

## PPF compensation cap - increase for long service

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### Introduction

On 15 September 2016, the DWP published a [consultation on draft legislation](#) relating to the introduction of a new PPF compensation cap for those with long service.

### Key points

- The Government intends to bring measures to increase the PPF compensation cap for those with long service into force on and from 6 April 2017.
- The main purposes of the consultation are to establish whether the draft regulations achieve their purpose, whether the long service cap operates appropriately and that all necessary changes have been identified. The Government is not consulting on the substance of the legislation.
- Current compensation payments will be recalculated to take account of the new long service cap but there will be no backdating.
- Trustees and sponsors for whom PPF entry is a live topic should speak to their usual Sackers' contact about the potential impact of the introduction of the long service cap.
- The consultation closes on 9 November 2016.

### Background

The PPF provides compensation to members of eligible DB pension schemes, when there is a qualifying insolvency event for the employer, and where there are insufficient assets in the pension scheme to cover the PPF level of compensation.

At the moment, anyone under a scheme's normal pension age when the employer becomes insolvent is paid compensation based on 90% of their expected pension, subject to a maximum cap (the "compensation cap"). (For 2016/17, the maximum amount of compensation is £33,678 per annum at age 65.)

Following the collapse of car parts firm Visteon in 2009, the operation of the PPF compensation cap was reviewed with particular reference to the fact that it does not recognise long service.

## Changes to the PPF compensation cap

The Pensions Act 2014 included measures to provide for the compensation cap to increase by three per cent for each full year of pensionable service above 20 years (ie 21 years or more), up to a maximum of twice the standard compensation cap.

Where an individual does not have actual pensionable service in relation to all or part of their scheme rights (for example, where they transferred their rights from a previous scheme and the new scheme offered a specific amount of pension in return), or the PPF is unable to identify a length of service for an individual, it will be able to deem a length of service for the purposes of applying the long service cap.

The Government intends to bring these changes into force with effect from 6 April 2017.

## Current compensation payments

### **Members and survivors**

Once the legislation is in force, current compensation payments for both members and their survivors will be recalculated to take into account the increased cap for long service and revised payments will be made going forward. The three per cent uplift will be applied to the cap which was originally applied to that person's compensation with effect from the date that the legislation comes into force. There will be no backdating.

All other elements of an individual's entitlement will remain the same. For example, if they had their compensation reduced because they took part of their compensation as a lump sum, the same reduction will be applied to their increased amount. No further lump sum will be paid.

### **Lump sum payments on terminal illness**

Where an individual has received a payment within a year of the long service cap coming into force that lump sum will be recalculated, where appropriate, and any increase due will be paid either to the individual concerned or, where relevant, their estate.

## Schemes already in PPF assessment

During the assessment period a scheme's assets are tested against the cost of buying annuities covering the scheme's "protected liabilities" (that is, providing each member with benefits equal to the compensation which would be paid by the PPF). When the legislation comes into force, the scheme valuation will continue to be done on the basis that the long service cap does not exist.

However, pensions paid to members (by the scheme's trustees) during the assessment period will be recalculated, if appropriate, to take account of the long service cap.

## Schemes in wind-up

Schemes with winding-up dates before the legislation comes into force should follow the statutory priority order and allocate assets as if the long service cap does not exist.

## Draft regulations: technical changes

The Government is also seeking views on whether:

- the draft regulations reflect the policy intention and current practice of adding tranches of compensation together only where they are derived from the same source
- the maximum amount of money purchase rights the PPF can discharge should be increased in line with changes to the tax rules (ie increased from £2,000 to £10,000).

## Next steps

The timing of the Government's consultation means that we may well see a response this side of Christmas. However, it is also worth noting that the Court of Appeal recently decided to refer questions about the level of PPF compensation to the Court of Justice of the European Union. It will be interesting to see how the two strands develop.