Sackers extra

25 October 2010

At a glance

BOARD FOR ACTUARIAL STANDARDS

- **New Actuarial Standard on Pensions**

FINANCIAL REPORTING COUNCIL

- **FRC publicises backers of the Stewardship Code**

HM TREASURY

- **The Spending Review**

CASES

- **BT Pension Scheme Trustees Ltd v British Telecommunications plc and the Secretary of State for Business, Innovation and Skills**

S07

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
HMRC: HM Revenue & Customs
PPF: Pension Protection Fund
TPR: The Pensions Regulator

BOARD FOR ACTUARIAL STANDARDS (BAS)

New Actuarial Standard on Pensions

On 21 October 2010, the BAS published a new "Pensions Technical Actuarial Standard".

The new standard is designed to ensure that trustees and pension scheme sponsors can rely on the actuarial information supplied by their advisers, and understand the implications of such information on their decisions.

Among other things, the new standard requires that:

- actuarial information provided to pension scheme governing bodies, sponsors and other users is relevant, comprehensible and sufficient to support decisions about the financing of the pension scheme and decisions which affect the benefits payable to members of the pension scheme, and includes information on risk and uncertainty;
- sufficient actuarial information is provided to enable pension scheme governing bodies, sponsors and other users of actuarial information to carry out their regulatory responsibilities in relation to the pension scheme; and
- actuarial calculations which result in payments to or from pension schemes are performed correctly and are carried out using measures, methods and assumptions which are fit for purpose.

The new standard requires actuarial advisers to justify their assumptions and explain the uncertainty around any results. The information supplied will have to be understandable to users, and – in the case of the Scheme Funding reports – to pension scheme members.

Answers to "FAQs" for Practitioners

BAS Press Release

FINANCIAL REPORTING COUNCIL (FRC)

FRC publicises backers of the Stewardship Code

Launched on 2 July 2010, the Stewardship Code was designed to promote more active discussion between company boards and investors, with a view to improving the quality of corporate governance and long-term company performance.[1]

The FRC has now published a list of those UK and international investors who have signed up to the Stewardship Code. As at 19 October 2010, a total of 68 institutions had published

[1] For more information on the Stewardship Code, please see 7 Days dated 5 July 2010

statements of support for the Code - 48 asset managers, 12 asset owners (pension schemes, the PPF and others) and 8 service providers.

FRC Press Release

HM TREASURY

The Spending Review

The Spending Review is the Treasury-led process to allocate resources across government departments, setting fixed spending budgets over several years. The 2010 Spending Review covers the four tax years from 2011/12 to 2014/15.

Key points

In his statement on 20 October 2010, the Chancellor, George Osborne, announced that:

- the planned increase in the state pension age (SPA) will be accelerated, reaching 66 for all by 2020. The rise will start in 2018, meaning that SPA for women will go up more quickly than expected;
- the Government welcomes Hutton's interim report on public sector pensions[2] and indicated that public service pensions continue to provide a form of defined benefit. They should be a "gold standard" but affordable. The Government will also consult on the Fair Deal policy and on the appropriate discount rate used to set contributions to pensions covered by the Fair Deal; and
- the Government accepts in full the Parliamentary Ombudsman's findings on the collapse of Equitable Life and rejected Sir John Chadwick's suggested level of compensation. The Government has also announced its intention to pay compensation in the region of £1.5 billion - more than four times the final figure put forward by Sir John Chadwick.

It was also announced in the Spending Review report, that the settlement with the DWP will fund the introduction of auto-enrolment from 2012 and the establishment of the National Employment Savings Trust (NEST). Further details arising from the Government's review of automatic enrolment and NEST are expected to be published imminently.

The full text of the Chancellor's speech, together with key documents and announcements can be found on the Spending Review section of the Treasury website.

CASES

BT Pension Scheme Trustees Ltd v British Telecommunications plc and the Secretary of State for Business, Innovation and Skills

The High Court has confirmed that Government must stand behind the BT Pension Scheme (**the Scheme**) in the event of BT's insolvency.

Background

Before 1969, those who were engaged in the telecommunications business, which is now conducted by **BT**, were employed by the Post Office (PO) and were effectively Civil Servants. In 1969, the PO separated from the rest of the Civil Service, becoming a statutory corporation, with power to establish a new pension scheme. 400,000 employees became members of a new Post Office Staff Superannuation Scheme (POSSS), which provided equivalent benefits to those then available in the Civil Service Pension Scheme.

[2] For more information on Sir John Hutton's interim report, please see 7 Days dated 11 October 2010

In 1981, the telecommunications business was hived off to a new statutory corporation, the British Telecommunications Corporation (**the Corporation**) under the Telecommunications Act 1981. The telecommunications element of the pensions was de-merged from POSSS in 1983, and the Scheme was established. The provisions of the Scheme were designed to mirror the POSSS provisions.

The privatisation of BT followed in 1984, when the business of the Corporation was transferred to BT under the Telecommunications Act 1984 (the Act). BT's obligations were guaranteed under the Act (known as the **Crown Guarantee**).

The Court was asked to determine:

- the scope, if any, of BT's obligation in the event of the termination of the Scheme, if BT were insolvent at that point; and
- the extent of the Crown Guarantee.

Decision

The Scheme's trust deed and rules provided that on winding-up, the Corporation (now BT) would be required to "restore the solvency of the fund". The Court held that this meant that in the event of the Scheme winding-up on at a time when BT was insolvent, the company would be required to top-up funding levels to buyout, i.e. to enable benefits to be bought out with annuities.

The Court rejected the Government's argument that the Crown Guarantee was limited to the liabilities of the Scheme when BT was privatised. Instead, it held that the guarantee provided by the Act was wide enough to include both those who were members of the Scheme at the time of the transfer and post-transfer joiners. Mann J held that BT's "liability" to the trustees was "a single, indivisible liability". This meant that even though the amount of the liability would vary (as new members joined the Scheme, contributions payable would vary depending on actuarial valuations and contributions due under the rules), the legal obligation remained the same either side of the transfer date.

However, service with participating employers, other than BT after privatisation, was excluded from the Crown Guarantee, at least where the employee in question was not originally employed by BT.

Comment

The clarification this judgment brings as to the extent of the Crown Guarantee has been welcomed by BT, the Trustees and Scheme members alike. But it is less good news for tax payers, who would ultimately bear the brunt of this decision in the event that BT becomes insolvent. The decision may also affect the size of BT's PPF levy.

It remains to be seen whether the Government will appeal.

BT Group PLC Stock Exchange Announcement