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### **SPC** News No. 4, 2008

If this issue of SPC News was forwarded to you, and you would like to receive a copy direct from us, please e-mail Carla Smidt at SPC





#### Now is the time to book for the **SPC Dinner:**

#### October 30th 2008 The Dorchester

The programme for SPC's 2008 Dinner has been completed, with the agreement of Ian King, the Business Editor of the Sun, and soon to be Deputy Business Editor of The Times, to respond to the toast to the guests.

He is an amusing, but seriously minded speaker, and we are delighted that he has agreed to speak.

We are therefore invite you, your colleagues and guests, to this year's Dinner. The event promises to provide excellent food and entertainment and, in keeping with one of SPC's key roles, represents a peerless networking opportunity to meet with fellow industry professionals, entertain clients or simply enjoy yourselves in the company of colleagues.

Following the success of last year's Dinner we will again be at The Dorchester, Park Lane, and we are delighted that Shadow Pensions Minister, Nigel Waterson MP, has agreed to be our keynote speaker.

Duncan Howorth, the SPC President, will also give his views on the current state of, and outlook for, the pensions industry.

Tickets are £155.00 per head and feedback from previous years' Dinners indicates that this is a modest cost that can be re-paid many times over in terms of the useful networking opportunities that exist to strengthen your business relationships. The price includes pre-dinner cocktails, a fivecourse meal, half a bottle of wine with dinner, and a liqueur with coffee.

As ever, we are keen to encourage "new blood" at the Dinner and ensure that it continues to offer the broadest possible range of networking opportunities for those attending. To that end, if your company has never previously been represented at the Dinner, the person making the booking will benefit from a special price of £125.00, as will one additional guest.

We very much hope to see you at the Dinner which, we are sure, will be every bit as successful as last year's. If you have any questions about the event, please do not hesitate to contact us.

Click here for a booking form.

### **SPC** to feature at the **Pension Show**

SPC has accepted an invitation to run two sessions at this year's Pension Show at the London Excel on November 19th.

The first session is entitled: "Who is the right guardian of defined benefit promises?"

Our scene setter will be Duncan Howorth (President, SPC and Managing Director, Jardine Lloyd Thompson Benefit Solutions) and we will hear the views of the Pensions Regulator, a speaker from Metlife and Kay Carberry (Assistant General Secretary, TUC). There will be contributions from the floor and audience voting moderated by Duncan Howorth.

Our second session is a panel discussion on "Who should be doing what to make defined contribution a success?

This session will be led by Sir James Hodge (Chairman, SPC) and there will be contributions from Natalie Winter (Aberdeen Asset Management and Chairman SPC Investment Committee), Cathy Robertson (Standard Life and SPC Council), Jason Coates (Wragge & Co. and SPC PR Committee) and Paul McGlone (Aon Consulting and SPC Council).

Contributions from the floor and interactive voting will be moderated by Sir James Hodge, who will sum up.

Featured will be results of research commissioned by us from Populus, specifically for these sessions.

Please put the show in your diary and make sure not to miss the SPC sessions. Booking is via <a href="http://web.incisive-events.">http://web.incisive-events.</a> com/inv/2008/11/professional-pensionsshow/book-now.html ■



### New **SPC** President

Duncan Howorth started his two-year term as SPC President on June 1<sup>st</sup>.

Duncan Howorth is Managing Director of Jardine Lloyd Thompson (JLT) Employee Benefits, which spans pensions, actuarial and investment consulting, as well as pensions administration services, software development, benefit consulting and SIPP administration services.

Before joining JLT, he was Managing Director of Abbey National Benefit Consultants Limited and was responsible for founding the company in 1988. He was also responsible, as Chairman, for developing James Hay into its strong market position in SIPPs.

SPC is currently actively seeking to further dialogue between the pensions industry and political audiences, in particular around the implementation of personal accounts. Duncan Howorth will further pursue this aim, as well as developing a number of new initiatives with a view to expressing and protecting the views of SPC's members and the pensions industry at large.

#### Duncan Howorth, said:

SPC is the representative body for pensions, given its broad range of members engaged in services to the sector. I look forward to developing SPC in its vital role for members in influencing future policy development. SPC remains committed to supporting work based pensions; a key mark of my tenure will be how the introduction of Personal Accounts is shaped, such that it broadens retirement savings in the UK rather than competes with existing saving structures. I would like to pay tribute to outgoing President, Mark Ashworth, for his contribution and leadership over last two years.

### Lindsay Davies re-elected as Honorary Treasurer

Council has re-elected Lindsay Davies, a partner in Hymans Robertson, as SPC Honorary Treasurer for a further year. Council expressed its thanks to him for agreeing to continue in the role.  $\blacksquare$ 



Details of forthcoming meetings are as follows:

Details of forthcoming meetings are as follows:-					
Date	Subject	Speakers	Venue		
September 25, 2008	Is your Pensions Administrator in the Premier League?	Girish Menezes & Terry Ritchie (Capita Hartshead)	Ashurst LLP Broadgate West 9 Appold Street London EC2A 2AP		
October 15, 2008	Decumulation	Billy Burrows (MPL Wealth Management Limited)	Jardine Lloyd Thompson Benefit Solutions 6 Crutched Friars London EC3N 2PH		
November 13, 2008	An Equity Analyst's View of Pension Liabilities	Peter Elwin (Cazenove)	Hammonds 7 Devonshire Square Cutlers Gardens London EC2M 4YH		
November 18, 2008	Supporting Employers on Pensions in a Changing Workplace	David Lebrecht (David Lebrecht Consulting Limited)	KPMG 1 Puddle Dock London EC4V 3PD		

We are grateful to Ashurst, Jardine Lloyd Thompson, Hammonds and KPMG for hosting the above meetings. All meetings start with refreshments at 5.00 p.m.; meetings begin at 5.30pm and are expected to end at 6.45 p.m. following questions and answers.



### The latest new members of SPC

- Campion Capital Limited, Oxford
- Goldman Sachs Asset Management
- Independent Transition Management
- Metlife Assurance



## Lessons to be learned from the **SPC** membership questionnaire

Earlier this year we surveyed all SPC Members to gauge views on what we do well, or less well, and to see if any current activities are no longer relevant or need to be replaced.

The responses have been carefully considered by the SPC PR Committee and the main conclusions are as follows:

 SPC should continue to aim to increase its press/public profile and give greater emphasis to its lobbying profile.

One third of questionnaire responses asked for a higher press/public profile and nearly 40% requested a higher lobbying profile. Only just over a quarter of responses suggested no change. However, it is worth noting that half of the responses described SPC's profile in the industry already as high, and, when asked to rate SPC alongside larger industry bodies, e.g. CBI, the Actuarial Profession, PMI and NAPF, over two thirds responded that SPC already had a higher or similar level of activity to these organisations.

 We need to consider whether the SPC Dinner is gaining its full potential to enhance the status of SPC.

Where responders expressed an opinion, all viewed the SPC Dinner as good or very good as an industry event. However, in answer to the question as to whether they would attend the next SPC Dinner, only slightly under half answered that they would. Just over a third said that they would not and slightly under a quarter were undecided. If you do intend to come, thank you, if you are undecided, why not try it for yourself on October 30<sup>th</sup>?

 Particularly in view of the considerable attention which SPC has devoted to it, there is a question mark over how important an annual conference is to SPC members.

Nearly two thirds of those responding indicated that either that they would not attend such a conference or were undecided about doing so.

This year we have decided therefore to re-focus our efforts on running two sessions at the Pensions Show.

 There appears to be no strong interest in some of the other meeting options offered in the questionnaire.

Well over two thirds of those responding, stated that they definitely would not attend, or were uncertain about attending, dinners after evening meetings or lunch time speaker meetings.

There was a little more interest in half day workshops enabling the different parts of SPC's broadly based membership to understand each other better, but still only slightly over a quarter of those responding indicated that they would attend such a workshop.

The greatest, but still not overwhelming, interest was shown in breakfast speaker meetings, where one third of those responding indicated that they would attend.

Our existing programme of evening meetings and Roundtables was well regarded.

Thank you again to all survey participants and congratulations to Cathy Robertson at Standard Life, the winner of our prize draw, into which everybody participating was entered.

# Pension Taxation Simplification Newsletter 30: notification of a scheme wind-up where there is no longer a scheme administrator

An article in Pension Taxation Simplification Newsletter 30 states that the persons who assume liability for obligations of the scheme administrator under s272 of the Finance Act 2004 must report the winding up. However, it is not clear how the relevant person should actually do this, given that only a scheme administrator or practitioner can register to use Pension Schemes Online. We asked HMRC to clarify the process for reporting winding up in these circumstances.

HMRC has explained that the person can register as a Scheme Administrator on Pension Schemes Online and select to file an Event Report, without having to add themselves to the scheme.



### Tax Bulletin 66

We have written to HMRC seeking clarification of certain aspects of Tax Bulletin 66

When the SPC Investment Committee met HMRC earlier this year, the latter agreed to review any detailed technical examples of the types of investment strategy and instruments which are being used by some pension schemes, in the light of the fact that the market has developed in the five years since HMRC's Tax Bulletin 66 was issued.

We recognise that the bulletin is guidance, not legislation. However, the guidance cannot in practice be ignored by investment professionals. We hope that our letter will contribute to greater flexibility in what we hope would be reissued guidance, while recognising that HMRC's discretion in particular cases cannot be fettered, as facts will differ from case to case.

For a copy of our letter please click <a href="here">here</a>. ■

# on the effective date of the Registered Pension Schemes (Provision of Information) (Amendment) Regulations 2008

We have corresponded with HMRC on the effective date of its Provision of Information (Amendment) Regulations.

For a copy of the correspondence, please click here.

# the Draft Registered Pension Schemes (Authorised Payments) Regulations 2008

We have had detailed discussions with HMRC on the draft Registered Pension Schemes (Authorised Payments) Regulations 2008.

These regulations are designed to address some of the administrative difficulties caused for both schemes and HMRC by the unauthorised payment provisions originating from the Finance Act 2004. The great majority of these payments comprise small amounts, not remotely connected with any intention to defeat the tax system. The payments are proving far more numerous and far more difficult to administer than HMRC envisaged.

# HMRC consultation on its recycling rules

We have responded to an informal consultation by HMRC on the administrative burdens caused by its lump sum recycling rules.

Our overall view remains that there is no need to have a generally applicable recycling rule at all (and certainly there is no need for the current provisions on "pre-cycling"), because the vast majority of scheme members have neither the means nor the inclination to recycle their tax free cash. We believe that the small minority of people who might contemplate recycling already have a direct tax relationship with HMRC and that HMRC could monitor their position through that route.

The experience of our Administration Committee is that there are generally no problems in obtaining the requisite signature from the member on an undertaking that they will not recycle. The only difficulties occur when, in a few cases, members erroneously assert that they do intend to recycle, when they have no intention to do so, and the undertaking has to be reissued.

Nevertheless, due to the recycling rule, pre-retirement documentation is longer that it would otherwise be and it is necessary to devote time to checking that an undertaking not to recycle had been given before the release of tax free cash.

This undoubtedly gives rise to extra costs, but it is not easy to quantify them.

The Committee would view it as unhelpful if HMRC retained the recycling rule, but changed some of the detail, so that schemes had to incur the expense of changing established processes, while effectively having to continue to administer the same rule.



### **PPF levies for 2008 - 2009**

We wrote to PPF to express our considerable disappointment at the size of this year's PPF levy.

Many employers have taken considerable steps to improve scheme funding and their D&B ratings and the fact that PPF has not reduced the amount it collects overall is most unwelcome

Additionally, the increase in the scaling factor, from the previously estimated 1.60 to 3.77, combined with a small increase in the scheme -based multiplier, has in some cases produced a levy nearly 2½ times the amount, for which schemes could have budgeted, based on the preliminary indications of this year's levy.

We suggested that, for the sake of the credibility of the levy setting process, the initial number published for the scaling factor should no longer be referred to as "indicative", given that the final number can be so far out of line with it.

In its response, PPF accepted that, to make things clearer for schemes and sponsoring employers in 2009/10, it should publish the final scaling factor earlier. It is due to be published along-side PPF's draft determination, which is expected in November 2008.

PPF also provided an explanation of why the final levy scaling factor differed so much from the indicative one published in October. If comments that the final Levy Scaling Factor (LSF) is higher because short-term risk has decreased for many schemes, so PPF needs to scale up individual levies by more to match them to the total levy estimate, which is based on long-term risk.

The LSF also takes into account the actual contingent assets and deficit reduction contributions certified to PPF. These were not built into the indicative scaling factor.

PPF provided a reconciliation of the final levy scaling factor of 3.77 with the indicative levy scaling factor of 1.60.

This is as follows:

## Review of DWP Pension Sharing Legislation

DWP is undertaking a review of its pension sharing legislation and has sought our assistance.

Background is available by clicking <u>here</u>.

At the time of preparing this issue of SPC News we had DWP's request under consideration.

### DWP consultation paper on risk sharing

DWP has issued a consultation paper on risk sharing.

For a copy, please click here.

At the time of preparing this issue of SPC News, we had the paper under consideration.

Large parts of the paper seek views on whether to permit conditional indexation and/or collective defined contribution approaches in the UK.  $\blacksquare$ 

## Fund Management material in the trustee toolkit

The SPC Investment Committee has sent to the Pensions Regulator some suggestions for improving the fund management material in the trustee toolkit.

For a copy, please click <a href="here">here</a>. ■

	Reconciling Item	LSF
1.	PUBLISHED INDICATIVE LEVY SCALING FACTOR (NOVEMBER 2007)	1.60
2.	Indicative levy scaling factor exclusive of stress testing	-0.11
3.	Use of average values for schemes where data quality or eligibility was subject to clarification as at 31 <sup>st</sup> March 2008	+0.04
4.	Universe estimate revisions	+0.19
5.	Funding revisions (assets, liabilities and deficit reduction contributions)	-0.05
6.	Insolvency probabilities as at 31 March 2008	+0.86
7.	Underpin of 31 March 2007 and 31 March 2008 insolvency probabilities (paragraph 49(d) of 2008-09 Determination)	+0.87
8.	New contingent assets, plus impact of changes in insolvency probabilities (for schemes with a guarantor) on schemes with existing contingent assets	+0.29
9.	Use of scheme data for 1,953 schemes where averages were used in the indicative LSF	+0.08
	FINAL LEVY SCALING FACTOR (MARCH 2008)	3.77



# responds to consultation on guidelines for trustees in a PPF assessment period

We have responded to PPF's consultation on guidelines for trustees in a PPF assessment period.

We considered the proposed guidelines in relation to the three questions raised by PPF.

The first question concerns whether there is agreement on the five key principles to which PPF expects trustees to adhere, and whether there are any additional principles which ought to be considered for inclusion. We agree with the five principles and do not propose any others.

The second question addresses the concept of performance management. We have no problem with the concept, but have some concerns about the practicalities, in particular the need for consistency of approach amongst PPF's case workers. We see a danger that measurement could become a box-ticking exercise by PPF, whereas

scheme-specific circumstances need to be taken into account. Low scores are also likely to lead to challenges by independent trustees due to commercial considerations; there is also the risk that independent trustees would seek to avoid involvement in schemes which could drag down their scores. PPF proposes to provide feedback only in relation to low scores. Feedback should also be given to trustees on what they are doing well. We suggest that PPF should also provide feedback on case workers' performance, otherwise it would be just a one-way process.

We are also concerned that the tone of the guidance could be perceived as too dictatorial, giving a serious risk that it would lead to lay trustees resigning, once a scheme enters an assessment period. The guidance could be more advisory and offer encouragement to such trustees.

# responds to PPF consultation on GMP equalisation

We have responded to PPF's consultation on the requirement under s171 of the Pensions Act 2004 to equalise GMPs.

For a copy of the response please click here.

We registered the issue of the consultation paper in **SPC News No. 3 2008.** ■

The third question invites comment on any additional matters, which ought to be addressed within the guidance. We suggest that the guidance should:

- highlight the differences between a conventional wind-up and a transfer into a PPF assessment period;
- cover the situation where a scheme reaches the end of an assessment period but does not enter the PPF; and
- cover the issue of missing beneficiary insurance.

### Pensions Regulator consults on record-keeping requirements

The Pensions Regulator launched a consultation regarding record keeping on 23rd July 2008. The consultation is aimed at trustees, providers of contract-based pensions such as personal and stakeholder schemes, and those who administer pension schemes.

The Regulator links the fundamentals of good administrative practice to the maintenance of accurate records: "The Pensions Regulator's aim for record-keeping is to ensure that the records of every work-based scheme are such that the benefits due to each member at any

point in time and in any circumstances can be calculated accurately".

The consultation paper highlights the additional cost and other negative effects which poor record-keeping imposes on a range of stakeholders. It identifies what the Regulator views as a number of key problem areas, including poor quality legacy data, a low level of professional skills in a sector of considerable complexity, and a lack of appreciation of the importance of administration by both sponsors and trustees. Defined benefit scheme

record keeping is seen as generally poorer than that of money purchase schemes.

The Regulator proposes introducing a benchmark of a core set of data about each member, and asserts that maintaining this core data is "completely fundamental to the proper administration of all schemes". The proposed definition of core data comprises a maximum of 19 data types, depending on the type of scheme and the status of the member. It includes name, sex, date of birth, date joined pension





scheme, member status, and salary, plus transactional elements for money purchase schemes. Also the Regulator asks whether it would be good practice for trustees and providers to identify and measure additional information required to administer their particular scheme, and to develop a plan to obtain it. The Regulator may consider setting benchmarks for the presence of such additional information.

Trustees' compliance with internal controls requirements may be audited in the future. This consultation paper proposes that trustees should be required to include a statement in their annual report, regarding key risks and the effectiveness of their internal controls, which would then be audited. Record-keeping would be an essential component of that report. The Regulator is considering putting these changes in the next version of the Internal Controls Code of Practice.

The Regulator's proposed approach to the regulation of scheme record-keeping is "to educate, enable and, if necessary at

### Qualifying earnings clause of The Pensions Bill

SPC has been working with ABI, CBI, ICAEW and NAPF to secure an amendment to the clause in the current Pensions Bill, governing the contribution requirements for existing schemes, where the supporting employer does not wish to auto-enrol into personal accounts in preference to auto-enrolment into their own scheme.

In our view, the clause as it currently stands imposes conditions, which are far too complicated, on existing schemes. We have jointly submitted a parliamentary briefing, for the Lords stages of the Pensions Bill. This is designed to provide a basis for an opposition amendment to be tabled if discussions with DWP do not resolve the matter.

For a copy please click here.

a later stage, to enforce". The education and enablement stage may include visiting schemes, but the Regulator will not initially take enforcement action against schemes which do not adopt its recommendations. The Regulator will reassess the position in 2009.

Overall, the message of the consultation paper is that the Regulator intends to focus greater attention on the administration of pension schemes. It proposes to supplement the guidance in the trustee toolkit to reflect this, and will consider widening the trustee knowledge and understanding requirements to include administration as a subject in its own right.

At the time of preparing this issue of SPC News, we had the consultation document under consideration.

### DWP publishes response to consultation on SIPPs and protected rights

DWP has published it response to consultation on SIPPs and protected rights. For a copy of its response please click <a href="here">here</a>.

## PPF (Miscellaneous Amendments) (No. 2) Regulations 2008

We have submitted a brief response to the draft PPF (Miscellaneous Amendments) (No.2) Regulations 2008.

Our response is available by clicking here.

We reported the publication of the draft regulations in SPC News no. 3, 2008. ■

### Conceptual framework for technical actuarial standards

We have responded to exposure drafts of a conceptual framework for technical actuarial standards.

For a copy of the response, please click <u>here</u>.

There is a link to the exposure draft in SPC News no. 3, 2008. ■

### response to BAS on actuarial mortality assumptions

We have responded to the BAS discussion paper on actuarial mortality assumptions.

For a copy of the response please click here.



## SPC response to ASB on financial reporting of pensions

We have responded to the Accounting Standards Board discussion paper on the financial reporting of pensions.

For a copy of our response, please click here.

We reported the publication of the discussion paper in SPC News no. 3, 2008.  $\blacksquare$ 

## response to BAS on exposure draft on reporting actuarial information

We have responded to the Board for Actuarial Standards on the Exposure Draft: Reporting Actuarial Information.

For a copy of our response, please click here.

We reported the publication of the exposure draft in SPC News no. 3, 2008.  $\blacksquare$ 

## HMRC's revised guidance on anti-money laundering clarifies position for trustees

New anti-money laundering requirements (The Money Laundering Regulations 2007) have applied from 15 December 2007 to Trust or Company Service Providers (TCSPs). HMRC has responsibility for ensuring that certain types of businesses, which are not already regulated by a supervisory authority, comply with the requirements, by having appropriate risk-based antimoney laundering controls.

On 31 July 2008, HMRC published revised guidance, regarding which types of business will need to apply to register. Under the revised guidance, a TCSP includes any firm or sole practitioner, who, by way of business,

provides to third parties the service of acting as, or arranging for another person to act, as a trustee.

One of the tests on what constitutes acting "by way of business" has now been modified to catch activities carried out "with a view to profit" rather than "for money or other benefit". This clears up previous confusion. Unincorporated individual trustees, who are not paid for their services or paid small sums (e.g. expense reimbursement), should therefore not need to register as they are unlikely to be seen as carrying on a business of being trustee.

The guidance now includes a specific exemption, so that sole practitioners

# Actuaries' code and supporting actuarial professional standards

We have responded to the draft Actuaries' code and supporting actuarial professional standards.

For a copy of our response please click <u>here</u>.

Our main comment was that actuaries should operate within a code of professional conduct, which gives them considerable scope to exercise professional judgement, but we see a risk that the Code could have two different undesirable effects:

- Actuaries could be uncertain as to when they might be deemed to be damaging the reputation of the profession and will tend to act defensively. This may be a barrier to imagination and creativity and might not actually best serve the interests of their clients, but will probably protect their own position under the Code, or
- Actuaries could view the wording as so broad as to give them virtually complete freedom to decide what might, or might not damage the reputation of the profession.

and firms who only provide professional trustee services limited to occupational pension schemes (or who only arrange for professional trustee services to be given to occupational pension schemes) will not be TCSPs, for example, independent trustee companies set up for the sole purpose of acting as professional trustees to occupational pension schemes.

A business which qualifies as a TCSP, and which was in business as a TCSP before 15 December 2007, must apply to register with HMRC before 30 September 2008. Any new TCSPs being set up must register before starting to carry on the business.



## responds to the government's review of the Myners principles

We have responded to the government's consultation on updating the Myners Principles.

Our response is available by clicking <u>here</u>.

In March the Treasury issued jointly with DWP and the Pensions Regulator "Updating the Myners Principles: A Consultation".

The consultation aims to provide an opportunity to update the Myners principles and develop a comprehensive suite of authoritative best practice tools, giving further assistance for pension fund trustees to improve investment decision-making and governance.

This revised framework aims to ensure the updated principles are more effective, by being less prescriptive, and more likely to be used and reported against by trustees. A strengthened approach to reporting is also intended to result in more flexible and better quality disclosure and more robust public debate on investment decision-making and governance.

To support this goal, the government proposes to establish a Treasury and DWP sponsored Investment Governance

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SPC News is produced by the SPC Secretary, Oonagh McDevitt (Eversheds) and contributors from Mercer

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Group, under the chairmanship of the Pensions Regulator, including industry representatives and trustees, who will co-own the updated principles, monitor their effectiveness, the quality of reporting against them, and make recommendations for improvements to investment decision-making and governance.

The updated principles are intended to provide more flexibility for different types of schemes in terms of their size, financial position and strategy. In particular the updated principles aim to provide a suitable starting point for developing specific frameworks for

# Ministry of Justice consultation on perpetuities and excessive accumulations

The Ministry of Justice invited our views on a consultation paper on perpetuities and excessive accumulation. For a copy of the paper, please click <a href="here">here</a>.

From the point of view of pensions practitioners, we have welcomed the paper.

smaller schemes, money purchase schemes and Local Government Pension Schemes. ■

### Discount for SPC members

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### About 574

SPC is the representative body for the providers of advice and services needed to establish and operate occupational and personal pension schemes and related benefit provision. Our Members include accounting firms, solicitors, life offices, investment houses, investment performance measurers, consultants and actuaries, independent trustees and external pension administrators. Slightly more than half the Members are consultants and actuaries. SPC is the only body to focus on the whole range of pension related functions across the whole range of non-State provision, through such a wide spread of providers of advice and services. We have no remit to represent any particular type of provision.

The overwhelming majority of the 500 largest UK pension funds use the services of one or more of SPC's Members. Many thousands of individuals and smaller funds also do so. SPC's growing membership collectively employ some 15,000 people providing pension-related advice and services.

SPC's fundamental aims are:

- (a) to draw upon the knowledge and experience of Members, so as to contribute to legislation and other general developments affecting pensions and related benefits, and
- (b) to provide Members with services useful to their business.