SQUIRE PATTON BOGGS

FREEDOM AND CHOICE IN PENSIONS – Some of the Missing Ingredients

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Headline news

- Transfers from funded defined benefit pension plans can continue
- Minimum Pension Age to increase to age 57 in 2028
- Members to be provided with impartial guidance funded by a levy on financial services firms

The Government has today issued its consultation response on "Freedom and choice in pensions" which gives us a clearer picture of how it intends to progress aspects of the headline grabbing measures announced in the 2014 budget (see our communication "Budget 2014 – a pensions revolution?"). The key issues are highlighted below.

Transfers from Defined Benefit Plans

The Government has decided not to proceed with proposals to abolish transfers from private sector DB pension plans to DC pension plans. Transfers from *funded* public service DB plans (e.g. the Local Government Pension Scheme) to DC plans will still be permitted – meaning that the transfer 'ban' will only apply to *unfunded* public service arrangements. Pensioners will not be given a statutory right to take a transfer.

There will be further safeguards for DB to DC transfers, including a requirement for individuals transferring from a DB pension plan to take advice from an authorised independent financial adviser where pension savings are £30,000 or above. The Government will also work with the Pensions Regulator to produce new transfer guidance for trustees on the powers available to them – such as their ability to reduce transfer values where a pension plan is underfunded.

The Government is to consult further on the possibility of allowing full or partial withdrawals from DB plans, rather than requiring members to first take a transfer to a DC plan in order to take advantage of the greater flexibilities available to DC members.

Comment. We welcome the retention of the ability to transfer. As we highlighted in our consultation response, restricting transfers from DB plans would have been out of line with the Government's intention to increase freedom and choice. It also seems consistent with the Government's policy aims to treat funded public service DB plans in the same way as private sector DB plans.

Minimum Pension Age

The Government has decided that the earliest age at which members can access their benefits from tax registered pension plans will increase to age 57 when the state pension age increases to age 67 in 2028. Thereafter, the minimum pension age will automatically remain ten years below state pension age. This will not affect the pension arrangements for firefighters, police and the armed forces. The Government will give further consideration to how this will apply to other individuals who have built up their pension savings with reference to a lower minimum pension age. We understand that this is not intended to affect early retirement on grounds of ill health.

Comment. Although this outcome to the consultation is not greatly surprising, we are disappointed with this decision. We do not believe that it is necessary to amend the minimum pension age to provide an artificial link to the State Pension Age. This may act as a disincentive to savers and goes against the general intention of increasing individual freedom and choice.

Member 'Guidance'

In its consultation paper, the Government said that "everyone with a defined contribution pension will be offered free and impartial face-to-face guidance on their financial choices in retirement when they retire". This is an ambitious move by the Government, and we now have further details on how this will be implemented. Initially, the Treasury will work with a range of organisations, including The Pensions Advisory Service and the Money Advice Service to ensure that the guidance is delivered. The Financial Conduct Authority will be responsible for setting standards for guidance and monitoring compliance and it has today issued some high level proposals for consultation. Although the guidance framework is in its early stages of development, it is now clear that options such as telephone calls and internet chats are amongst the proposals being explored. There will be a statutory obligation on both trust and contract based pension plans to signpost customers to the impartial guidance service. The guidance is intended to provide customers with the essential facts around their retirement options but will not include the recommendation of financial products. A levy will be imposed on regulated financial service firms to fund the cost of the guidance service.

Comment. Following the Budget announcement, there was some concern that the proposed face-to-face guidance would prove impractical. It is now clear that face-to-face guidance will be only one of a number of options for members approaching retirement. Pension plans will not themselves be responsible for providing the member guidance, which takes away a potential burden from trustees and providers. However, the levy will create an additional pressure on the financial services sector which is already facing significant pressure to reduce pension costs.

Further Measures

- The Government has announced that a permissive new statutory override will be introduced from April 2015 which will allow tax rules (rather than pension plan rules) to be followed in order to pay out benefits flexibly or to provide a drawdown facility. It is not clear at this stage how the permissive override will work. At the very least it will require decisions to be taken within each pension plan concerning the flexibilities to be implemented, and these decisions will need to be communicated to members.
- The Government will relax many of the restrictions in pensions and tax legislation applying to annuities to allow greater choice for individuals and greater competition between providers.
- Statutory transfer rights will be extended to allow individuals to transfer their benefits from one defined contribution arrangement to another at any point up to their normal retirement age. (Currently, individuals only have the right to a statutory transfer up to one year before their normal retirement age.)
- New tax rules will be put into place to ensure that individuals do not use the new flexibilities for tax avoidance.
- Rules regarding drawdown are to change – this includes allowing individuals who are already in flexible drawdown to make pension contributions up to an annual allowance of £10,000. The 55% tax charge which applies on pension savings in a drawdown account at death is also to be reviewed.
- Trivial commutation rules and 'small pot' rules (with limits of £30,000 and £10,000) will continue to apply, but the age at which an individual can make use of these rules will be lowered to 55.

Conclusion

We welcome the flexibilities but the summer air feels heavy with the weight of consultations yet to come. The Government has set itself a big challenge if it is to develop, and successfully implement, all of its 'freedom and choice' plans in the time available and against the background of preparing for a general election.

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