In our Winter Hot Topics in Pensions, we set to work with some of the greatest fictional detectives to uncover exactly “whodunnit”. Was it the Chancellor in the House of Commons with the Budget documents? Or perhaps The Pensions Regulator (TPR) on Brighton beach with the Master Trust guidance? Or maybe it was MP Frank Field, wielding a select committee report on a ferry across the Mersey?

1. Elementary, My Dear Trustees – Guaranteed Minimum Pensions (GMP) equalisation

In reality, we may need Sherlock Holmes to solve this! After a High Court ruling that pension schemes must equalise benefits to remedy inequalities between male and female members resulting from unequal GMPs, trustees are considering how members’ benefits should be adjusted. In the short term, legal and actuarial advice should be sought regarding the payment of transfers and lump sum benefits. Communications and documentation will need updating to help members make informed decisions. Employers should consider how to reflect extra pension liabilities in their accounts. See our [publication](#) for more details.

2. A Touch of Frost Added to Cold-Calling

The government is working on the best way to ensure that news of the pensions cold calling ban reaches as many people as possible. The ban is intended to reduce speculative calls from pension scammers; it does not affect phone calls that trustees, administrators and pension providers would normally make to scheme members and pensioners. The government has also been looking at limiting rights to statutory transfers as part of a suite of measures to reduce scams. Note that the [Code of Good Practice](#) on combatting pension scams has recently been updated.

3. Batman Overcomes the Riddler of Redress

From deep within his bat cave, The Pensions Ombudsman (TPO) has drafted revised guidance on the amount of redress that will be awarded where complainants suffer distress and inconvenience as a result of maladministration. The guidance is intended to enhance transparency, create consistency and manage expectations for all parties involved. A fixed amount of redress will be awarded, depending on whether the suffering is categorised as nominal, significant, serious, severe or exceptional. Account will be taken of the individual’s personal characteristics, with TPO noting, “the applicant may be angry by nature”.

4. Re-execution of PPF Contingent Assets – The Sweeney Is in Pursuit

Type A and Type B contingent assets containing a liability cap of a fixed monetary amount (or the lower of a fixed monetary amount and fluctuating liabilities) must be in the new PPF standard format for levy year 2019/20. We recommend early re-execution of existing contingent assets. Engage with advisers in good time to avoid a 90mph chase to the deadline of 5 p.m. on 29 March 2019! Type A guarantees can be re-executed by way of a deed of amendment and restatement. Type B security agreements must take the form of a new document. Both may pose some timing difficulties.

5. A Mystery for You, Scooby-Doo – Collective Defined Contribution (CDC)

The government has unmasked its CDC [consultation](#), which asks wide-ranging questions on contributions, benefits, trusteeship, regulatory and legal issues. It is proposed that CDC schemes, which are a risk-sharing variant of money purchase arrangements, should have a scheme actuary and be subject to an annual valuation. Transparency and good communications will be required to aid member and pensioner understanding – in particular, that quoted benefit levels are purely a “target”, and that pensions in payment can decrease. (Jeepers!)
6. Miss Marple Uncovers Items Hidden in the Budget

Here are a couple of points that you may have missed in the last budget. See our blog for more. (1) From April 2020, tax paid “in good faith” by employees and customers to businesses becoming insolvent will go to the public purse rather than funding “other creditors” — therefore giving the state priority over unsecured creditors (including pension schemes) in respect of these funds. (2) It is the government’s objective to move more towards CPIH as its preferred measure of inflation, reducing the use of RPI when and where practicable. It appears that debate around appropriate measures for pension revaluation and indexation will continue.

7. Automatic Enrolment – A Case for Hercule Poirot?

Employers who wish to use their little grey cells and offer workers who might otherwise opt out of their automatic enrolment pension scheme some form of alternative pension provision may now do so. TPR has updated its automatic enrolment guidance no.8 to clarify that employers have the option of offering workers who opt-out lower contribution rates in a non-qualifying scheme provided the employer has a legitimate purpose for doing so. Applying “order and method”, the purpose, of course, must not be to encourage workers to opt out of automatic enrolment.

8. IORP II – Inspector Clouseau is Hot on the Trail

“There is a time and place for everything Cato, and this is it!” Regulations have been laid before Parliament implementing the governance and cross-border requirements of IORP II, which will come into force on 13 January 2019. Pension trustees will be required to operate an effective system of governance proportionate to the size and nature of their scheme. TPR is expected to issue updated guidance in 2019. Most trustees will already comply with many of the new governance requirements but may need to introduce some small changes, such as implementing scheme risk assessments.

9. Charlie’s Lesley’s Angels Assigned New Missions

TPR staff have been assigned some “very hazardous duties”. TPR is undertaking one-to-one supervision of around 25 of the largest public and private sector pension schemes — this number will grow to more than 60 in the next year or so. TPR is also piloting a new supervisory approach by contacting 50 defined benefit (DB) schemes to assess compliance with messages in its 2018 annual funding statement, specifically concerning whether schemes are being treated fairly when it comes to dividend payments to shareholders. The plot thickens as TPR promises that hundreds of schemes will experience this approach over time.

10. “Just One More Thing” From Detective Columbo

Amber Rudd replaced Ester McVey as Secretary of State for Work and Pensions to become the sixth holder of that office in the last three years. It will be interesting to see whether she has the same priorities for pensions. We predict two pensions buzzwords for 2019 – “dashboard” and “consolidation”. We believe that the dashboard needs more government support to be successful. Whilst there is real momentum behind defined contribution consolidation, the challenge of bringing disparate DB arrangements together is much more of a conundrum.

Whodunnit?

At the moment, there are a number of suspects under investigation. We will report the findings of our top detectives in future editions of Hot Topics, so keep your eyes peeled.

Contacts

Kirsty Bartlett
Partner, London
T +44 20 7655 0298
E kirsty.bartlett@squirepb.com

Matthew Giles
Partner, Birmingham
T +44 121 222 3296
E matthew.giles@squirepb.com

Elizabeth Graham
Partner, Leeds
T +44 113 284 7494
E elizabeth.graham@squirepb.com

David Griffiths
Partner, Manchester
T +44 161 830 5359
E david.griffiths@squirepb.com

Wendy Hunter
Partner, London
T +44 20 7655 1119
E wendy.hunter@squirepb.com

Catherine McKenna
Partner, Leeds
T +44 113 284 7045
E catherine.mckenna@squirepb.com

Helen Miles
Partner, Birmingham
T +44 121 222 3138
E helen.miles@squirepb.com

Clifford Sims
Partner, London
T +44 20 7655 1193
E clifford.sims@squirepb.com

Philip Sutton
Partner, Birmingham
T +44 121 222 3541
E philip.sutton@squirepb.com

Follow us on Twitter: @SPB_Global
Search: #How2DoPensions