SQUIRE PATTON BOGGS

PENSIONS HOT TOPICS

Summer 2014

1. Freedom and Choice

In its consultation response, the Government stated that it will not ban members from transferring DB benefits to DC pension plans (except for members of unfunded public service plans). There will also be consultation on allowing full or partial withdrawals from DB plans rather than requiring members to transfer to a DC plan to take advantage of the flexibilities available from April 2015. The earliest age at which members can access benefits from registered pension plans will increase to age 57 in 2028. There are many other headlines – this issue should feature on trustee agendas.

See our publication: *Freedom and Choice in Pensions.*

2. Member 'Guidance'

The Government is committed to implementing a face-to-face guidance service for DC members at retirement. Trustees will not have responsibility for delivering the guidance – this will be provided by independent bodies including The Pensions Advisory Service and the Money Advice Service. The Financial Conduct Authority will set standards, monitor compliance and collect the levy which will be imposed on regulated financial services firms to fund the cost of the guidance. Implementation by April 2015 will be a challenge!

For more detail see: *The Winner Takes It All* on our Compensation and Benefits Blog.

3. Contracting-out Abolition

Regulations are expected to come into force this Autumn giving employers the power to amend pension plan rules (without trustee consent) to reduce future benefit accrual and/or increase member contributions to offset the employer's NI increase when DB contracting-out is abolished in April 2016. Trustees will have a duty to provide information to employers and have a vested interest in ensuring that processes for amendments, communications and administration are followed correctly – they should be up to speed on this issue and ready to enter into dialogue with employers.

4. PPF

The PPF has consulted on the rules to apply for the levy years 2015/16 – 2017/18. We await the consultation response for the full picture but we now have a clearer idea of the PPF's intentions, and further details of the new insolvency risk model to be used from 31 October 2014. Many DB employers will find that their risk score is different under the new model – in some cases it may be significantly worse. Trustees should access and check the information held on the online portal concerning their sponsoring employers and other levy data.

5. Money Purchase Benefits Redefined

The new definition of money purchase benefits came into force on 24 July 2014. As we have flagged in previous updates, pension plans offering any form of DC benefits (including those provided from AVC arrangements) should check whether those benefits will fall within the new definition. Where benefits do not fall within the new definition they may have to be administered differently. It is important that trustees and employers understand the impact of this legislative change. See also the Pensions Regulator's statement on this issue.

See our publication: *Money Purchase Definition.*

6. Defined Ambition Developments

The Government has clarified its view that 'defined ambition' pension plans will take the form of DC plans with some form of guarantee during the accumulation stage. The legal framework for defined ambition, and also for Collective DC arrangements, is set out in the Pension Schemes Bill 2014/2015 but the detail will be provided in subsequent regulations. The Government decided not to proceed with the 'DB lite' form of defined ambition that would have involved relaxing some of the statutory restrictions on the accrual of future DB benefits.

7. Funding Defined Benefits

The revised code of practice on funding defined benefits took effect on 29 July 2014 following the introduction of the Pensions Regulator's new statutory objective on 14 July 2014. This is essential reading for trustees and sponsoring employers. It sets out the Regulator's expectations when undergoing funding negotiations, and its view of the ongoing obligations on trustees to monitor and manage the risks posed by fluctuations in employer covenant, investments and funding. Trustees should consider whether their approach is consistent with the code.

See our publication: *Funding Defined Benefits.*

8. Short Service Benefits

From a date yet to be announced (but expected to be this year), members who have pure DC benefits in an occupational pension plan will be entitled to short service benefits after 30 days' relevant service. Members with more than 29 days' service will no longer be eligible for a refund of contributions. The change applies to new members joining the pension plan after the provisions come into force. Trustees will need to ensure that administration procedures and member communications are updated, and that their pension plan rules conform with preservation requirements.

9. Overpayments – Beware!

In a number of recent Pensions Ombudsman determinations, members have succeeded in arguing a "change of defence" position where trustees have attempted to recover overpayments of pension paid in error. Some members have successfully claimed that they have relied on the overpaid amount to such a degree that it would be inequitable to require them to repay the money. Trustees should be clear on their legal position regarding overpayments of pension and should proceed with caution and advice where individual cases arise.

For more detail on one of the recent determinations see: *Change of Position* on our Compensation and Benefits Blog.

10. Same Sex Marriage Review

The Government has published a review examining the differences in survivors' benefits provided to same sex spouses and civil partners compared to opposite sex spouses (and differences in treatment between widows and widowers), and the cost of removing those differences. We are now waiting for the Government to draw conclusions from its review, to determine whether or not pension plans are required to provide equality in survivors' benefits. Where trustees have not already sought legal advice on this issue, they are advised to do so.

For more background on this issue see: *Same Sex Marriages*

Further Information

For further information about any of our hot topics please contact any of the lead partners listed or your usual contact in the Squire Patton Boggs pensions team.

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