Punter Southall
CONSULTING ACTUARIES

BriefingNote
January 2018

In brief

- 2017 was a relatively quiet year for pensions, although it saw several key legal cases and a tougher stance from TPR
- Key developments for pensions in 2018 are likely to be the DB White Paper and the implementation of the IORP II Directive
- GDPR is also set to be high on trustee agendas in the first part of 2018
- Other topics that may drive the pensions agenda in 2018 include the forthcoming Lloyds Bank test case on GMP equalisation and further reports from the Work and Pensions Select Committee (including on pension freedoms)

And finally

- 2018 will also be a hugely significant year for Punter Southall, as we join forces with Xafinity plc. We look forward to monitoring future developments alongside our new colleagues!

Ten key dates for 2018

After several years of near-constant change to the pensions landscape, 2017 was a (relatively) quiet year for pensions as both Parliament and Government have been tied up with Brexit negotiations. Whilst we have seen consultations attempting to address some long-standing problems with pensions law (most recently in the context of bulk transfers), the legislative framework remains largely unchanged.

2017 did, however, see major developments in the regulatory landscape, with the Pensions Regulator (TPR) setting out its plans to be 'clearer, quicker, tougher', which has included the first use of its scheme funding powers and its powers to bring criminal prosecutions in certain circumstances. 2017 also saw some significant court cases, including *Walker v Innospec* (on the provision of survivors' pensions to same-sex spouses), *IBM v Dalgleish* (on making changes to employees' pension benefits) and *Safeway v Newton* (which challenges some established assumptions on equalisation).

Whilst major changes to pensions legislation seem unlikely in 2018, there are still some key milestones that we can expect to see in the year ahead.

1 12 January: One year to go to IORP II implementation

The IORP (Institutions for Occupational Retirement Provision) II Directive must be implemented in EU Member States by January 2019 (which is before the UK is scheduled to leave the European Union). To date, the Department for Work and Pensions (DWP) has said nothing publicly on how it will implement the Directive. Given the lack of parliamentary time, it is likely that its provisions (which include new requirements for benefit statements, and for pension schemes to have a risk management function and produce an 'own-risk assessment') will be implemented (possibly only in part) via secondary legislation and/or guidance.

2 31 January: Deadline for registering taxable relevant trusts

Under the latest Money Laundering regulations, taxable relevant trusts are required to register on HM Revenue and Customs' (HMRC's) Trust Registration Service (TRS) by 31 January 2018. Most pension schemes are unlikely to meet the definition of 'taxable relevant trusts', but schemes that incur certain tax liabilities (e.g. stamp duty land tax on direct investments in property) will meet the definition and therefore will need to register on TRS. HMRC have recently indicated that they will not impose a penalty where the registration is completed by 5 March 2018 (although the deadline remains 31 January). There are also some new (and potentially onerous) internal record-keeping requirements that apply to all pension schemes.

3 28 February: Expected deadline for White Paper

The DWP has not provided a formal publication date for its White Paper on the security and sustainability of defined benefit (DB) schemes other than 'winter', but it has been widely reported that the DWP's definition of 'winter' runs until the end of February. The White Paper is expected to contain the DWP's proposals arising from its 2017 Green Paper, including potential strengthening of TPR's powers, especially in the context of mergers and acquisitions and possibly also in the area of scheme funding. It also seems likely that the White Paper will have something to say on approaches to consolidating DB schemes. It is possible that the White Paper could recommend a statutory override to allow all schemes to move from RPI to CPI indexation, but it may be that this comes into the 'too difficult' category for the DWP. Whilst the White Paper itself should be out soon, it is likely that it will be well after Brexit (probably 2020 at the earliest) before we see any legislation.

4 13 March: Spring Statement

The Chancellor has announced that the annual Autumn Budget will now be the only major fiscal event each year, and so the Spring Statement is likely to be a much lower-key affair than previous Autumn Statements (which have almost become mini-Budgets). However, some indication of the Treasury's future policy on pensions taxation cannot be ruled out.

5 5 April: Deadline for modifying rules for formerly contracted-out DC schemes

The rules of schemes that were contracted out on a defined contribution (DC) basis before 6 April 2012 will have included protected rights provisions. In some cases, these were 'hard-wired' into the scheme rules, meaning that the abolition of protected rights in 2012 did not automatically remove them. To rectify this, trustees have until 5 April 2018 to amend their scheme rules by resolution to remove any protected rights provisions..

6 6 April: Easing of rules for bulk transfers without consent

At present, when bulk transfers are being made from one DC scheme to another without individual consent, there are requirements for an actuary to provide a certificate and for the employer of the receiving scheme to be either the same as or connected to the employer of the transferring scheme. The DWP recently consulted on removing both restrictions and replacing them with a requirement for the trustees to seek advice from an independent and suitably qualified professional. The DWP is also consulting on changes to enable contracted-out DB benefits to be transferred in certain circumstances without member consent to schemes which were never contracted out. Both changes should help to remove significant blockages to bulk transfers (and we may expect to see a flurry of such transfers once the legislation is in force in April 2018).

7 6 April: New powers against pension scams

The Finance (No. 2) Bill, which is currently going through Parliament, contains new powers (coming into effect on 6 April) for HMRC to refuse to register or de-register a pension scheme where the sponsoring employer has been dormant for a continuous period of one month. This follows a recent consultation on pension scams. Further measures against scams, including restrictions on the type of schemes to which DB benefits can be transferred, are expected in 2018.

8 6 April: Auto-enrolment contributions to rise

The existing 2% total minimum contribution rate (1% from the employer) will rise to 5% (2% from the employer) with effect from 6 April 2018. To date, auto-enrolment has been a great success with low opt-out rates, but it will be interesting to see whether these continue once the demands on members' pockets have increased. It is also worth noting that these minimum contribution rates are still well below the levels likely to provide most individuals with adequate pensions in retirement, something that the DWP has partly addressed in its auto-enrolment review. In its report (published in December 2017), it recommends reducing the minimum age for auto-enrolment from 22 to 18 and removing the lower earnings limit so that contributions will be calculated from the first pound earned. However, these measures are not expected to come into force until the mid-2020s.

9 6 April: Lifetime allowance to rise

After a succession of reductions, the lifetime allowance is finally scheduled to rise – in line with CPI to £1,030,000 for the tax year 2018/19.

10 25 May: GDPR in force

The General Data Protection Regulation (GDPR) will apply automatically in the UK on 25 May 2018, bringing with it increased rights for data subjects (e.g. members) and increased obligations for data controllers (e.g. trustees and actuaries) and data processors (e.g. administrators). The first quarter of 2018 is likely to be a very busy time for trustees and advisers as they implement new data protection agreements, map their data and put revised policies and processes in place.

Where can I get further information?

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