

# Current Pensions Issues

## Budget 2015 – Take two

Following May's General Election and the subsequent formation of a majority Conservative Government, the Chancellor of the Exchequer, George Osborne, delivered his [second Budget of 2015](#) in the House of Commons on 8 July.

### Annual Allowance – reduction for high earners

As set out in the Conservatives' [pre-election manifesto](#), the Chancellor confirmed that the Annual Allowance (AA) will be reduced to £10,000 for high earners from April 2016. This move is expected to raise over £4 billion in tax revenue between 2016/17 and 2020/21, which will be used in part to fund additional Inheritance Tax relief.

The reduction in the AA will be tapered from £40,000 to £10,000 for individuals with 'adjusted income' between £150,000 and £210,000 per year. For example:

Adjusted Income*	Annual Allowance
Up to £150,000	£40,000
£170,000	£30,000
£190,000	£20,000
£210,000 and over	£10,000

*\*Adjusted income includes taxable income from all sources – for example salary, interest on savings, rental income and dividend payments – as well as the value of pension contributions to a defined contribution (DC) arrangement and pensions accrual in a defined benefit (DB) scheme, and any salary sacrificed under a new salary sacrifice arrangement set up since 8 July.*

The assessment of adjusted income could be complicated but any individual whose taxable income is below £110,000 will not be subject to a tapered AA. Measuring this 'threshold income' level will not require the value of pensions contribution or accrual to be added back in, although salary sacrificed under new salary sacrifice arrangements may have to be added back.

Extra care should be taken where the 'Money Purchase Annual Allowance' applies to an individual as a result of them having accessed pension savings under the new flexibilities first announced in the March 2014 Budget.

These changes will mean that many more individuals will be in danger of breaching the AA and triggering tax charges. Employers and trustees should consider communicating with employees to ensure they are aware of the changes and can take action where appropriate.

No changes have been announced to 'Scheme Pays' – a system that allows members to meet AA charges over £2,000 directly from their pension savings.

### Changes to 'Pension Input Periods'

In order that the tapered AA can operate effectively, the Government has decided that all schemes' Pension Input Periods (PIP) should be aligned with tax years.

A PIP is the period over which the value of pension savings (DB scheme accrual or DC scheme contributions) is measured for AA tax purposes. PIPs are normally, but not necessarily, twelve months long. When assessing overall AA charges, individuals are required to consider all their arrangements with PIPs ending in a particular tax year.

Whilst many arrangements will have PIPs aligned with tax years, many schemes historically chose to re-align PIPs with their accounting year for ease of administration.

All PIPs that were open on Budget Day were closed immediately (on 8 July 2015) regardless of whether a scheme currently uses the tax year or some other period. The next PIP will then run from 9 July 2015 to 5 April 2016, thereby splitting the 2015/16 tax year in two.

To ensure no one suffers unexpected tax charges as a result, a one-off £40,000 addition to the AA will apply to the first of these 'mini tax-years' - effectively a total AA of £80,000 of which £40,000 can be carried forward to the second mini tax-year. Any unused carry forward from earlier periods will also not be lost.

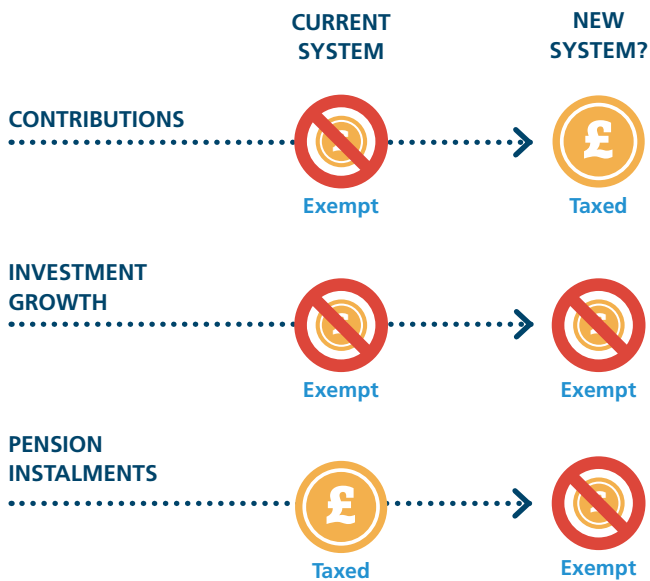
The additional allowance could represent a limited opportunity for individuals to make relatively large pension savings without triggering an AA charge. The Treasury will consider in due course whether the concept of a PIP will become redundant and may simplify legislation accordingly.

Our [Executive Pensions](#) team can provide expert guidance in these areas and run [Educational Seminars](#) on the changes to the AA and LTA for your staff.

## Future of pensions tax relief

Alongside the Budget, the Government published a Green Paper on a possible overhaul of the pensions tax system. Through the document, '[Strengthening the incentive to save: A consultation on pensions tax relief](#)', the Government is inviting views (rather than putting forward any firm proposals) on how and whether the current 'exempt-exempt-taxed' system could be refined. Views should be sent to the Government by 30 September 2015.

The Treasury is considering replacing the current tax regime with a system under which pension contributions are paid out of taxed income, but investment growth is tax-exempt and pension instalments payable tax free (much like the current taxation arrangements applying to ISAs). The Government may potentially provide a top-up on contributions.



The Government has said that any replacement system would have to be "simple and transparent... allow individuals to take personal responsibility... [and] build on the early success of auto-enrolment".

## Other pensions issues

- Access to [Pension Wise](#) will be extended to people aged 50 and above, and the Government will launch a marketing campaign to promote the service.
- An imminent consultation will consider options to make pension transfers quicker and smoother, including looking at early exit penalties with a view to possibly introducing a cap on these charges.
- Plans for annuity policyholders to sell their annuities on a specially-created secondary market (see [Current Pensions Issues – Spring 2015](#)) will be set out in the autumn, but implementation will now be delayed until 2017.
- The Government will actively monitor the growth of salary sacrifice arrangements and their effect on tax receipts.

The [Finance Bill 2015-16](#) (which, when enacted will bring these changes into force) was published on 15 July.

As announced in the first Budget of 2015 (see [Current Pensions Issues – Spring 2015](#)) a further 2016 Finance Bill will include clauses reducing the Lifetime Allowance (LTA) to £1.0 million from April 2016, with details of transitional arrangements to follow later. The Government also confirmed its intention that the LTA will be indexed in line with CPI inflation from April 2018.



## DC schemes – Chairperson's statement

As part of the Government's drive to improve governance, new regulations came into force on 6 April requiring that DC schemes have an appointed Chair of trustees by 6 July 2015, with notification provided to The Pensions Regulator (TPR). Trustees who fail to comply could be fined between £500 and £2,000.

Within seven months of each scheme year-end after 6 April 2015, the Chair of trustees must prepare and issue an annual statement. Where the scheme year-end falls before 6 July 2015 the first statement will not be until the following scheme year-end, but must cover the whole period from 6 April 2015. The statement must cover items such as:

- how the trustees meet the 'knowledge and understanding' requirements;
- the scheme's 'core' financial transactions for the year;

- how and when default investment arrangements and the Statement of Investment Principles were last reviewed; and
- how the trustees have assessed value for money on the members' behalf.

The regulations also require that schemes comply with certain charge controls where the scheme is used as a qualifying scheme for auto-enrolment.

Preparation of the first Chairperson's statement is likely to require some additional set-up work, and complying with some aspects of the regulations will require specialist advice from a suitably regulated adviser. Please speak to your usual Barnett Waddingham consultant for further information.

DB schemes that offer money purchase AVC arrangements (but no other DC benefits) are exempt from the charge cap and governance requirements.

# TPR: Scheme funding

## Employer Guide

TPR has published a new [guide](#) to 'help employers understand how the code of practice on funding defined benefits applies to them'. The guide explains how employers are expected to work with trustees "in an open and transparent way" to ensure their DB pension scheme is appropriately funded.

TPR's belief remains that 'the best support for a well governed scheme is to have a strong ongoing employer, together with an appropriate funding plan'. TPR has also produced a short video discussing the main messages in the guide and code of practice, and how TPR can support employers as part of meeting its own objective to 'minimise any adverse impact on the sustainable growth of an employer'.

## 2015 Funding Statement and Analysis

TPR has published its [2015 annual funding statement](#) and related analysis. The statement is aimed at trustees and employers of DB pension schemes who are carrying out valuations with effective dates between 22 September 2014 and 21 September 2015 (Tranche 10).

In the statement, TPR sets out how trustees and employers can 'agree appropriate funding plans which protect members' benefits without undermining the sustainable growth of the employer' and includes TPR's views on how current market conditions will impact on scheme funding for Tranche 10 schemes.

Alongside the statement TPR also published:

- [A forward-looking analysis of Tranche 10 schemes](#) setting out the evidence underpinning the 2015 statement; and
- [A retrospective look at funding outcomes](#) for schemes with effective dates between 22 September 2012 and 21 September 2013 (Tranche 8)

TPR draws attention to the integrated approach to risk management set out in the [new funding code of practice](#).

In particular, TPR encourages trustees to undertake contingency planning, and to consider their approach to managing the risks associated with funding, investment and the employer covenant.

Some of the key points raised in the 2015 statement include:

- TPR's analysis of **market conditions** suggests that many schemes with valuations in 2015 will have larger funding deficits because of falling interest rates (where not fully hedged against this risk). This is in spite of Tranche 10 schemes having paid £44 billion in 'Deficit Reduction Contributions' (DRCs) since their last valuations.
- Given uncertainty regarding future market conditions, TPR recommends that trustees consider the funding impact should expected **investment returns** not materialise in the future (particularly for example where allowance is being made for future increases in gilt yields).

- TPR says trustees should be aware that longer **recovery plans** may increase risk in the scheme because trustees will have less certainty over the employer covenant and investment returns in the longer-term.
- In cases where **affordability** of increased DRCs is an issue, TPR says trustees should carry out greater due diligence of the company's financial position and seek to manage increased risks (for example, through additional security or funding, or a change to the structure of the Recovery Plan).
- TPR reminds trustees that they should understand how **post-valuation experience** has affected the scheme's funding position, and actively monitor the impact of changing market conditions.
- Trustees should seek advice on the funding implications should more members decide to **transfer benefits from the DB scheme to a DC scheme** in order to access the flexibilities set out in the Pension Schemes Act 2015 (see [Current Pensions Issues – Spring 2015](#)).

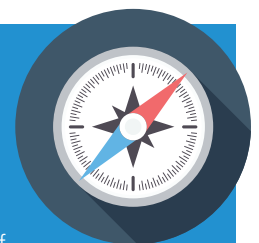
## STOP PRESS

### Guidance: Assessing the employer covenant

TPR has published new [guidance for trustees](#) of DB schemes on assessing and monitoring the employer covenant. The guide is the first in what TPR intends to be a series helping trustees to apply the [funding code of practice](#). Further guides are planned covering integrated risk management and setting investment strategies.

TPR intends that the covenant guide represents practical, good-practice guidance on how to assess and monitor an employer's ability and willingness to financially support the scheme. It also includes examples designed to help trustees fulfil their obligations. The guide is aimed primarily at trustees of schemes undertaking a scheme funding valuation but will also be helpful in understanding trustees' ongoing monitoring requirements, or what to do in the event of a corporate restructuring.

A detailed summary will be included in the Autumn edition of our newsletter. In the meantime, our recent [blog post](#) includes some further analysis of the guide.



## End of contracting-out

A new State Pension system will come into effect next April, bringing with it the end of contracting-out on a salary-related basis and an increase in employer and employee National Insurance (NI) contributions for active members of such schemes. Whilst affected employees should benefit from an increase in State Pension entitlement in return for their increased NI contributions, this will represent an increased cost for employers if no other action is taken to mitigate it.

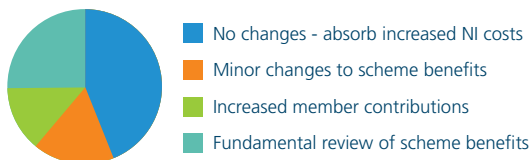
### Amending scheme rules

Earlier this year, the Government published a response to its 2014 consultation (see [Current Pensions Issues - Summer 2014](#)) on new regulations giving employers a power to amend scheme rules to offset their increased NI costs resulting from the abolition of contracting-out.

Using this new power, the employer may amend scheme rules to increase member contributions and/or reduce future benefits without requiring trustee or member consent. Consultation with members will still be required. If using the statutory override, the financial benefit to the employer of the amendments must not exceed the additional NI cost. Actuarial certification will therefore be required confirming this. The scheme actuary will not normally be able to perform this role due to a conflict with their appointment as a trustee adviser – the employer will therefore need to consider appointing an independent actuary to certify the amendments.

Our research suggests that many affected employers are minded to absorb the additional NI costs without changing the pension scheme. Nevertheless, according to [our survey](#), the majority of sponsors will take some form of action with 25% of respondents indicating that they will take the opportunity to carry out a fundamental review of scheme benefits.

#### END OF CONTRACTING-OUT - EMPLOYER ACTIONS



Employers will not be able to use the statutory override to amend benefits already built up, or to alter the balance of powers between the trustees and employer. The override power will remain in place until 5 April 2021.

## High Court: Secondments and s75 debt

A [High Court decision](#) could mean that if employees are seconded from one employer (A) to another (B) within a group, then company B could be liable for a share of company A's 'section 75' debt on insolvency in relation to those seconded employees.

The court ruling in the case of MF Global UK Limited (B) and its service company MF Global UK Services Limited (A), relied on the contractual agreement between the two parties which stated that company B would meet the employment costs (including pension contributions) of workers while seconded from company A. Company A then became insolvent.

The case shows that even where there is no express contractual guarantee or indemnity in place, group employers other than the statutory employers may be liable for a 'section 75' debt if an implied contract exists.

### Further regulations

The Government has also now published a [response](#) to its consultation on the Occupational Pension Schemes (Schemes that were Contracted-out) Regulations 2015. The regulations are intended to protect members' accrued contracted-out rights built up before the abolition of contracting-out.

The Government makes it clear in the response that it does not intend to grant additional powers to trustees to amend benefits (with employer consent) to reflect the changes to the State Pension coming in April 2016. Trustees of schemes that include a Basic State Pension 'offset' for example may be considering updating this to reflect the new 'Single Tier' State Pension (which is expected to be higher). If benefits are to be amended, then rule changes may be required and legislation ensuring the value of accrued pensions is not diminished will have to be complied with.

Many other aspects remain unresolved. In particular:

- Her Majesty's Revenue and Customs (HMRC) and the Department for Work and Pensions (DWP) will update their contracting-out manuals in 'early 2016'.
- The Government will revisit the issue of preserving the structure of the 'Reference Scheme Test' (RST) in legislation so that DC schemes which operate a RST underpin can continue to do so if they wish.
- Conversion and equalisation of Guaranteed Minimum Pensions (GMPs) is being 'explored separately' by the Government.
- The Government will consult further in respect of members wanting to transfer formerly contracted-out rights to access new pension flexibilities.

The Government has also updated the draft regulations to ensure that surviving spouses' GMPs are forfeited where the survivor is convicted of murdering the original member.



## News in brief

### DC schemes – scheme return update

DC schemes will see [new reporting requirements](#) this year when completing their scheme return.

The scheme return now includes questions relating to the new DC governance standards and charge controls that came into force on 6 April 2015. Where a scheme is required to have a Chair of trustees/managers, details will need to be provided to TPR. There will also be questions regarding auto-enrolment, which has now been extended to schemes with less than twelve members.

A new version of the scheme return will be rolled out by TPR over the coming months.

### NAPF securities fraud guide

The National Association of Pension Funds (NAPF) has published a [guide](#) for trustees on securities fraud. It provides an introduction to the remedies and procedures available to scheme trustees and managers.

### Earmarking loophole

A loophole in the pension freedoms introduced in April 2015 may mean that 'earmarking orders' put in place after divorce (but before 'pension sharing' became the norm in divorce cases) are overridden by the new freedoms. This could result in ex-spouses losing the pension that was expected from an earmarking order if their former spouse chooses to withdraw their entire DC fund as cash.

At the time of drawing up such orders, it was not envisaged that pension benefits could be taken as lump sums in this way.

Earmarking orders should therefore be checked as they may apply to a capital sum as well as a pension income. Otherwise, it may be possible to make amendments to the earmarking order.

## Nortel update

After six years of litigation, judges in the US and Canada have ruled that the assets of Nortel should be divided equally between its creditors, including the UK pension scheme.

The UK pension scheme had 40,000 members and a deficit of £2.1bn when the business went insolvent in January 2009. There are now around 33,000 remaining members of the UK pension scheme.



### Pensions Ombudsman vs GAD

The Pensions Ombudsman has [upheld a complaint](#) against the Government Actuary's Department (GAD) from a retired member of the Firefighters' Pension Scheme regarding a lack of review of the scheme's commutation factors between 1998 and his retirement date in 2005.

The Ombudsman found that GAD had failed in its responsibility to calculate appropriate factors, and directed them to calculate the correct factor and to compensate the member accordingly.

### Pensions Ombudsman: Transfer delays

The Deputy Pensions Ombudsman, Jane Irvine, has fined a trustee £250 for failing to respond to requests for a pension transfer from a fellow trustee. It was found that the trustee had caused inconvenience by ignoring the requests to sign relevant forms to release the funds.

### FSCS compensation increase

The Prudential Regulation Authority (PRA) has increased policyholder protection under the Financial Services Compensation Scheme (FSCS) from 90% to 100% of the value of long-term insurance products (including annuity policies) and pension scheme buy-ins in the event that an insurer fails.



# Forthcoming Events

## DC Conference

1 October 2015 - London

How do employers get the best from their employees? Given the complexities of age and affluence and conflicting financial pressures of debt and/or savings, our thought provoking conference at the Imperial War Museum in London, will help bring clarity to the complexities of offering DC pensions.

Our speakers include Frank Gardner (the BBC's Security Correspondent), Warren Cormier (CEO and Co-Founder of Boston Research Technologies) who will share his extensive experience and thought leadership on the 'Rethinking of Defined Contribution Communication and Education' and Michael Johnson (Research Fellow at the Centre for Policy Studies (CPS) and previously responsible for the running of David Cameron's Economic Competitiveness Policy Group), who will discuss what role pensions has in a future savings world.

## Annual Pensions Conference

4 November 2015 - London

Now in its sixth year, our annual pensions conference will take place on Wednesday, 4 November.

The full-day, free-to-attend conference is relevant to trustees of both DB and DC pension schemes, sponsoring employers and pension professionals.

Further information on speakers and topics will be published in due course. In the meantime, you may wish to save the date!

## Trustee Training

10 September 2015 - Leeds

11 November 2015 - Bromsgrove

19 November 2015 - London

Barnett Waddingham's interactive one day courses are designed to give trustees a thorough grounding in pensions matters and the confidence to complete TPR's trustee toolkit.

WHAT ELSE IS ON? >



You may find the following Barnett Waddingham briefing notes and blog posts interesting:

### Blogs

- [Could a rock-solid economic picture lead to a pensions horror show?](#)
- [Dealing with a deficit – failing to plan, or planning to fail?](#)


### Briefings

- [Alternative Asset Classes](#)
- [Budget 2015 - Take Two](#)
- [Actuarial Valuations in 2015 – Issues for Employers](#)

### Research

- [Buy-outs and Buy-ins Report 2015](#)

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**Our services include:**

- Scheme Actuary and associated services to DB pension schemes – in the Public and Private Sectors
- strategic advice to employers in relation to pension schemes that they sponsor
- advice relating to DC pension schemes – trust, master trust and contract
- accounting for UK and international companies
- investment strategy reviews and advice on investment managers
- administration services including pensioner payroll, preparation of annual accounts, secretarial services and administration consultancy
- employer support regarding insurance arrangements (group life insurance and PHI), and education for senior executives regarding retirement options
- 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, small self-administered pension schemes and other retirement arrangements.

*This newsletter is intended as a summary of recent pensions-related events. Whilst we have taken care to ensure all information is correct at the time of going to press, the content of this newsletter should not be relied on as advice to act, or refrain from acting, in relation to any of the subjects contained herein. Before taking any such action (or deciding not to act) you must seek appropriate professional advice.*

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

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