Barnett Waddingham

Pensions News - January 2012

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Latest News from the Pensions Regulator

DC Schemes: Good Design and Governance

The Pensions Regulator (tPR) has published the six principles it believes are necessary for good design and governance of workplace defined contribution (DC) schemes.

The principles, which will form the basis for tPR's regulatory approach, are:

- Schemes are designed to be durable, fair and deliver good outcomes for members.
- A comprehensive scheme governance framework is established at set-up, with clear accountabilities and responsibilities agreed and made transparent.
- Those who are accountable for scheme decisions and activity understand their duties and are fit and proper to carry them out.
- Schemes benefit from effective governance and monitoring through their full lifecycle.
- Schemes are well-administered with timely, accurate and comprehensive processes and records.
- Communication to members is designed and delivered to ensure members are able to make informed decisions about their retirement savings.

TPR intends to work with stakeholders to develop a shared understanding of the principles, and provide further guidance in 2012.

Pension Reciprocation Plans

A High Court judge has ruled that a "Pension Reciprocation Plan" (PRP) arrangement used by Ark Business Consulting contravened pension law and threatened members' pension benefits.

Ark operated six pension schemes and loans between the schemes were used as a means of unlocking pension capital prior to retirement. The Judge ruled that the loans were outside the powers of the schemes' trustees and constituted unauthorised payments.

TPR has reminded individuals of the risks of websites or salespeople offering them the chance to cash in their pension pot tax-free before retirement. It is working with Her Majesty's Revenue & Customs (HMRC) and the Financial Services Authority (FSA) to monitor business models and has said it will use its powers to disrupt them if necessary.

Latest News from the DWP

Small Pension Pots

Following an earlier "call for evidence" (see Pensions News - June 2011), the Department for Work and Pensions (DWP) has issued a consultation on improving transfers and dealing with small pension pots.

The DWP has defined a small pension pot as being less than £2,000 and intends to abolish short service refunds as soon as Parliamentary time allows (possibly in 2014). The DWP has outlined several possible approaches to dealing with small pension pots, such as:

- Improving the current voluntary system, including:
  - providing additional information to encourage members to transfer funds
  - making transfers easier for members
  - requiring all schemes to accept transfers in
  - reducing the costs of administering small pots
  - promoting services such as the Pensions Tracing Service.
- Automatically transferring small pension pots to one or more aggregator schemes (eg the National Employment Savings Trust (NEST)).
- Automatically transferring pension savings so they follow an individual from job to job.

The Government is also extending existing "de-minimis" (trivial) commutation limits. From April 2012, the over-60s will be able to commute up to two small pension pots (of up to £2,000) into a taxable lump sum.

The consultation closes on 23 March 2012.

Auto-enrolment Earnings Thresholds

The DWP has published a consultation setting out its proposals for auto-enrolment earnings thresholds for 2012/13.

The automatic enrolment earnings trigger was set at £7,475 (in 2011/12 terms) in the Pensions Act 2011 and is currently aligned with the Pay As You Earn (PAYE) tax threshold. The DWP is proposing to maintain the link with the PAYE threshold for 2012/13 – ie to use a trigger of £8,105.

The current lower and upper limits of the qualifying earnings band were set in the Pensions Act 2008 as £5,035 and £33,540 respectively (in 2006/07 terms).

The DWP is planning to link the lower limit to the National Insurance Lower Earnings Limit (LEL) for 2012/13 – ie £5,564. It also proposes that the upper limit should be the 2008 level (£33,540) increased in line with average earnings – ie £39,853 for 2012/13.

Employer Debt Regulations

The DWP has published a response to its earlier consultation on new Employer Debt Regulations (see Pensions News - June 2011) which come into effect on 27 January 2012.

The regulations include a late amendment which will allow employers who exit under a "Flexible Apportionment Arrangement" (FAA) to make a part-payment of any debt calculated.

A further change relates to the "period of grace" under which an employer (in a multi-employer scheme) who ceases to employ active members can avoid triggering a debt if it intends to employ active members again within a certain time period. Trustees will have discretion to extend the period of grace from one to three years.

TPR intends to update its guidance on "Multi-employer schemes and employer departures" in due course.

Other news

FRC: Challenging Actuarial Advice

The Financial Reporting Council (FRC) has published a list of questions to help trustees understand and challenge the advice they receive from actuaries.

The 28 questions are divided into categories on planning, mortality, discount rates, other assumptions, scenario and sensitivity analysis, sponsor covenant, cash flows and "Working with your Actuary".

Alongside questions on assumptions used in actuarial valuations, the list urges trustees to examine their working relationship with their actuary and to ensure that they are aware of potential conflicts of interest. It also prompts trustees to check whether the actuary provides appropriate input on topics such as investment strategies, and whether the advice is tailored to the scheme's trust deed and rules.

RPI vs CPI

The Government's decision to switch from referencing to the Retail Prices Index (RPI) to referencing to the Consumer Prices Index (CPI) when calculating annual public sector pension increases has been ruled lawful in the High Court.

The Civil Service Pensioners' Alliance ("CSPA") and a number of trade unions had accused the Government of unlawfully attempting to reduce pension costs in the battle to cut the UK's financial deficit.

The Government argued that CPI was a more appropriate measure of changes in the general level of prices.

COMP Schemes

HMRC has published the latest issue of its Count-down Bulletin on the abolition of contracting-out on a money purchase basis (COMP).

This bulletin includes details on how late rebate payments and recoveries will be made after April 2015.

It also includes information for defined benefit (DB) scheme providers who are considering switching schemes that are COMPs to schemes contracted-out on a salary-related (COSR) basis.

Finance Bill 2012

Following the Chancellor's Autumn Statement, the Government has published draft legislation for the Finance Bill 2012, including the following:

- In relation to "Employer asset-backed pension contributions", legislation will be amended so that upfront tax relief is only available for those arrangements that fall within structured finance legislation (and only part of the income stream paid to the pension scheme will be eligible for relief).

  In all other cases relief will be given on the regular payments rather than up front.

- Draft secondary legislation has been proposed revising the conditions a scheme has to meet to be a qualifying recognised overseas pension scheme (QROPS), and strengthening the information and reporting requirements.

- Draft secondary legislation has also been proposed regarding commutation of small personal pension pots (see previous page). HMRC has also prepared draft guidance setting out how the new rules should be applied.

Further information has been made available on HMRC's website.

Latest News from the PPF

2012/13 Levy

The Pension Protection Fund (PPF) has published its final levy determination for 2012/13. This confirms that the estimate of the total levy to be collected in 2012/13 is £550m, and outlines the new levy framework that is set to be in place for the next three years (see Pensions News — September 2011).

The PPF has also published final guidance for schemes on levy practice, bespoke investment risk calculation, contingent assets and block transfers. Key dates in relation to the 2012/13 levy are:

- D&B Failure Scores:
  At each month end 28 April 2011 to 30 March 2012
- Submission of scheme return information:
  by 5pm, 30 March 2012
- Period over which funding is smoothed:
  5 years to 30 March 2012
- Certification of contingent assets:
  by 5pm, 30 March 2012
- Certification of deficit reduction contributions:
  by 5pm, 10 April 2012
- Certification of full block transfers:
  by 5pm, 29 June 2012
- Invoicing: **starts Autumn 2012**

Scheme Factors

The European Commission has adopted guidelines meaning that the Test-Achats (gender equality) case (see Pensions News - March 2011) will not require occupational pension schemes to adopt unisex actuarial factors.

PPF 7800 Index

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

The estimated aggregate funding position of the 6,533 schemes in the index worsened over the month to a deficit of £222.1bn (81.9% funded) at the end of November 2011. This compares to a deficit of £158.6bn (86.3% funded) at the end of October 2011.

Further Information

For further information on any of the topics in this bulletin, please speak to your usual Barnett Waddingham consultant, or visit our website.

You might also find our recent publications on the following topics useful:

- Current Issues in Pensions Financial Reporting

If you have not yet booked your place at our Annual Investment Outlook Conference in Birmingham on 18 January 2012 or London on 25 January 2012, then please visit our website.

Places are also still available at our nationwide seminars on the challenges of valuing pension schemes. These seminars will be held throughout the UK during February 2012.

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