GODDARD PERRY
CONSULTING

Hot topics in Pensions

Autumn 2017

1. Benefits for Civil Partners and Same Sex Spouses

Not all pension schemes provide the same level of spouse's pension in respect of civil partners and same sex spouses as they provide in respect of opposite sex spouses. The payment of a limited spouse's pension was permitted by virtue of an exception in the Equality Act 2010.

The Supreme Court has ruled that the exception in the Equality Act 2010 is incompatible with EU law and must be disapplied. This ruling affects all members and all occupational pension schemes (including those that closed to accrual before 5 December 2005).

All schemes must now provide equal benefits for opposite sex spouses, same sex spouses and civil partners. Therefore, any pension scheme that has a period of paying less than a full spouse's pension in respect of surviving civil partners and same sex spouses will need to take action.

If the scheme has ever relied upon the government's limitation in the Equality Act 2010 then the following action should be taken:

- The Scheme rules should be amended;
- Any spouse's pensions that have already come into payment in respect of surviving civil partners and same sex spouses will need to be reviewed, re-calculated and any appropriate back payments made;
- Any claim for a spouse's pension that has been rejected because a scheme member had no pensionable service on or after 5 December 2005 will also need to be reviewed;

2. Changes to the People With Significant Control Regime

The Small Business, Enterprise and Employment Act 2015 brought in an obligation on UK companies and limited liability partnerships to maintain a register of people with significant control and to provide this information to Companies House. New regulations in force from 26 June 2017 have extended this requirement to Scottish limited partnerships (which could impact pension schemes using asset backed funding structures). Additionally, it will no longer be sufficient to notify Companies House on a company's annual confirmation statement when there has been a change to a company's register of people with significant control. The register must be updated within 14 days of a change occurring, and Companies House must be notified within 14 days of the register being updated.

Any change of control of the Trustee Company occurring since its last confirmation statement was filed should be recorded
in the register of people with significant control within 14 days of the change and notified to Companies House within 14 days of the register being updated.

3. New Money Laundering Regulations

The government has now issued final regulations implementing the EU's Fourth Money Laundering Directive. These came into force on 26 June 2017 and affect trustees of occupational pension schemes. The extent to which the regulations will affect pension trustees is still unclear, and industry professionals are discussing this further with HMRC and the Treasury. It seems probable that pension trustees will be required to maintain certain data on all beneficial owners and, secondly, there will be a reporting requirement to HMRC. Criminal sanctions will apply for non-compliance. HMRC reporting will be via an online trust registration service, which was launched on 10 July 2017.

HMRC has indicated that it will issue guidance in the autumn for trustees of occupational pension schemes about how to use the trust registration service. HMRC has also said that given the number of beneficiaries in a scheme it may only require trustees to list the beneficiaries and categories of membership, rather than provide detailed records. However, this does not exempt trustees from maintaining the detailed records required under the regulations (such as name, address, date of birth, NI number, passport details etc.) for other purposes, such as disclosure to law enforcement agencies.

4. Reduction in Money Purchase Annual Allowance

In a statement to the House of Commons, the government has confirmed its intention to pass legislation reducing the money purchase annual allowance retrospectively from 6 April 2017. Draft legislation will be included in the Finance Bill (No.2) 2017, which will be subject to parliamentary scrutiny in the coming weeks.

Trustees should monitor progress of the legislation and determine whether member communications are necessary.

5. FCA's Final Report on Its Asset Management Market Study Report

The FCA has concluded, in particular, that there is evidence of weak price competition and that some smaller pension schemes have been unable to secure fair terms from managers. The FCA proposes working with the DWP to facilitate consolidation for those schemes that wish to consolidate. The FCA has noted its concerns about the way in which the investment consultancy market operates, for example, when dealing with conflicts of interest. It has recommended bringing investment consultants into the FCA's regulatory perimeter and it is consulting on whether it should refer the investment consultancy market to the Competitions and Markets Authority.
The FCA's report also highlights the need for pension scheme trustees to use their bargaining power effectively.

The Trustee should bear in mind the need for a legal review when they enter into new or revised agreements with their investment consultants.

6. Queen's Speech

The Queen's Speech contained limited measures that will directly affect pension schemes. It did include reference to the establishment of a single financial guidance body that will replace Pension Wise, the Pensions Advisory Service and the Money Advisory Service. This is being implemented by the Financial Guidance and Claims Bill.
In the main, the Queen's Speech focused on Brexit, as expected. A data protection bill will implement the General Data Protection Regulation as part of UK law post Brexit.

7. 21st Century Trusteeship

During 2016 tPR published a discussion paper on 21st Century Trusteeship and Governance. This looked at how it could raise standards among trustees and improve the way that pension schemes are managed.

We also carried out research showing that many pension schemes aren't meeting the governance standards we expect.

Therefore, we have decided to launch a programme to raise the standards of governance across all pension schemes.

The programme includes a series of communications to make clear what our expectations are on those responsible for managing a scheme effectively. This includes the main things that need to be in place and which will support good decision-making. For example:

- clear roles and responsibilities and clear strategic objectives
- a skilled, engaged and diverse board led by an effective chair
- close relationships with employers, advisers and others involved in running the scheme
- sound structures and processes focused on outcomes
- a robust risk management framework focused on key risks

The first such communication "1. Good Governance" is now available at www.thepensionsregulator.gov.uk/1-good-governance.aspx.

Where can I get further information?

Please contact your Goddard Perry consultant if you would like to discuss the issues raised by this update in more detail. Alternatively contact us via the following:

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