process, prior to election of Trustee representatives, must be removed.

9. It should be a requirement to disclose clearly & separately in the annual accounts of DB schemes, any professional fees paid in the previous 12 months. This would include, actuarial fees, investment advisor fees and legal fees.

10. Where deductions are made arbitrarily from Pensioners income by pension scheme Trustees, this revenue stream for the pension scheme must be identified separately in the accounts and the annual report of the scheme. For example the pension levy was passed on to pensioners only in the ESB case and while the levy is shown as a liability on the pension scheme accounts, the deduction for same from the pensioners is not shown as a revenue stream in the accounts.

11. All pensioner members of defined benefit pension schemes must be treated equally by the pension fund and the Trustees who supervise it. By this we mean

that the basis on which pensions are paid must be the same for all pensioners. If pensions are linked to serving staff salaries for one group of pensioners then that must apply for all pensioners. Similarly if a pension freeze applies to one group of pensioners, then that should also apply to all pensioners.

Processes/ Role of Actuary:

1. When an actuarial valuation and assessment of any DB scheme is carried out, the results should be made available to all pensioners/ members, including the criteria on which the assessment was based and the rationale for same. The Actuary should attend the AGM following their valuation to address any queries from pensioners/ members.
2. In all actuarial valuations, longevity criteria should include the actual longevity of the members of that particular scheme. This data should be made available to the scheme's pensioners/ members as well as the Trustees of the scheme. An annual update on longevity should be included in the pension scheme annual accounts.
3. The Consultation document states that Trustees engage a scheme actuary. In the ESB defined benefit pension scheme, it is the sponsoring employer, the ESB, who always appoints the scheme actuary and it has been the same actuarial company who has been appointed for decades. It is our view that this fact clearly creates a conflict of interest situation. We believe that the actuary should be appointed by the Trustees and that the process of appointing the Actuary should be subject to a tendering process on a regular basis.

Analysis/ Contributions/ Sponsoring Employers:

1. The Consultation document raises the question of how **willing** & able sponsoring employers are to maintain contribution rates needed to pay benefits. There is little

if any mention of employer responsibilities in the guidelines. In fact it clearly states that responsibility for the scheme always rests with the Trustees. Defined benefit schemes are typically balance of cost schemes and there is a **requirement on sponsoring employers** to meet their obligations here. We believe the financial guidelines should clearly state the sponsoring employers continuing responsibility in this regard.

2. In the event of future deficits in DB schemes the Trustees should actively discuss such deficits with the sponsoring employer in order to ensure continued solvency within the scheme.
3. Financial guidelines must recognise the fact that there are three key stakeholders in every defined benefit pension scheme – (i) the sponsoring employer, (ii) the members/ beneficiaries which includes, pensioners, active members and deferred members and (iii) the Trustees of the pension scheme.
4. The financial management guidelines for DB schemes must address the issue of employer commitments to DB schemes where (a) the employer is solvent; (b) the employer & the scheme are solvent but other financial issues need to be addressed, e.g. Pension levy.
5. It is most important that Government introduce legislation to ensure that all solvent sponsoring employers accept full responsibility for and ensure the continued solvency of defined benefit pension schemes under their control.

Risks to Schemes:

1. A pension protection fund must be set up, without further delay, and funded by the employers, to protect the assets of defined benefit scheme pensioners/ members, in the event of the employer and or scheme becoming insolvent.

2. Regulatory & state interventions on pension schemes having the effect of directing investment towards particular areas (e.g. The recent encouragement to defined benefit schemes that they invest in Irish/EU sovereign bonds for example) rather than other appropriate & secure investments possibly yielding better returns needs to be addressed.

3. A critical review of the impact of the minimum funding standard on certain pension schemes needs to be undertaken. The requirement to produce a minimum funding standard statement hinders pension schemes in meeting their obligations particularly where pension schemes & sponsoring employers are solvent on an ongoing funding basis.

4. The jurisdiction in which the pension scheme operates should be identified and prior approval of pensioners/ members, will be required if any changes of jurisdiction is being considered or proposed.