Sackers extra

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Abbreviations commonly used in 7 Days

Alert/News: Sackers Extra publications (available from the client area of our website or from your usual contact)
DB: Defined benefit
DC: Defined contribution
DWP: Department for Work and Pensions
ECJ: European Court of Justice
FAS: Financial Assistance Scheme
GMP: Guaranteed Minimum Pension
HMRC: HM Revenue & Customs
NEST: National Employment Savings Trust
PPF: Pension Protection Fund
TPR: The Pensions Regulator

ACTUARIAL PROFESSION

Comment on social care proposals

On 15 February 2013, David Hare, President Elect of the Institute and Faculty of Actuaries issued a comment on the Government's proposals for social care, calling for a more holistic approach which better links pensions and long term care requirements.

DEPARTMENT FOR WORK & PENSIONS

Government announces consultation on technical changes to automatic enrolment

On 11 February 2013, the Government confirmed it will consult on proposals to make the process of auto-enrolment simpler. The consultation, which is due to be launched next month, will provide an opportunity for employers and the pensions industry to comment on a number of proposed changes.

Based on the feedback received since auto-enrolment began on 1 October 2012, the DWP has drawn up a shortlist of areas which could benefit from practical or technical improvements. These include:

- making assessment of the workforce easier;
- making it easier for DC schemes to show they meet the scheme quality requirements;
- removing the duty to enrol particular groups such as those who benefit from protection because they have already exceeded the lifetime allowance for tax purposes; and

Any changes that are made as a result of the consultation will recognise the need to give enough notice to allow employers and providers to update their systems.

Report: Enabling and encouraging saving - the evidence around pension reform saving

On 14 February 2013, the Government published figures which indicate that the reforms to the state pension should work with automatic enrolment to boost pension saving among low and medium earners.

DWP press release

GOVERNMENT ACTUARY'S DEPARTMENT (GAD)

Employee contribution changes 2013

On 14 February 2013, GAD published a note for contractors explaining the effect of the intended changes in contribution rates for the Principal Civil Service Pension Scheme (Great Britain and Northern Ireland) and the Teachers' Pension Scheme.

In brief, contractors:

- may incorporate the revised rates in their proposals for providing a broadly comparable pension scheme under the Fair Deal policy; and

- should note that existing certificates of broad comparability are not being withdrawn and will continue to be valid, with allowance for the employee contribution rates in line with those set out in the relevant certificate. However, where appropriate, GAD will consider issuing a short addendum to amend the paragraph on employee contribution rates. The addendum would only apply to staff transferred under TUPE on or after the date of the addendum.

NATIONAL ASSOCIATION OF PENSION FUNDS (NAPF)

New auto-enrolment website

The NAPF has launched an online guide to help employers and HR professionals understand how to auto-enrol their staff into a workplace pension.

The new guide breaks auto-enrolment down into smaller sections and offers employers guidance on the whole process, including:

- assessing eligibility;

- picking a pension scheme; and

- administration and communication.

It also suggests tips on how employers can manage opt-outs and postponements and uses warning signs to flag up potential pitfalls or points that could be misunderstood.

Update on infrastructure fund

The NAPF has announced that the new platform to support pension funds investing in infrastructure projects has secured ten funds as "founding investors" and reached £1bn of investment capital.

The Government announced in the 2012 Budget, that it would support the introduction of a new pensions infrastructure platform (PIP), owned and run by UK pension funds. The Government has worked closely with the NAPF and the PPF to support the foundation of the PIP which has a target fund size of £2 billion and which is designed to provide pension schemes with the expertise and tools needed to make long-term investments in UK infrastructure. Initially due to launch in January 2013, this has been delayed with the fund unlikely to be to be opened to smaller schemes until midway through 2013.

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Each of the ten founding investors has made a soft commitment of £100m to the PIP, subject to the development of the PIP being completed satisfactorily.

NAPF Press Release

New benchmark to help companies choose multi-employer pensions

On 13 February 2013, the Pension Quality Mark (PQM) launched a new benchmark, "PQM READY", to help companies select a good quality multi-employer pension scheme or master trust.

PQM READY is a new benchmark for multi-employer pension schemes or master trusts that meet certain governance and communications standards. It will help employers know that they are choosing a good scheme for auto-enrolment that goes beyond the minimum standard.

To get PQM READY, multi-employer pension schemes and master trusts need to satisfy a set of specific criteria. These include proof that independent trustees are in a majority or have a casting vote, and that member communications are clear, regular and engaging.

Employers using a PQM READY scheme can go one step further and get the PQM for their own company arrangement. To do this, they only need to meet the contributions standard set by PQM as the governance and communications standards are already satisfied.

Under PQM, the scheme's total contributions must equal at least 10% of an employee's pensionable salary, with a minimum employer contribution of 6%. Under PQM PLUS, the scheme's total contributions must equal at least 15%, with a minimum employer contribution of 10%.

NEST comment

PENSION PROTECTION FUND

Revised draft member communication guidance

The PPF has published a revised draft member communication for use by trustees to inform members of their employer's insolvency and that their pension scheme is entering the PPF assessment period.

PENSIONS POLICY INSTITUTE (PPI)

Briefing Note Number 64: The impact of the NEST contribution limits and restrictions to transfers

The PPI has today (18 February 2013) published a briefing note on the impact of the main restrictions in NEST, namely the annual limit on contributions and the policy that NEST cannot receive transfers into or out of the scheme. These restrictions were the subject of a recent DWP call for evidence which closed on 28 January 2013.

The PPI's modelling shows that most low to median earners would be able to meet their target replacement rate by saving in NEST, without being affected by NEST's contribution limit. However, the PPI's analysis also shows that some higher earners would not be able to meet their target replacement rates if they were saving in NEST, because they would be

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constrained by the NEST contribution limit. The Briefing Note also explains that it is also possible that some employees who have not yet started saving in a pension when first auto-enrolled could be constrained by the contribution limit.

In terms of the restrictions on transfers, the PPI suggests that the Government could consider relaxing the restrictions on individuals making transfers into and out of NEST when an individual wishes to transfer a pension as a result of a job move or a desire to consolidate several small pension pots. However, it goes on to note that, if the Government is concerned that wholesale large transfers into NEST could undermine the stability of the wider pensions market, the Government may wish to consider keeping some restrictions on large scale bulk transfers into NEST.

THE PENSIONS REGULATOR

Pension Liberation

On 14 February 2013, TPR and HMRC launched a joint information campaign for consumers and pensions professionals as part of an ongoing multi-agency crackdown on companies claiming to be able to release pensions cash as a loan or lump sum before the law allows.

The perpetrators often work alongside "introducers" or "advisers" who try to entice the public with spam text messages, cold calls or website promotions into transferring their existing workplace or private pension with the promise of being able to release a portion as cash before the age of 55 (the earliest age at which most members' pension benefits can be taken under a registered pension scheme without higher tax charges applying).

TPR fears that "people may be misled or not properly informed that tax charges and fees can erode their pension pot by more than half, leaving them with little to live on in retirement. The remainder of their funds are likely to be invested in highly dubious and risky, unregulated investment structures, often based overseas. The amount that has been ‘liberated’ from pension schemes in this way is known to be in the hundreds of millions of pounds, with thousands of members affected".

To combat this, it has worked with other agencies, including HMRC, to produce information, carrying distinctive scorpion imagery, illustrating the threat to people’s pensions if they are taken in by such offers. The new information includes:

- a warning insert that administrators and pension providers will be asked to include in the information they provide to members who request a transfer of their pension, which will be hosted on the Pensions Advisory Service website;
- a more detailed information leaflet for members looking to understand the consequences of these offers, which will also be hosted on the Pensions Advisory Service website; and
- an action pack for pension professionals, including a checklist and examples of what to look out for.

Where administrators receive a transfer request and detect the warning signs of liberation, such as pension money being passed back to the member before age 55, they may wish to consider whether to make the transfer, and report their concerns to Action Fraud. The action pack includes more information to help them with this decision.

TPR Press Release

HMRC comment

CASES

Ibstock Pension Scheme

The PPF Ombudsman has directed the PPF to reconsider a decision not to exercise its discretion to allow the correction of a deficit reduction certificate (DRC).

Facts

The trustees of the Ibstock Pension Scheme (the "Scheme") supplied the PPF with a DRC which referred to an effective date of the Scheme's last section 179 valuation as at 31 March 2008. In fact, the valuation applying to the 2011/12 levy year was effective on 31 March 2009.

The DRC certified a contribution of £54.1 million. The PPF disregarded the DRC when calculating the Scheme's levy on the grounds that the DRC had to relate to the current Scheme valuation. This meant that the Scheme's levy was £140,000 higher than it would have been had the DRC been taken into account.

The trustees asked the PPF to review their decision. The Scheme's actuary certified that, although the DRC related to an earlier valuation, and a different one to that used by the Scheme in the rest of the data submitted for the 2011/12 levy year, the amount stated in the DRC was a "legitimate, prudent statement of the deficit reduction contributions based on the valuation date used by the PPF".

The PPF declined to exercise its discretion to allow a correction of the DRC. The trustees applied to the Reconsideration Committee.

Reconsideration Committee

The Committee noted that the PPF's published policy was not generally to accept corrections for the 2011/12 levy year. There were three main reasons for this:

- if the PPF allowed corrections to be accepted then there was a higher risk that it would under collect against the levy estimate as the levy scaling calculation could only be based on the information provided to the Board by the relevant deadline;
- building in a margin of error to the levy scaling factor to mitigate the risk of under collection would disadvantage all schemes; and
- it was reasonable to expect schemes to provide the correct data at the right time.

In its opinion, there was not anything sufficiently unusual in the circumstances of the case to justify a departure from the above policy.

The trustees referred the matter to the PPF Ombudsman for review.

PPF Ombudsman

The Ombudsman concluded that the Reconsideration Committee had taken into account irrelevant factors when reaching its conclusions. Corrections in relation to DRCs could not

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result in under collection because DRCs are not taken into account in setting the levy scaling factor.

The Ombudsman noted that "the PPF's main instrument for encouraging the presentation of accurate data is the effective penalty (and example to others) of not allowing corrections that would reduce a scheme's levy. The penalty falls directly on the scheme concerned and, where there is no under collection risk, its impact is not connected to the consequence of the inaccuracy for the PPF". In this case, the Ombudsman considered the penalty to be "an unusually blunt instrument". Further, it was not clear to him that the Reconsideration Committee had recognised this.

In addition, the Reconsideration Committee did not address the argument that the lack of reduction in the levy resulted in a windfall to the PPF.

As the Reconsideration Committee's decision was not reached correctly, the Ombudsman directed the PPF to reconsider the Scheme's 2011/12 levy calculation, expressly taking into account the Levy Practice Guidance and only the relevant policy reasons for not exercising the discretion, in particular noting that providing incorrect information did not, in this case, present a risk of under collection against the estimate, but did result in financial advantage to the PPF.

Comment

This case serves as a useful reminder of the importance of ensuring accurate information is provided to the PPF. It must also be delivered on time.

The deadline for the submission of both the Scheme Return and the certification or re-certification of contingent assets for the levy year 2013/14 is 5pm on 28 March 2013. It is essential that all relevant information is submitted by this date as otherwise it will not be taken into account in setting the levy.

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