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#### LATEST NEWS FROM THE PENSIONS REGULATOR

## Scheme Funding in the Current Economic Environment

The Pensions Regulator (TPR) has issued its *first annual statement* on "Pension scheme funding in the current environment". The statement is aimed at trustees and employers of defined benefit schemes who are carrying out scheme funding valuations with effective dates between September 2011 and September 2012.

TPR has not set out any material differences to the way in which it looks at scheme funding, nor to the way in which trustees and employers should approach the matter. However, the statement provides clarification on what kind of approaches may, and may not, be appropriate in the current economic environment.

TPR's statement comes at a time when yields on long-dated index-linked gilts are at an all-time low. Low gilt yields tend to increase market-related measures of pension scheme liabilities, worsening scheme funding levels. The Regulator recognises that this, together with lower than expected asset returns, may mean that funding deficits either remain at the level identified at the scheme's last funding valuation, or are greater, despite significant deficit repair contributions being paid by the employer.

TPR says that it "recognises that the current economic conditions will put pressure on pension scheme funding". However, the Regulator's view is that there is already "sufficient flexibility" in the current framework to take these circumstances into account. It also notes that planning for an uncertain financial future should be a key part of a scheme's funding strategy.

A detailed summary of the Regulator's statement is available [on our website](#).

TPR has also published *three scenarios* illustrating how the approach is expected to work in different scenarios.

## TPR Consultations

TPR has *published for consultation* two documents setting out how it will progress cases relating to its reserved powers under the Pensions Act 2004.

The first document, on *Case Team procedure*, sets out the proposed procedure to be used by TPR's case teams to bring a case to its Determinations Panel. The *second document* invites comments on the proposed procedures for the Determinations Panel.

Both consultations close on 29 June 2012.

## Auto-Enrolment: Communication

The Department for Work and Pensions (DWP) and TPR have launched an *employer communication website* relating to auto-enrolment.

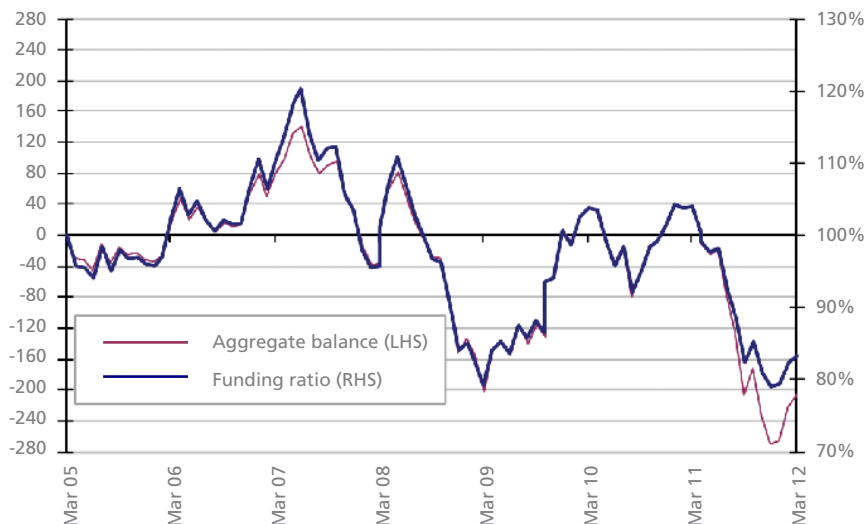
TPR and DWP will publish template communications on the website for employers to send to employees, including all the information that employers will be legally required to disclose.

## PPF 7800 Index

The *latest update* of the Pension Protection Fund's (PPF) 7800 Index of schemes' funding (on a section 179 basis) has been published.

The aggregate funding position of the 6,432 schemes in the index is estimated to have improved over the month to a deficit of £206.2 billion at the end of March 2012 (there was an aggregate deficit of £222.2 billion at the end of February 2012).

Scheme funding has worsened over the year (there was an aggregate surplus of £36.9 billion at the end of March 2011).



## Ombudsman Ruling

The Pensions Ombudsman has *ruled against* a pension scheme member who claimed that pension benefits resulting from a severance payment should be classified as "money purchase".

The Grampian Country Pension Fund was admitted to the PPF following an employer insolvency event and, had the claim been successful, the £320,000 pot would not have been subject to PPF reductions. However, the Ombudsman ruled that the payment was not protected in the event of winding up. As a consequence, PPF reductions will apply.

## Members' Guide

The PPF has published a *guide* for members of defined benefit schemes whose employer has become insolvent.

The document, "What is the Pension Protection Fund...and what do we do?" includes general information about the PPF, compensation and the assessment period.

The new guide replaces several earlier guides to the PPF.

## Pension Protection in Bankruptcy

The High Court has *ruled* that a bankrupt person's pension can be used to repay creditors, even if he or she is yet to elect to receive payment.

The ruling means that a trustee in bankruptcy would be able to obtain an "income payments order" where the bankrupt had entitlement to a scheme pension - not just where the benefit was in payment but also where, under the rules of the scheme, the bankrupt would be entitled to payment if he requested it.

The individual in this case has been granted leave to appeal.

## Default Retirement Age

The Supreme Court *has dismissed an appeal* relating to age discrimination, and given some guidance as to when direct age discrimination may be justified.

In the case of *Seldon v Clarkson Wright and Jakes*, Mr Seldon (a former partner in a firm of solicitors) was forced to retire at 65 and claimed age discrimination.

The Court held that the aims of the firm in forcing partners to retire at a specific age (eg for staff retention and workforce planning) were legitimate.

The case was referred back to an employment tribunal to determine whether 65 was an appropriate age.

## Risk-sharing for Pension Schemes

Minister for Pensions Steve Webb has said that he will discuss with employers how they might be encouraged to develop “risk-sharing” pension arrangements.

The type of risk-sharing arrangements being considered, which Mr Webb is calling “Defined Ambition” schemes, include cash-balance schemes where a fixed pension pot is provided on retirement and the employee then bears the uncertainty as to how much income that pot of money will secure.

Under an alternative model, some of the uncertainties of rising life expectancies are shared with members so that schemes pay a defined benefit, but the age at which that pension comes into payment can change (for future accrual) if people live longer than expected.

## Quantitative Easing

The *Treasury Select Committee* has published a report citing criticism of the effect that quantitative easing has had on pensioners’ annuity returns.

The report calls on the Bank of England to estimate the overall benefit and loss to pensioners and savers from quantitative easing. The Committee has also called on the Government to consider whether any measures should be taken to mitigate the effect on pensioners retiring now and savers.

## Auto-enrolment: Salary Sacrifice

Following lobbying by scheme providers, HM Revenue & Customs (HMRC) has confirmed that it will amend salary sacrifice guidance to prevent the unfair treatment of workers opting out of auto-enrolment.

Under current salary sacrifice rules, cancelling a salary sacrifice arrangement outside of set review periods is not currently permitted. In some cases this could mean that an employee would not be entitled to a refund of his salary sacrificed if he subsequently opted out of a pension scheme.

The change will mean that employees who are auto-enrolled via salary sacrifice will be able to opt out of the pension scheme at any time and be entitled to a full post-tax salary refund.

## You may find our recent publications on the following topics useful:

- *Scheme funding in the current economic environment*
- *What low yields mean for pension scheme investment strategies*

We have also recently launched an *online guide to pensions* aimed at Finance Directors.

For further information on any of the topics in this bulletin, please speak to your usual Barnett Waddingham consultant, or visit our website [www.barnett-waddingham.co.uk](http://www.barnett-waddingham.co.uk)

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