May 2018

PENSIONS UPDATE

Quattro Pensions
CONSULTING ACTUARIES

Trustees may have to get tougher on valuation negotiations

The Pensions Regulator expects pension scheme trustees to negotiate robustly for fair treatment with shareholders, under updated guidance for schemes approaching a valuation. The Regulator's latest Annual Funding Statement emphasises the need for trustees to manage the risks in their scheme, regardless of size, including challenging business decisions taken by the sponsoring employer. Considerations for trustees include:

- Affordability should "not be an issue" where dividends are disproportionate relative to contributions
- "Leakage of value" from the business (e.g. intra-group loans, transfers of business assets and executive pay)
- Make sure shareholders share the burden of uncertainty and downturns
- Seek additional security to mitigate risks taken
- Document workable – and legally enforceable if possible – risk management and contingency plans
- Trustees "should not agree an inappropriate valuation" due to time pressure.

The Regulator has set out considerations tailored to different strengths of employer covenant, and emphasises that a strong covenant does not mean that trustees can accept a weaker recovery plan than would otherwise be reasonable.

Smaller schemes, who might previously have thought they could fly under the regulatory radar, can expect greater involvement from the Regulator as it steps up its interventions on funding.

DC schemes must provide more information to members

Schemes offering money purchase benefits (other than additional voluntary contributions, AVCs) are required to provide more information to members under new regulations. The main changes are:

- changes to the details on costs and charges in the Chair's Statement, including a new illustration of the effect on members' funds over time;
- details from the Chair's Statement must be published on a website; and
- information about pooled funds must be provided to members on request.

Administrators will need to update benefit statements to draw attention to the available information.

To support trustees in complying with the rules, the Government has published new guidance on disclosure of costs and charges.

The guidance specifies that the illustration of the cumulative effect on charges should be made using the same assumptions as used for annual benefit illustrations, and using a representative range of combinations of factors such as fund size, contribution rates, investment returns and time.

When I'm 65, 75, 85…

People usually underestimate their chances of surviving to higher ages, according to research from the Institute for Fiscal Studies.

This amplifies the risk that someone could run out of money in retirement after taking advantage of the pension freedoms.

"Case has been made" for single pensions dashboard

Government should require all pension providers including defined benefit schemes to provide information to a single pensions dashboard, according to the Work and Pensions Committee. Various providers are developing their own dashboards, but the Committee feels this will be unnecessarily complex.

The suggestion comes as part of the Committee's report on the pension freedoms and is designed to help people to take decisions and shop around. Alongside this, the Committee recommends the development of a default pathway for members to take their benefits from money purchase schemes (the "decumulation phase").

TPR's powers tested

The Upper Tribunal has supported the use of the Pensions Regulator's powers against five ITV group companies following the collapse of Box Clever. TPR says it "will not hesitate" to use this power where reasonable. ITV plans to appeal the decision.

Changes from 6 April 2018

- The lifetime allowance rose from £1 million to £1.03 million
- Automatic enrolment minimum contributions rose to a total of 5%
- Scotland set different income tax rates from the rest of the UK
- New rules simplifying the transfer of money purchase pensions without member consent came into force

New data protection rules, GDPR, come into force on 25 May 2018. Read our previous bulletin for more information.

Pension Protection Fund compensation in question

The current operation of the cap on PPF compensation could be unlawful, under an opinion from the Court of Justice of the European Union. The opinion suggests that members' benefits should be protected to at least 50% of their value. The impact of the cap on compensation means that highly paid executives could receive less than this.

At present this opinion does not impose any changes on the PPF. If once the legal process concludes the PPF is required to amend compensation levels, this could impact schemes in assessment as far back as 25 January 2007. It is possible that the amount the PPF needs to raise for the levy could increase as a result.

TPR to seize company assets

The Pensions Regulator is to seize assets from employers that fail to pay fines for not meeting workplace pension duties. This power can also be used where trustees don't pay.

Pension contributions lead to lower corporate investment

Recovery plans requiring companies to make pension contributions lead to reduced corporate investment and dividends, according to research by the Bank of England. The research showed that the impact was higher for companies that were more financially constrained, but while the impact of pension deficits on individual firms may be significant, the impact on the whole economy was muted.

High Court rules no limitation period on recovering pension overpayments

Trustees can recover past overpayments even if for more than 6 years, provided they do this by adjusting future payments rather than requesting repayment, the High Court has confirmed. This will provide comfort for trustees who are bound to pay benefits in accordance with scheme rules, since administration errors can come to light many years later.

Cross-border schemes need to act on Brexit

The European Commission has warned that from 30 March 2019, unless a transitional arrangement is agreed, UK pension schemes will no longer be authorised to operate in the European Union. UK schemes with members in EU member states, including Ireland, will need to seek authorisation in those states. Schemes with sponsoring employers based in the EU should assess the impact on the employer covenant. Any changes to the scheme as a result of Brexit will need to be notified to members.

Find Out More

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