Quattro Pensions
CONSULTING ACTUARIES

news bulletin

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Rogue employers to face criminal charges

The balance of power in pension schemes is to shift in favour of trustees and members, under government proposals.

The paper "Protecting defined benefit pension schemes" sets out measures designed to protect members in light of recent high-profile scheme failures.

Clarifying funding principles
The government has stopped short of making changes to existing scheme valuation rules, but it does believe trustees could benefit from further guidance in their approach to funding.

The paper envisages an actuarial valuation as a chance to assess a scheme's progress towards meeting a longer-term objective such as buy-out or consolidation.

A revised funding Code of Practice will be published, to focus on:

- setting a scheme's Statutory Funding Objective in light of this longer-term objective
- demonstrating prudence
- appropriate recovery plans

Compliance with the revised Code will become a legal requirement.

Trustees will also need to produce a defined benefit Chair's Statement and submit this to the Pensions Regulator (TPR) alongside each valuation. The Statement will document trustees' objectives and how they approach funding and risk management.

Earlier regulatory intervention
In line with its "Clearer, quicker, tougher" strapline TPR is set to gain new powers (see right). The government will also look to increase the information shared between regulators to enable cooperation.

Conditions for consolidation
The government has come out firmly against allowing schemes to simplify their benefit structures to aid consolidation, other than perhaps a small concession on GMPs. Those hoping for a statutory override on pension increases will have been disappointed. However, government is still keen on encouraging schemes to consolidate and has asked TPR to update its guidance in this area.

Alongside this, government will consult on a new framework for commercial consolidation vehicles, which would target funding levels somewhere between pension schemes and insurers. This could provide a cost-effective option for smaller schemes. Trustees would need to be satisfied that members' benefits would be at least as secure in the consolidator than their current scheme.

Actions for trustees
The measures aimed at trustees mainly serve to document current good practice. Trustees may wish to get ahead of the curve now, in time for the legislation due around 2019/20. For example, well-prepared trustees may be able to collate the new Chair's Statement from existing documents.

The implication from TPR is that trustees, too, must get "clearer, quicker, tougher".

Changes are to be made to pension and company law to crack down on employer behaviour perceived to put a pension scheme at risk.

TPR may fine employers
The penalty is likely to be linked to the amount specified on a contribution notice issued.

Criminal offence
There will be a new criminal offence for company directors and connected persons of "wilful or grossly reckless behaviour in relation to a pension scheme".

Notifiable events framework
The framework will be reviewed to check it covers all relevant events, and to clarify that events should be notified in advance.

Strengthen clearance regime
Guidance on the clearance process will be reviewed and again whether it covers all relevant events. The role of trustees will also be reviewed.

High risk transactions
For certain transactions such as sale or takeover, employers will be required to consult with trustees and state that they have considered the pension impacts and provided mitigation.

Anti-avoidance powers
TPR will work on improving the effectiveness and efficiency of its powers.

Information gathering powers
TPR will be able to inspect premises or compel individuals to submit to interview.

The government wishes to make the proposals "effective, workable and proportionate" without stifling legitimate business activity.

Please speak to your usual Quattro contact to find out more about the proposed changes and how they may affect you.
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