

## Current Topics Update November 2011

### Auto enrolment

#### Are you ready for auto enrolment?

There is less than 12 months to go to the start date of 1 October 2012 for the largest employers. Do you know your staging date? Have you got an action plan?

*Pope Anderson has a separate briefing note which sets out Employers' Responsibilities and a 10 Point 'Auto Enrolment' Action Plan.*

Updated detailed guidance, interactive tools, quick guides and checklists can be found at: [www.thepensionsregulator.gov.uk/pensions-reform.aspx](http://www.thepensionsregulator.gov.uk/pensions-reform.aspx)

#### Short service refunds

Members who leave an occupational defined contribution scheme with less than two years' pensionable service are usually offered a refund of their contributions. The employer contributions made in respect of that member remain in the scheme and are used in accordance with the rules.

Recent Government announcements suggest that current short service refund rules will be changed in future for defined contribution schemes. The Government does not believe they fit with its aim of encouraging saving more for retirement. Options for the subsequent increase in numbers of small pension pots are also being considered. The DWP is encouraging employers not to assume that the current short service rules will continue when deciding on a scheme to use for auto enrolment.

*Pope Anderson can help employers identify how the changes will affect them and plan the actions necessary.*

### Bribery Act 2010

The Bribery Act 2010 came into force on 1 July 2011. It includes offences relevant to pension scheme trustees - general bribery offences of giving or receiving bribes and a 'corporate offence' of the failure to prevent bribery.

The focus of the Act is on corruption and not the giving or receiving of normal corporate hospitality. However, Trustees should consider:

- updating their risk register to include their assessment of bribery risks
- incorporating within their conflicts of interest policy a register of accepted hospitality/gifts and a policy on offering hospitality/gifts.

## **So called “Pension Bribes”**

Steve Webb, the minister for pensions, has indicated that there will be a crackdown on transfer value incentives as the industry has failed to respond to his call in May 2011 to end such practices. Not only have concerns been voiced over the traditional enhanced transfer values offered to encourage members to switch from salary related schemes to defined contribution schemes, concern has also been raised over pension increase exchange exercises where pensioners can swap future pension increases for a higher non increasing pension. Mr Webb is taking legal advice and a new working group has been established to create a code of practice.

Interestingly, *The Times* has revealed that over 42,000 pensioners each year accept the Department for Work and Pensions' (DWP) offer of a cash lump sum payment in return for delaying their state pension, despite this offering as little as a quarter of the income forgone in many cases!

*Pope Anderson is well placed to advise on all aspects of DB and DC schemes, whatever their size.*

## **Pensions Act 2011**

The Pensions Bill 2011 is now the Pensions Act 2011 after it received Royal Assent on 3 November 2011.

The DWP has issued two fact sheets covering amendments made to the Pensions Bill 2011 during its later stages. The first covers changes to State Pension Age (SPA). Previously SPA was to be equalised at age 65 by November 2018 and then increased to age 66 for both men and women by April 2020. The Act retains equalisation at age 65 by November 2018 but now includes a slower transition from 65 to 66 over the period to October 2020.

The second factsheet introduces a new definition of money purchase benefits in pension law which only includes those benefits which cannot develop a funding deficit. This reverses the effect of the judgment in *Houldsworth v Bridge Trustees* that held that certain benefits should be treated as money purchase even though it was possible for them to develop a funding deficit (e.g. pensions paid from the scheme (by internal annuitisation) and benefits with a guaranteed investment return). Trustees should consider how the new definition will apply to their scheme. Those ‘money purchase’ benefits that now fall outside the new definition will be subject to scheme funding legislation and PPF levies.

The factsheets can be found at:

[www.dwp.gov.uk/docs/pensions-bill-spa-info.pdf](http://www.dwp.gov.uk/docs/pensions-bill-spa-info.pdf)

[www.dwp.gov.uk/docs/pensions-bill-mpb-info.pdf](http://www.dwp.gov.uk/docs/pensions-bill-mpb-info.pdf)

## **Abolition of Contracting Out on a DC basis**

HMRC has published its fourth ‘Countdown Bulletin’ to help Trustees prepare for the abolition of contracting out on a money purchase basis. This bulletin covers a one-off closure scan in January 2013, contracting out from April 2012 and Scheme Cessation.

The bulletin can be found at: [www.hmrc.gov.uk/nic/countdown-bulletin4.pdf](http://www.hmrc.gov.uk/nic/countdown-bulletin4.pdf)

## HMRC Newsletters

HMRC's Pension Schemes Newsletter 48 summarises, and provides links to, regulations and guidance for members and administrators, published to support the changes to pension scheme taxation made by the Finance Act 2011, including changes to the annual allowance, lifetime allowance, scheme pays and flexible drawdown. Included is a link to the form for applying for fixed protection against the reduced lifetime allowance of £1.5 million, which must be completed and with HMRC on or before 5 April 2012.

Updates to the Registered Pension Schemes Manual as a result of Finance Act 2011 are included in Pension Schemes Newsletter 49. Other items include plans to improve trivial commutation guidance, how to calculate drawdown pension for those under age 23 and scheme administrator responsibilities with regard to flexible drawdown.

The newsletters can be found at: [www.hmrc.gov.uk/pensionschemes/pts-newsletters.htm](http://www.hmrc.gov.uk/pensionschemes/pts-newsletters.htm)

## The Pensions Regulator

### Regulator clarifies the role of DC trustees

The Pensions Regulator has published a statement for trustees to clarify the key differences between DB and DC schemes. The document contains a comparison of the steps and activities involved in areas such as regulatory reporting, employer engagement, investment, administration, conflicts of interest and member communications, in order to assist trustees who may be taking on a new role in which they have little experience.

It also sets out the expectations of trustees of DC schemes, which include:

- having sufficient skills to manage the scheme effectively
- acting impartially, and managing conflicts of interest
- understanding charging structures and demonstrating that these offer members value for money
- undertaking regular formal reviews of the investment funds available, including the appropriateness of the default fund
- investing prudently, and communicating investment information to members
- establishing what compensation arrangements are available in the event of investment provider default
- meeting regularly to discuss governance issues
- assessing key risks, and documenting risks in a risk register
- continually assessing the quality of administration services and record keeping
- ensuring contributions are paid to the scheme in an accurate and timely manner
- ensuring members are aware of the impact of different contribution patterns on the overall size of their pension fund.

The full document can be found at:

<http://www.thepensionsregulator.gov.uk/docs/role-of-trustees-in-dc-schemes-statement-oct-2011.pdf>

*Pope Anderson advises a number of Trustees of DC Schemes and can help you and your Trustees ensure that they are meeting the Regulator's expectations.*

## Statement issued on hybrid schemes

The Pensions Regulator has issued a statement for trustees, administrators and benefit consultants entitled "Understanding and managing your hybrid scheme". It aims to help trustees and their advisers understand the risks that can arise in hybrid schemes, and take action to mitigate them, by providing checklists for trustees and their advisers.

The document is based on the results of the Pension Regulator's survey of 150 hybrid schemes, and includes their concerns regarding the main risks to members of hybrid schemes:

- lack of governance – insufficient time being spent on the DC element of the scheme
- unclear and incorrect member communication – confusion over the benefit structure and required information
- incorrect benefits and funding levels – all scheme assets invested together, with insufficient detail to distinguish between DB and DC assets
- inappropriate investment strategies – DB investment risks are borne by the employer, DC investment risks by the member, so inappropriate strategies could affect DC members directly
- retirement options – many hybrid schemes are not offering an open market option to DC members.

The full document can be found at:

<http://www.thepensionsregulator.gov.uk/docs/understanding-and-managing-your-hybrid-scheme-statement-oct-2011.pdf>

*You will notice some additional questions on Scheme Returns from November 2011 aimed at helping the Pensions Regulator understand and monitor hybrid schemes more effectively. Pope Anderson is well placed to help trustees complete their scheme returns and properly manage their hybrid scheme.*

## Identifying a scheme's statutory employer

The Regulator has launched an online 'bite-sized' module to help trustees identify their scheme's statutory employer ahead of the new requirement to report it on scheme returns from November 2011.

Further details, including links to the 'bite-sized' module and the more detailed statement published earlier this year, can be found at: [www.thepensionsregulator.gov.uk/press/pn11-21.aspx](http://www.thepensionsregulator.gov.uk/press/pn11-21.aspx).

## Update on the Pension Protection Fund

### PPF levy 2011/12

The Pension Protection Fund (PPF) has been issuing invoices for the 2011/12 levy since September. Any queries must be raised with the PPF within 28 days of the date of the invoice. An interest on late payment charge of 5% per annum over the Bank of England base rate will start accruing on those invoices unpaid after 28 days.

There is a guide and some FAQs on the PPF's invoicing pages –

[www.pensionprotectionfund.org.uk/levy/invoicing/Pages/invoicing.aspx](http://www.pensionprotectionfund.org.uk/levy/invoicing/Pages/invoicing.aspx)

## **PPF levy 2012/13**

The PPF has confirmed that the levy estimate for 2012/13 will be £550 million, which is the lowest levy estimate to date. The PPF has also published consultation on the draft determination for the new levy framework which will take effect from 2012/13 (see the September issue of Current Topics Update). 30 March 2012 is the key date for submitting up to date scheme information, certifying/recertifying contingent assets and making deficit reduction contributions. The final levy determination for 2012/13 is due to be published before the end of 2011.

The consultation document and draft 2012/13 levy determination can be found at:

[www.pensionprotectionfund.org.uk/levy/Pages/1213\\_Levy\\_Determination.aspx](http://www.pensionprotectionfund.org.uk/levy/Pages/1213_Levy_Determination.aspx)

*Pope Anderson can help trustees and employers check invoices and understand how the new framework will affect a scheme's PPF levy.*

## **PPF surplus**

The PPF has published its annual report which reveals a surplus of £678 million as at 31 March 2011, a funding level of 105.1% (up from £394 million and 103.3% as at 31 March 2010). It remains on track to reach financial self-sufficiency by 2030.

## **STOP PRESS – PPF and GMP equalisation**

The PPF has just confirmed that it is to adopt its preferred 'underpin' approach to calculate equalised compensation for men and women. This will be applied to those going through the assessment process and those already in the PPF.

A six month pilot is to be carried out with selected schemes currently in assessment. Schemes not included in the pilot should continue through the assessment process on the existing basis. Further guidance is to be provided following completion of the pilot study.

This update is not and should not be taken as a statement of the law. It is a summary of changes that will affect all schemes in different ways. To review the impact of the changes for your particular scheme you should get in touch with your usual contact at Pope Anderson.

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