Barnett Waddingham
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SPRING 2015

Current Pensions Issues

Budget 2015

The Chancellor of the Exchequer George Osborne delivered his 2015 Budget speech in the House of Commons on 18 March – the last Budget before the General Election.

Key pensions aspects included:

- The Lifetime Allowance will be reduced to £1.0 million with effect from 6 April 2016 – a change that will be legislated for in the next Finance Act (see 'Lifetime Allowance' below).
- The Treasury confirmed that employer-funded advice to members on transferring defined benefit (DB) pensions to defined contribution (DC) schemes, and on converting benefits from DB to DC, will not be taxed as a 'Benefit-in-Kind' and will also not be subject to National Insurance. (See also 'DB to DC Transfers and Conversions' on page 2).
- Additional funding will be made available for Pension Wise and the Guidance Guarantee (£19.5m in 2015/16) in relation to members retiring from DC arrangements from April 2015. (See also 'Pension Freedoms' on page 2).
- Following a pre-Budget announcement, the Government launched a 'call for evidence' on 'Creating a Secondary Annuity Market', which would allow individuals to sell on annuity income to a third party, thereby extending DC 'pension freedoms' to those already retired. (See 'Secondary Annuity Market' on page 2).

Lifetime Allowance

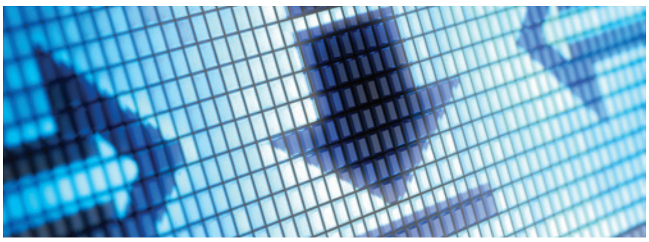
On 6 April 2016, the Lifetime Allowance (LTA) – the maximum value of retirement savings that can be built up without significant tax consequences – will reduce again from £1.25 million to £1.0 million.

History of the LTA	
Date	**Lifetime Allowance**
April 2006	£1.5 million
April 2007	£1.6 million
April 2008	£1.65 million
April 2009	£1.75 million
April 2010	£1.8 million
April 2011	£1.8 million
April 2012	£1.5 million
April 2013	£1.5 million
April 2014	£1.25 million
April 2015	£1.25 million
April 2016	£1.0 million*

**subject to legislative process*

During the Budget the Chancellor also announced that from April 2018 the LTA will begin to rise in line with Consumer Prices Index (CPI) inflation. The Treasury has also promised a consultation on protection arrangements for individuals who have pension savings valued above £1.0 million at 6 April 2016.

Although details of the protection arrangements will not be available until the consultation commences later this year, we expect that it will operate in a similar way to the protections implemented when the LTA was reduced from £1.5 million to £1.25 million in April 2014. Individuals who have registered for previous protections are expected to be able to keep them. As a reminder, those who intend to apply for 'Individual Protection 2014' still have until 5 April 2017 to register.



DB to DC Transfers and Conversions

Following a short consultation The Pensions Regulator (TPR) has finalised its guidance for trustees and managers of DB schemes regarding transfers to DC schemes by members wishing to access new flexibilities from 6 April 2015 (see 'Pensions Freedoms' below).

TPR's guidance sets out how trustees can meet the requirement to check that transferring members have obtained appropriate independent advice (where the value of benefits is over £30,000). Trustees are expected to check the credentials of the financial adviser but are **not** expected to check what the advice actually says, nor that it has been followed. The guidance is also intended to:

- ensure trustees have appropriate processes in place to manage transfer requests
- encourage trustees to assess the impact of transfers on scheme funding and investment
- help trustees to provide clear information to members
- explain the situations in which an employer is expected to pay for the independent advice

TPR also notes that conversions of DB benefits to DC within a scheme will most likely require the affected member's 'informed consent' and that the requirement to obtain financial advice will still apply. TPR intends to review and consolidate this and other transfers-related guidance in 2016 to reflect industry experience.

FCA rules

Meanwhile, the Financial Conduct Authority (FCA) intends to make advice on DB to DC transfers a 'Regulated Activity'. The FCA already regulates advice on transfers to personal pension schemes but not to occupational DC schemes. Furthermore, the FCA intends that all such transfer advice is provided or checked by a suitably qualified 'Pension Transfer Specialist'.

In their consultation document, the FCA echoes comments previously made by TPR, that transfers from DB to DC are "unlikely to be in consumers' best interests". However, they accept that there are some circumstances where a transfer will be appropriate.

The FCA estimates that the number of transfers from DB schemes will increase from 20,000 each year (current estimate based on Office for National Statistics data) to around 29,000 transfers, with up to 35,000 individuals requiring advice from a Pension Transfer Specialist.

Pension Freedoms

The Department for Work and Pensions (DWP) has put several sets of new regulations in place so that the DC pension flexibilities operate as intended from 6 April 2015. The new regulations will, for example, allow DC scheme trustees to modify their rules so they can pay Uncrystallised Funds Pension Lump Sums (UFPLSs), or allow liabilities for contracting-out benefits to be discharged by payment of an UFPLS.

Guidance

Meanwhile Her Majesty's Revenue and Customs (HMRC) has published guidance for individuals on accessing DC savings and the tax implications of the new flexible options. The Government has launched its Pension Wise website which is intended to outline the options individuals may wish to consider, and the steps to take when accessing their DC pension savings.

TPR has published an essential guide for trustees on communicating with members about pension flexibilities, setting out good practice recommendations. Unlike the FCA's 'second line of defence', TPR says that trustees should provide generic warnings rather than personalised notes or details of possible tax implications.

Secondary Annuity Market

As part of Budget 2015, the Treasury and the DWP launched a call for evidence on 'creating a secondary annuity market'. This consultation had been pre-announced by the Treasury ahead of the Budget, and is intended to extend the pensions flexibilities originally revealed at Budget 2014 to those who have already retired with an annuity policy.

In the consultation, the Government says it is considering amending tax rules so that those who have previously purchased an annuity are able assign the income stream to a third party from April 2016.

On the sale of the annuity income stream the proceeds could be taken as a taxable lump sum, or converted into a Flexi-access Drawdown (FADD) arrangement or flexible annuity. The resulting lump sum or restricted payments would not attract the penal tax charges that currently apply, but would instead be taxed as income.

The Government is also proposing that:

- The annuity provider must agree to the assignment.
- The sale must be to a genuine third party – ie the current insurers will not be able to buy the annuity back.
- Annuities purchased in the name of occupational pension scheme trustees (eg 'buy-in' policies) will not be assignable in this way.
- The £10,000 restricted money purchase Annual Allowance will apply from the point at which annuity income is assigned to a third party.

The Government will consider what consumer protection measures will be required. For example, the Government may legislate so that a free impartial guidance service is available (for example an extension to Pension Wise), or that those assigning annuity incomes are given risk warnings or are required to take independent financial advice.

VAT on Pension Costs

The question of whether sponsoring employers can reclaim VAT on services provided to a 'legally and fiscally separate pension scheme' was raised in the Court of Justice of the European Union (CJEU) by a Dutch company called Fiscale Eenheid PPG Holdings BV (PPG) in July 2013.

Previously, HMRC had been allowing sponsors to reclaim VAT paid on pension scheme invoices for "administration services" but not for "investment management services". Where invoices covered both types of service, HMRC allowed a 70/30 split to be assumed as a pragmatic approach.

Following the PPG case and a series of updates, HMRC issued Briefing Note 43 (RCB 43) in November 2014 in which it set out its revised position (see our winter 2014/15 newsletter) saying there are no grounds to differentiate between administration and investment management services (and therefore VAT could in theory be reclaimed on both) but it expects that the employer must be a party to the contract, pay for the services directly and be the recipient of those services if VAT is to be reclaimed.

Following an 'informal consultation' with the pension industry, HMRC has now issued an update (Revenue and Customs Brief 8) in relation to the deduction of VAT on pension fund management costs. In particular, HMRC says that VAT on investment manager costs can be reclaimed by an employer entering into a 'tripartite agreement' with the trustees and fund manager, provided the agreement meets certain criteria. Existing arrangements for reclaiming VAT, including the 70/30 rule, can continue until 31 December 2015.

HMRC has not yet clarified the position in relation to other pension scheme services provided to trustees - in particular actuarial, administration and legal fees. A further update is promised "in the summer" on these other types of services and also on whether VAT can be reclaimed by a corporate trustee joining the sponsoring employer's VAT grouping.

See our blog post for further details.

Multi-employer Schemes

MNRPF - Frozen schemes

The judge in the High Court case of Merchant Navy Ratings Pension Fund (MNRPF) Trustee Limited vs Stena Line Ltd and Others has issued her ruling. The ruling, which related to setting employer contributions in the MNRPF, addressed two key questions that may have wider relevance.

i) Should trustees take the employer's interests into account when making decisions?

The court ruled that "as long as the primary purpose of securing the benefits due under the Rules is furthered and the employer covenant is sufficiently strong to fulfil that purpose, it is reasonable and proper, should the Trustee consider it appropriate to do so, to take into account the employers' interests".

This provides comfort to trustees that consideration of the sponsoring employer's position in making funding decisions may be reasonable and is consistent with TPR's guidance on funding DB pensions.

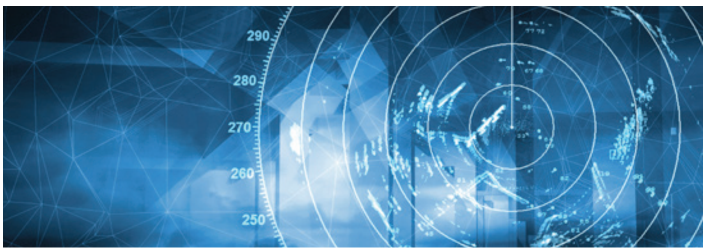
ii) Section 75 debt: Are employed members with enhanced benefits still 'active'?

In multi-employer schemes a section 75 debt is triggered when an employer ceases to employ active members at a time when at least one other employer continues to employ active members. A section 75 debt is not triggered when all employers cease to employ active members at the same time (i.e. it becomes a 'frozen scheme').

The MNRPF closed to future accrual in 2001, but members who remained in employment were granted enhanced revaluation of their benefits. The Court ruled that members must continue to accrue additional years of service to be considered truly 'active' and therefore the MNRPF became a frozen scheme in 2001. Therefore, no section 75 debt was triggered and employers remained liable to contribute to the MNRPF (which they wouldn't have if a section 75 debt had been settled). Historic employers will now be required to contribute to help clear the deficit.

Whilst the case considered only the specifics of the MNRPF, it is possible the ruling could be extended to cover cases where, on closure, a salary link is maintained (rather than enhanced revaluation). In such cases, employers who thought they had withdrawn from a scheme in the past may not have done so and may therefore still be responsible for funding the scheme.

The judgment may be appealed. In the meantime, trustees and employers may wish to discuss this case with their legal advisers. For further information, see our blog post.



NAMES: Employer debt regulations

The DWP has published a call for evidence on the rules concerning Section 75 employer debt in non-associated multi-employer schemes (NAMES), in response to concerns raised by some employers that the current regime is overly onerous. The main easements that the Government is considering include:

- Introducing flexibility around debt repayment, including allowing the trustees and employers to negotiate repayment of the debt over a significant period of time.
- Ceasing to employ active members could no longer trigger an employer debt - ie the employer would be required to continue to fund their existing liabilities on the Scheme Funding basis instead of being required to pay a Section 75 debt. A debt would still be triggered if the employer were to become insolvent or if the scheme were to wind up.
- Changing the way the liability is calculated. Section 75 debt is currently calculated as the employer's share of the scheme's deficit on a 'buyout' basis. The Government is considering whether liabilities could be calculated on a less prudent basis for stronger employers, or whether trustees may defer calling in the debt until the employer's financial health changes. Companies would still be ultimately responsible for the residual debt however, unless appointed to another employer

Pension Schemes Act 2015

The latest Pension Schemes Bill received Royal Assent on 3 March 2015, becoming the Pension Schemes Act 2015. The Act is intended to introduce further flexibility / innovation in the pension market by allowing the establishment of Defined Ambition and Collective Defined Contribution arrangements, intended to sit in the 'shared-risk' environment between DC schemes (where the employee bears nearly all the risk) and DB schemes (where employer bears the majority of the risk).

The Act also includes some of the DC flexibilities initially announced in the 2014 Budget (see above). In particular, clauses relating to the Guidance Guarantee for members retiring from DC schemes are intended to put a duty on trustees / providers to signpost the Pension Wise service where appropriate.

Whilst there was to be no ban on transfers from private sector DB schemes to DC arrangements, clauses in the Pension Schemes Act:

- impose a requirement that members opting for DB to DC transfers must first take independent financial advice for transfer values over £30,000 (see above);
- allow TPR to issue new guidance for DB scheme trustees on delaying transfers and using their existing powers to reduce transfer values to reflect scheme funding levels; and
- ban transfers from unfunded public sector DB schemes (except in very limited circumstances).

DWP: Governance and Charging

The DWP has published its response to its "Better workplace pensions: putting savers' interests first" consultation and regulations that introduce minimum governance standards and charge caps for occupational DC schemes have now been laid - matters which will be regulated by TPR.

The DWP has confirmed that DC Additional Voluntary Contribution (AVC) arrangements are excluded from the charge cap as long as they are the only DC benefits provided in an auto-enrolment qualifying DB scheme. Charges on DC AVCs funded by DB members could still be capped where the scheme has another DC section.

TPR has published an essential guide giving an overview of the new requirements and the DWP has issued guidance on the charge cap aimed at trustees and managers of occupational schemes.

Auto-enrolment Update

DWP: Technical changes to auto-enrolment

The DWP has responded to an earlier consultation on technical changes to automatic enrolment. Revised regulations effective from 1 April 2015 will be put in place in the next parliament covering:

- An alternative 'quality requirement' for DB schemes. This new test is intended to help employers with schemes that are currently contracted-out on a salary-related basis. Employers will no longer be able to use the scheme's contracted-out status as the basis for satisfying the quality requirement when contracting-out is abolished in April 2016.

  Under the alternative requirement, a DB scheme would qualify for use as an auto-enrolment arrangement if "the cost of providing the benefits" for members is at least a prescribed level (to be confirmed, but expected to be around 10-12% of total pay). The DWP anticipates that calculating the cost of benefits can be carried out as part of the scheme's usual 'actuarial' funding process.
- Simplified information requirements for employers. Under current legislation an employer must provide five different pieces of information to employees about the auto-enrolment process. The DWP is legislating so that the minimum information requirements are reduced and simplified.
- Exceptions to the employer duties in certain circumstances. The new regulations will mean that employers will not be required to auto-enrol individuals who:
  - are leaving employment within a set period
  - have cancelled scheme membership before the auto-enrolment requirements applied, or
  - have tax protection on existing savings – for example 'enhanced' or 'fixed' protection from previous reductions in the Lifetime Allowance.

TPR warning

TPR has warned small and micro employers they must act now on auto-enrolment. The results of TPR's most recent survey of employers suggests that 41% of companies whose 'staging date' is in the second half of 2015 (ie those who have fewer than 50 employees), had yet to even consider which pension arrangements to use to auto-enrol staff.

TPR has also launched a new web guide and is consulting on whether to provide a basic auto-enrolment assessment tool for the 200,000 small and micro employers who use HMRC's Basic PAYE Tool.

Find out more about how we can help on our website.

News in Brief

DWP: Pot-follows-member

The DWP has published proposals for automatic transfers of small DC pots when members move employers. Only pots under £10,000 that are held in default, charge-capped arrangements (with the first contributions having been made after 1 July 2012) will be eligible and there must not have been any new contributions into the pot in the last 12 months.

The system is intended to target those who are least likely to be actively engaged with their pension savings. Implementation will be phased from October 2016 and the Government will publish draft regulations for consultation later this year.

PPF Administration Levy

The DWP has confirmed that it will increase the Pension Protection Fund (PPF) Administration Levy (payable in addition to the PPF's Pension Protection Levy) by 15% each year for the next three years. Legislation has now been enacted that will, for example, increase the levy from £1.80 per member in 2015/16 to £2.74 per member in 2018/19 for a scheme with between 1,000 and 4,999 members.

Pensions liberation fraud

TPR has refreshed its scorpion campaign to alert pension savers of potential scams and published an 'action pack' for scheme administrators. The FCA has followed suit.

Meanwhile, the Pension Liberation Industry Group has launched a Code of Good Practice on combating pension scams and HMRC has published a newsletter on pension liberation, providing an update on the action it has taken against pension scams.

GMP reconciliations – Action required!

With the end of contracting-out on a salary-related basis now less than one year away (5 April 2016), affected schemes should be acting now to reconcile their Guaranteed Minimum Pension (GMP) records with HMRC. After April 2016 HMRC will not accept new applications to reconcile records.

Reconciliations should be completed by December 2018. Trustees should bear in mind that, in some cases, these can take more than two years to complete. It is anticipated that seven million members' records will have to be reviewed by HMRC and scheme administrators. HMRC will deal with schemes on a first-come, first-served basis.

HMRC are reporting that, of the 2,336 schemes registered to use their reconciliation service, only 100 have so far raised any queries. Barnett Waddingham's industry research shows that 75% of trustees think DB schemes are not prepared for contracting-out cessation and 51% think that HMRC capacity will be the most significant issue in reconciling GMP benefits.

New Pensions Ombudsman

The DWP has announced that Anthony Arter has been appointed Pensions Ombudsman and Pension Protection Fund Ombudsman from 25 May 2015 for a four-year term, replacing Tony King. Karen Johnston is the new Deputy Pensions Ombudsman.

Single regulator considered

The Work and Pensions Committee of the House of Commons has issued a report calling for a single pensions regulator and a new independent pensions commission. TPR says it will work with the Government to respond to the report.

IBM case

The High Court has ruled that members of IBM's DB pension schemes can claim damages over the company's handling of the closure of the schemes. The Court ruled that IBM misled members during the consultation process. IBM has said it will appeal the decision. Further details on the case were included in our summer 2014 newsletter.

Clarification of FRS102

The Financial Reporting Council (FRC) has issued amendments to FRS102 enabling sponsoring employers to continue with current practice when accounting for DB pension schemes.

In particular, the FRC has confirmed that no additional liability needs to be recognised for deficit repayment contributions where the deficit itself is already accounted for under the reporting standard. However, companies should disclose the actual payments they are committed to make.

The amendments apply for accounting periods beginning on or after 1 January 2015.

Forthcoming Events

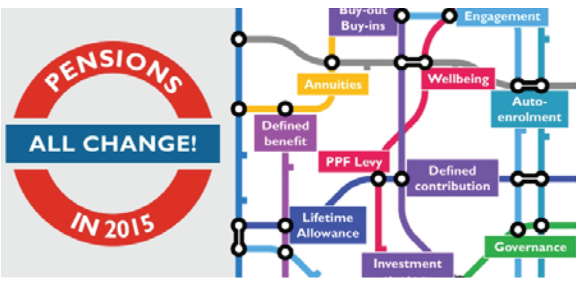
Employer Pensions and Benefits Conference

The pace of change in the pension world continues unabated. Freedom and choice in pensions will transform the pensions landscape and offer new risks and opportunities to pension scheme sponsors.

So how do employers keep up? How do they help their employees make the most of the freedom to manage their own retirement whilst balancing the legacy and future risks in pension provision under the new landscape?

Our annual conference will focus on pensions issues from a corporate perspective. We will provide practical examples of the challenges employers are facing and how they have been tackled.

- Manchester, 19 May 2015
- London, 3 June 2015



Trustee Training

We offer basic training to trustees and managers of DB and DC pension schemes.

Upcoming courses are listed below. Please see the events page on our website for more information.

Date	Venue	Course
4 June 2015	London	DB Trustee Training
10 June 2015	Bromsgrove	DB Trustee Training
18 June 2015	London	DC Training
25 June 2015	Leeds	DC Training
10 September 2015	Leeds	DB Trustee Training
11 November 2015	Bromsgrove	DB Trustee Training
19 November 2015	London	DB Trustee Training

Our one day DC-training courses are interactive and are aimed at both trustees of trust based DC schemes and those involved with the governance and management of contract based DC schemes. The one-day DB courses are also interactive and are aimed at new trustees and those seeking a reminder of the basics of trusteeship.

In addition to our standard courses we can hold bespoke training for trustees, employers, managers and HR professionals tailored to reflect their particular pension scheme arrangements and relevant issues.

About Barnett Waddingham - our services

Barnett Waddingham provides professional services spanning pensions, life and general insurance.

Our services include:

- Scheme Actuary and associated services to the trustees and employers associated with defined benefit pension schemes.
- Advice in relation to defined contribution schemes.
- Pension accounting for UK and international companies.
- Administration and management services including pensioner payroll, preparation of annual accounts and secretarial services.
- Investment strategy reviews and advice on scheme evolution strategy.
- Management of closed schemes, wind-ups and reconstructions and schemes in PPF assessment.
- Guidance to senior staff on the impact of pensions taxation applicable to their own circumstances.
- Advice to individuals and employers on pension provision for executives, including pre-hire, while accruing benefits, early termination and at retirement.
- Employer risk management through buy out options, transfer exercises and PPF levy management.
- Advice on group personal pensions, stakeholder schemes and personal accounts.
- Group risk advice including group life assurance, private medical benefits and income protection benefits.
- Analysis and modelling of mortality and longevity risk for insurance companies, reinsurance companies, investment banks and pension schemes.

Barnett Waddingham is also a leader in the provision of self-invested personal pensions (SIPPs), small self-administered pension schemes (SSASs) and other retirement arrangements.

A REVIEW OF 2014 >

Please contact your Barnett Waddingham consultant if you would like to discuss any of the above topics in more detail.
Alternatively contact us via the following:

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