

## News on Pensions

**NOVEMBER 2014**

### DWP: Charges and Governance in DC schemes

The Department for Work and Pensions (DWP) [has been consulting](#) on a new piece of legislation – the Occupational Pension Schemes (Charges and Governance) Regulations 2015 – which it hopes will improve governance standards and address the issue of high charges in some defined contribution (DC) pension schemes. The new regulations will come into effect, in the main, from April 2015.

The consultation document also serves as the government's official response to an earlier consultation in '[Better workplace pensions: further measures for savers](#)' (see [News on...Pensions: May 2014](#)) which sought views on governance and transparency of costs and charges in workplace pension schemes. In particular, the DWP proposed that a cap on charges of 0.75% of fund values (each year) would be enforced in certain DC schemes.

#### Charges cap

The March consultation proposed a 0.75% cap on charges for the default funds of qualifying schemes used to meet 'auto-enrolment' legislation, and a ban on 'active member discounts' (i.e. higher charges for members no longer paying contributions).

The paper now sets out the DWP's detailed policy proposals in this area, which include confirmation that:

- the 0.75% cap is an annual limit which applies across all funds under management (excluding transaction costs);
- individual funds within a default structure may exceed the 0.75% cap, as long as the overall charge for each individual member does not exceed 0.75%; and
- as well as active member discounts, member-borne adviser commissions and consultancy charges will be banned.

During 2015, the DWP will consult on proposals to require full disclosure and publication of costs and charges. It will also look at whether regulation is required for additional transparency in defined benefit (DB) schemes.

In 2017, the Government will review whether the level at which the charges cap has been set is appropriate, and whether it should be amended to include some or all of the transaction costs that are ultimately borne by members.

#### Governance standards

From April 2015, new quality standards will apply to all workplace DC pension schemes and DC sections of other schemes (except for DB schemes whose only DC section is an Additional Voluntary Contributions (AVC) arrangement).

Trustees will be required to design default arrangements in members' interests, with the factors trustees should take into account set out in the regulations. The default arrangements and performance of the underlying investments must be reviewed at least every three years, or without delay after any significant change in investment policy or scheme demographics.

Where contract-based pension arrangements (such as 'Group Personal Pensions' (GPPs)) are in place, minimum standards will be overseen by 'Independent Governance Committees' (IGCs) set up specifically for this task.

Trust based arrangements will be required to appoint a Chair to be responsible for producing an annual statement on governance standards, to be included in the trustees' annual report and accounts. The Chair must be identified to The Pensions Regulator (TPR) on the annual Scheme Return and must be consulted on the appointment of other trustees. There will be a three month period for selecting a Chair from the day the regulations come into force, or if a Chair resigns, dies or is removed.

## TPR's role

TPR will receive enforcement powers relating to the governance requirements and the charge restrictions.

### TPR released a statement in response to the DWP's command paper saying:

» *"We have been working very closely with the DWP to ensure the new regulations complement what we have already set out in our current DC code of practice in relation to the governance standards".*

TPR's [code of practice](#) came into force in November 2013 and sets out practical guidance on how trustees of DC schemes can meet legislative requirements.

## PPF news

### PPF levy: Concessions

The Pension Protection Fund (PPF) has responded to its May 2014 consultation on [changes to the PPF levy formula](#). Alongside the response, the PPF has also published [draft levy rules](#) and is consulting further on detailed rules for the 2015/16 levy. The PPF estimates that it will collect levies totalling £635 million in 2015/16, a 9% reduction from last year, and expects the total levies collected to decrease over the next two years.

The PPF has also confirmed that:

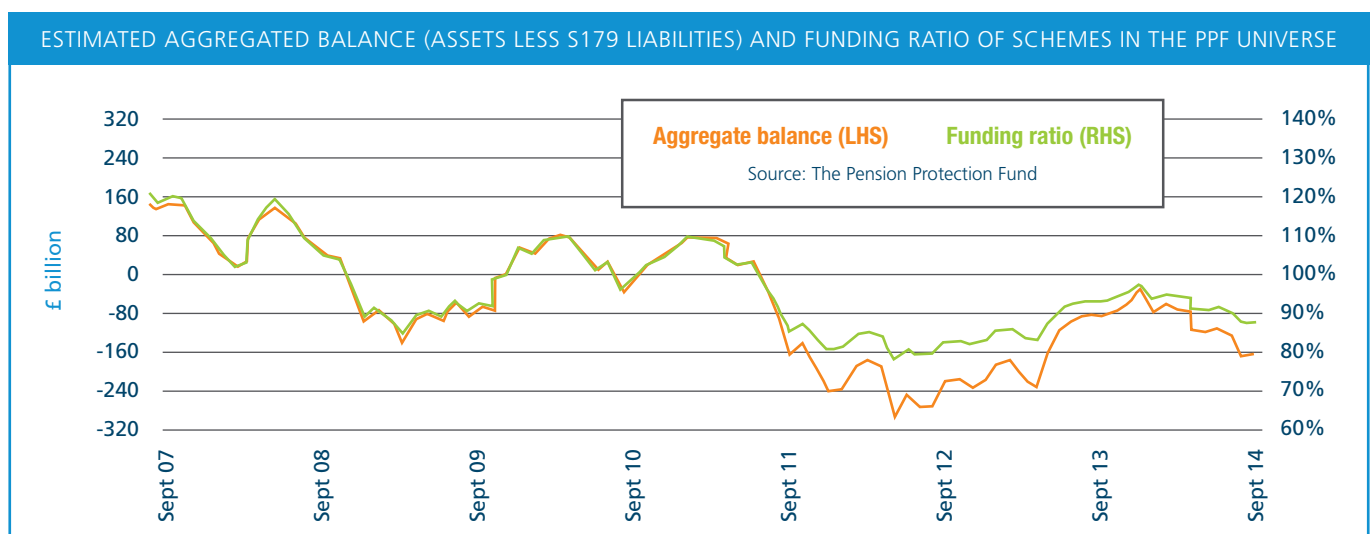
- there will be no restriction on the type of underlying asset for asset backed contributions (ABCs) "provided the ABC is valued in a way that reflects the value to the PPF in the event of insolvency";
- there will be no form of transitional protection for pension schemes seeing a large increase in their levy due to the new PPF-specific model (the model of insolvency probabilities developed in conjunction with Experian and replacing the Dun & Bradstreet (D&B) model);
- mortgages which are not relevant to insolvency risk will now be excluded from the Experian-based model. This may involve trustees or employers self-certifying that such mortgages should be excluded, although the PPF is expected to confirm the approach before the end of 2014;
- the PPF will be given discretion to amend 'scorecards' used in the Experian model where it believes entities are manipulating the system (for example by setting up subsidiaries with the sole intention of moving to the group scorecard); and
- there will be no 'credit-rating override' for those employers with published credit ratings.

### PPF 7800 index

The [latest update](#) of the PPF's 7800 Index of schemes' funding (on the s179 basis) has been published.

The aggregate deficit of the 6,150 schemes in the index is estimated to have decreased over the month to £166.5 billion at the end of September 2014 (there was an aggregate deficit of £170.6 billion at the end of August 2014).

The funding ratio increased slightly from 87.6 per cent to 87.8 per cent. There were 4,600 schemes in deficit and 1,550 schemes in surplus.



## NEST: Restrictions to be lifted

The DWP is consulting on [removing restrictions from the National Employment Savings Trust \(NEST\) by April 2017](#). In particular, the DWP intend to lift the cap on annual contributions by members (currently £4,600) and to permit transfers into and out of NEST.

The consultation comes after the European Commission confirmed last month that lifting the restrictions would not break state-aid rules. The restrictions were originally intended to ensure that NEST focused on its target market of small employers and low-earning individuals, rather than competing with other providers for more profitable business.

### Pensions Minister Steve Webb commented:

» *“While these constraints were essential as we got auto-enrolment up and running, their removal will ensure that in future people saving with NEST get the same rights as members in other schemes and can make the most of their savings. Removing the contribution limit will help people save more, while lifting the ban on transfers will help people to build up worthwhile pension pots in one place and get better value for their savings.”*

## Budget 2014 update

### Guidance guarantee

The Government has [unveiled](#) the providers that pension savers will be able to ask for free impartial guidance from age 55, as promised in the 2014 Budget (see [News on... Pensions: April 2014](#)). The Citizens Advice Bureau (CAB) will provide expert face to face guidance while telephone guidance will be provided by The Pensions Advisory Service (TPAS) from April next year.

### Short service refunds to be abolished

The DWP has [announced](#) that short service refunds will be limited to 30 days from October 2015 for DC schemes. Currently, members who leave a pension scheme after less than 2 years' service are entitled to a refund of their own contributions.

From October 2015 schemes will only be able to make refunds within the first 30 days of membership. This change does not affect DB and personal pension schemes.

## Other news

### Pensions Ombudsman: Tax advice for members

A [ruling](#) by Jane Irvine, the Deputy Pensions Ombudsman (DPO), has clarified trustees' responsibility surrounding communicating tax issues to members.

A member had complained to the ombudsman that he had suffered a tax penalty as a result of failures by the trustee, the administrator and the sponsor of the Honeywell UK Pension Scheme. The member argued that had he been aware of the potential tax liability (in this case, an annual allowance tax charge) when he elected to take his pension benefits he would have elected to take them earlier (i.e. to avoid the tax liability).

The DPO's determination states that the complaint could not be upheld because the trustee, administrator and sponsor had no legal obligation to inform the member that he may be subject to a tax charge. It also states that he would, on the balance of probabilities, have still taken his pension benefits in the same manner had he known about the personal tax charge.

Nevertheless, the DPO's decision appears to have been swayed by the inclusion of a disclaimer in the scheme administration letters to the member. Therefore, trustees should, in particular, be careful to point out to members that they ought to take independent financial advice when making decisions in relation to their pension benefits.

### EIOPA consults on further work on solvency of IORPs

The European Insurance and Occupational Pensions Authority (EIOPA) has published a [consultation on further work on solvency of IORPs](#).

This work is undertaken on EIOPA's own initiative and EIOPA state it is not linked to the current review of the Directive on Institutions for Occupational Retirement Provision (IORP Directive), however EIOPA will be providing advice to the European Commission which can choose whether or not to take it forward.

The consultation sets out a number of options for using the proposed holistic balance sheet in a regulatory framework, including:

- little change from the current framework, but using the holistic balance sheet as a risk management tool to ensure the sustainability of schemes; or
- requiring schemes to cover a risk-free value of their liabilities, plus a solvency capital requirement, with financial assets – and recover deficits within a year.

EIOPA does at least recognise that the latter option would ‘seriously interfere’ with pension provision in a number of states. EIOPA suggest transitional measures which could be used to alleviate the immediate impact of a new regime: either a long period of introduction, or ‘grandfathering’ arrangements with only future benefits being required to comply. The consultation closes on 13 January 2015.

## Further information

### Comment - QE: Calm before the storm?

Over the past five years investors have been amply rewarded simply for staying invested and avoiding holding cash. Moreover, in that period returns have gradually accumulated with little underlying concern.

However, the end of Quantitative Easing (QE) from the US Federal Reserve is nearly upon us and there is potential for this to cause a re-assessment of where economies and markets are heading. We think the time is nigh for trustees to re-assess and re-examine a few central themes within their portfolio, to ensure they are able to cope with the challenges of the next five years.

Is this the start of a winter of discontent or just an autumn squall; how should trustees react to the changing face of QE?

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