SPC News No. 1, 2013 Issued in March, 2013

THE NEWSLETTER OF THE SOCIETY OF PENSION CONSULTANTS

contents

SPC London Evening Meetings

Details of forthcoming SPC London Evening Meetings are as follows:-

Date	Speakers	Subject	Venue	Time
24 April 2013	Mark Dowsey (Towers Watson)	The Review of the IORPS Directive	Towers Watson, 21 Tothill Street, London SW1H 9LL	5.00 pm for 5.30 pm
16 May 2013	Faisal Aziz (IBM Global Business Services)	A physical hub, A Virtual Hub, or Both, in the Context of Transfers?	KPMG LLP (UK), 8 Salisbury Square, London EC4Y 8BB	5.00 pm for 5.30 pm

Hand outs for the following London evening meetings are available and can be obtained by clicking on the names of the speakers.

Date	Speakers	Subject
28 November 2012	Dominic Scriven (Dragon Capital)	Frontier Markets
12 December 2012	Peter Shave and Ian Gordon (Wragge & Co)	"When the going gets tough..." What support should trustees expect from the Pensions Regulator when the employer is unco-operative?
24 January 2013	Keith Bryant (Barrister, Outer Temple Chambers)	The meaning of "Worker" in the Context of Auto-enrolment
27 February 2013	Duncan Buchanan (Hogan Lovells International LLP)	What might Schemes do if the Government Changes the Rules on GMPs?

The above meetings were kindly hosted JLT, Hogan Lovells International and Herbert Smith Freehills respectively.

SPC contacts

SPC has had a meeting with DWP officials, to discuss the interaction between auto-enrolment and consultancy charging. The background was an announcement towards the end of 2012, by the Pensions Minister, of an urgent review, centred on his concern that individuals should receive a tangible benefit when they paid a consultancy charge out of their pension pot.

The President has represented SPC at a meeting of DWP's new Intermediaries Forum, to discuss experience of auto-enrolment.

What's being read on the SPC website?

CLICK HERE for the latest summary of hits on the SPC website, presented to the SPC PR Committee.

Who's writing about SPC?

CLICK HERE for the latest summary of SPC press coverage, also presented to the PR Committee.

New member

The latest new Member of SPC is **Brookfield Investment Management (UK) Limited**, London W1.

HMRC Draft Annual Allowance Charge (Amendment) Order 2013

We have commented on the draft Annual Allowance Charge (Amendment) Order 2013.

For a copy of the draft Order please CLICK HERE and for our comments, please CLICK HERE.

The main purpose of the draft Order is to simplify the administration of the annual allowance in respect of deferred members.

At the time of preparing this issue of **SPC News**, discussions were continuing with HMRC on amending the draft.

Implementing the UK/US FATCA Agreement

HMRC has consulted on detailed guidance on the operation of the UK/USA FATCA agreement. For a copy of the consultation document, please CLICK HERE.

We suggested that the draft guidance would be significantly more helpful if the sections dealing with pensions and annuities were written in such a way that UK pensions professionals could readily understand what was meant. For example, paragraph 2.7 on page 12 uses the unfamiliar term "retirement arrangement" and refers to IRS Announcements, which will mean nothing to most UK pensions professionals.

Our reading of the agreement and the guidance is that all registered or deemed registered pension arrangements, and annuity contracts purchased from such arrangements, are exempt. However, it would be helpful to include a table in the guidance with a clear statement of whether an exemption applies for each type of arrangement. One point, on which we are keen for clarification, is the extent to which it might be relevant that an annuity is immediate or deferred, investment-linked or transferable.

DWP Call for Evidence on the Impact on NEST of Annual Contribution Limit and Restriction on Transfers

We have responded to DWP's call for evidence on the impact on NEST of the annual contribution limit and restrictions on transfers.

For a copy of our response, please CLICK HERE.

The call for evidence is available CLICK HERE.

In our response we indicated that we were not aware of any conclusive evidence as yet that the annual contribution limit has been a crucial factor in employers' decisions on whether to use NEST as a sole provider or would cause NEST to fail in its public service obligation.

On the question of whether the restrictions on transfers applying to NEST should be lifted, a key consideration would be how NEST would fund transfer administration, given its existing loan servicing requirements.

Automatic Enrolment Transitional Provisions

We have written to DWP on two aspects of the automatic enrolment transitional provisions which it would be most helpful to clarify as proposed amending legislation on transitional provisions is brought forward.

The points we raised have nothing to do with the concern the Pensions Minister was seeking to resolve in his Written Ministerial Statement at the end of 2012, regarding the use of the deferral provisions by members of hybrid schemes, who have money purchase only benefits. The points concern:-

1) Confirmation that death benefits are to be disregarded for the purpose of establishing whether or not a scheme is a hybrid scheme; and

2) Confirmation that hybrid schemes for members accruing both defined benefit and defined contribution benefits, which do not take advantage of the transitional deferral provisions, still have the benefit of the transitional provisions phasing in contributions in respect of the defined contribution element of members' benefits.

For a copy of our letter, please CLICK HERE.

DWP Consultation on Amendments to PPF Regulations

DWP has published a consultation document on amendments to PPF regulations.

The consultation is available CLICK HERE.

The proposals aim to:-

- make changes to the time limit for making an application for a review decision;
- allow all categories of pension credit members to have the option of taking their pension compensation early;
- allow members not in receipt of pension compensation to postpone taking their compensation;
- clarify the reference to the market rate in calculating the value of protected liabilities;
- clarify how assets are valued when amounts are owed to a scheme;
- allow the PPF in certain circumstances to discharge money purchase benefits to members aged 60 and over where those benefits are worth £2,000 or less; and
- make consequential changes to existing secondary legislation to reflect the introduction of funding determinations without valuations and requests for reconsideration without a protected benefits quotation.

The regulations also clarify the Pension Ombudsman's jurisdiction.

For a copy of our response, please CLICK HERE.

Pensions Regulator's Guidance on Winding-Up: Reconciling Contracted-Out Liabilities

Following discussion in the SPC Administration Committee, we sought clarification of one aspect of the most recently issued Pensions Regulator guidance on winding up, relating to reconciling contracting out liabilities.

The guidance suggests that consideration should be given to deciding upon a tolerance level, which is appropriate for both the size of scheme membership and the calculation of GMP. The guidance goes on to suggest that, where a discrepancy is identified below the set tolerance level, the GMP figure held by HMRC should be used and suggests that a tolerance level of £2.00 per week is reasonable when reconciling GMP calculations.

This does not match the underlying/driving principle of aligning the reconciliation method with that used for entry to the PFF, which allows schemes to stand by their figure if it does not vary from the HMRC figure by more than £2 a week.

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Pensions Regulator's Guidance on Winding-Up: Reconciling Contracted-Out Liabilities

In our view, following the PPF guidelines/approach is reasonable and does not involve altering the scheme figure where the tolerance is within £2. We asked whether the Regulator would agree that it is acceptable to follow that principle and only seek further reconciliation, as suggested, when the difference is more than £2?

The Regulator has indicated that the approach outlined in its guidance was developed in consultation with the PPF and that it is in agreement that it fits with its approach. The Regulator commented that the guidance is not prescriptive and supports a proportionate approach to reconciliation. If, therefore, trustees believe that an appropriate approach in relation to the membership of their scheme is the one which we outlined, that is acceptable.

State Pension Reform White Paper introduces single tier of £144 per week and ends contracting-out

This article is derived from Mercer Select, Mercer's subscriber service offering news and analysis of UK pension developments on-line and by email. For further information please CLICK HERE. This article was correct on February 1st 2013, and was written by Glyn Bradley of Mercer's UK Retirement Resource Group

The DWP has published its White Paper on state pension reform "The single-tier pension: a simple foundation for saving", which was quickly followed by a draft Pensions Bill and accompanying impact assessments.

In these documents the Government has set out proposals building on its green paper proposals of April 2011. The key proposal is a "single-tier" pension of around £144 per week, in today's earnings terms, based on 35 years' qualifying earnings, replacing the current basic state pension and earnings-related pensions. The changes will only affect people attaining state pension age after the implementation date, expected to be no earlier than April 2017.

The single-tier pension will be lower than many people could have expected to build up under the current system, particularly for higher earners and those who would expect to remain in employment for most of their working lives. Groups who have or would expect to spend less time in employment will be expected to benefit from the proposals, including those who have spent time unemployed, in self-employment, or with caring responsibilities. The proposals are intended to be fiscally neutral compared to the current system.

The White Paper models the single-tier pension as increasing by the annual "triple lock" rate (that is, the higher of 2.5% and increases in price inflation and earnings inflation). The Government intends "a statutory requirement to uprate by at least earnings" will apply to the single-tier pension, although the paper states that the final amount and revaluation method will not be confirmed until "shortly before implementation".

'Contracting-out' of the State Second Pension via defined benefit pension arrangements will cease from the implementation date (expected to be no earlier than April 2017) because there will be no earnings-related element to contract-out of, affecting millions of public and private sector workers. These workers and their employers will see an increase in their National Insurance contributions from the implementation date (3.4% of earnings between the Lower Earnings Limit – £5,564 per year in 2012/2013 – and Upper Accrual Point – fixed at £40,040 per year – for employers and 1.4% for employees). However many employees (but not all) will also receive a corresponding increase in the State Pension they build up from that date.

The Government will introduce an overriding power for employers to amend contracted-out scheme rules to offset the higher National Insurance costs, subject to safeguards but without trustee consent. The permitted changes are to increase the employee contributions and/or to decrease future benefit accrual, subject to limits which broadly correspond to the increase in employer National Insurance contributions due to the cessation of contracting-out. These changes cannot affect subsisting rights to benefits, and an actuarial certificate is to be required to the effect that certain conditions have been complied with. This power can only be exercised once within 5 years of the date the provision comes into force. It cannot be used more than once in respect of the same member. The power may not be used to amend public service pension schemes.

Some privatised industries are limited in their ability to change scheme rules by legislation made at the time of their privatisation. This legislation, known as the "Protected Persons Regulations" may prevent employers from taking advantage of the overriding power referred

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to above. The Government has issued a consultation on whether employers should be able to offset the increase in employer National Insurance contributions in respect of Protected Persons.

Individuals will transfer to the new system by being granted 'foundation amounts', based on their National Insurance records valued using single-tier rules. If an individual was contracted out of the earnings-related part of the state pension before the implementation date, a deduction (called the "rebate derived amount") will be applied, reflecting the fact that they have paid lower National Insurance contributions whilst they were contracted-out. This deduction appears to be based on the difference between individuals' old state and earnings-related pensions, and what they would have been entitled to had they not contracted out. The foundation amount will be underpinned by the individuals' current entitlement under the old system. Where individuals have less than the single-tier amount, they can then accrue £4.11 per week (i.e. £144 per week divided by 35) for each additional qualifying year up to the maximum of the single-tier amount (this appears more generous than proposed in the original green paper). The transitional arrangements will also include provision for certain inherited earnings related pensions and for women who opted to pay the reduced rate of National Insurance.

Individuals will not be entitled to any state pension under the new system if they have years of contributions or credits below a 'minimum qualifying period', expected to be between seven and ten years.

State Pension Age will be reviewed every five years based on the principle that State pension should be received for a specific proportion of an adult's life. The draft Pensions Bill mentioned a longer interval of at least six years to allow for the publication date of the report. The report of the outcome of the next review will be published by May 7th 2017. The Queen's Speech 2012 announced the Government's intention to bring forward the increase in the state pension age to 67 between 2026 and 2028.

The draft Pensions Bill introduces bereavement support payments, which come into payment when individuals have made certain national insurance contributions, are under State Pension Age, and their spouse or civil partner dies.

The draft Pensions Bill gives the Secretary of State the power to make regulations which prohibit financial or similar incentives to induce members of salary related occupational schemes to transfer their pension rights elsewhere. This power will fall away unless Regulations are made within seven years of the provision coming into force.

The draft Pensions Bill prohibits corporate trustees from acting as pension scheme trustees if one or more of their directors have been prohibited from acting as a trustee by the Pensions Regulator.

There is a flaw in the Pensions Act 2008, whereby the employer's re-enrolment duty could result in the permitted deferral or postponement period being shortened. This is because an employer's cyclical re-enrolment date could fall within a period where an individual's automatic enrolment date has legitimately been deferred or postponed. The draft Pensions Bill will correct that flaw. It will remove the duty of the employer automatically to re-enrol an eligible individual if auto-enrolment has been postponed for a period of up to three months or deferred to the end of the transitional period in the case of a defined benefit or hybrid scheme.

"Micro schemes" with 4 or fewer members will only be required to complete scheme returns every 5 years instead of every 3 years.

DWP Call for Evidence on Smoothing and on the Pensions Regulator's Statutory Objective

This article is derived from Mercer Select, Mercer's subscriber service offering news and analysis of UK pension developments on-line and by email. For further information CLICK HERE. This article was correct on January 25th 2013, and was written by Deborah Cooper of Mercer's UK Retirement Resource Group.

The DWP has published a call for evidence on whether the scheme funding regime should be amended to permit trustees to adopt 'smoothed' rather than market related discount rates when calculating liability values for scheme funding valuations. Because gilt yields currently are low relative to their long term average, the expectation is that a 'smoothed' approach would result in lower deficits, and so impose less cost on employers.

The call for evidence, which was first announced in the Chancellor's December statement, describes why this is now an issue. In particular, gilt yields have been depressed for reasons that include:

- Demand for UK gilts has increased since the Eurozone crisis, and
- Quantitative easing has reduced the supply of gilts.

Gilt yields are often used as a benchmark for valuing defined benefit liabilities, and, as a result, measured liabilities have increased; this, in turn, imposes additional cost on employers.

It is possible that, if the Bank of England had not pursued its strategy of quantitative easing, then the UK economy would be in a worse place than it is and asset values would be lower. If liability values are to be smoothed, the call for evidence also asks how this should affect other elements of the valuation, including asset values. Views are also sought on whether smoothing should be a mandatory or optional approach and whether schemes should be 'locked into' smoothing for more than one valuation cycle.

There are also questions on whether allowing smoothing would materially improve sponsoring employers' ability to attract investment or invest in the short term and a request for evidence to support views on this.

Finally, there is a section on whether the Pension Regulator's (TPR's) objectives could be amended to give it an explicit responsibility to consider the effect of its actions on employer solvency, since this is key to member security. In that case, valuation legislation might not need to be amended since the regulatory regime would act to encourage behaviours that achieve the desired outcome.

The call for evidence closed on February 21st for answers to the questions on TPR's objectives, and on March 7th for questions on smoothing

For a copy of SPC's response to the call for evidence, please CLICK HERE.

FSA Consultation Paper 12/28: Regulatory Fees and Levies: Policy Proposals for 2013-14

SPC has responded to FSA's consultation paper on its regulatory fees and levies for 2013.

For a copy of the consultation paper, please CLICK HERE.

Our response is available CLICK HERE.

FSA Consultation Paper 12/29: Consultation on Inflation Adjusted Illustrations

SPC has responded to FSA's consultation on inflation adjusted illustrations.

For a copy of the consultation paper, please CLICK HERE.

Our response is available CLICK HERE.

Department for Communities and Local Government Consultation: Local Government Pension Scheme: Investment in Partnerships

The Department for Communities and Local Government has published a consultation document on the Local Government Pension Scheme's investment in partnerships.

For a copy, please CLICK HERE.

In our response we suggested that a more appropriate approach, and one more consistent with pension fund investment generally, would be to pursue neither of the options set out in the consultation, but to remove limits of the types contained in the current regulations and redraw the regulations completely, in line with a prudent person approach as applies to pension fund investment generally.

However, of the two options set out in the consultation document, our very strong preference would be for option A, to increase the limit on investments in partnerships from 15% of a local authority pension fund to 30%.

For a copy of our response, please CLICK HERE.

Quantitative Easing: SPC Submission to House of Commons Treasury Select Committee

We made a short submission, to the House of Commons Treasury Select Committee's call for written evidence on the distributional effects of Quantitative Easing.

At his request, we also forwarded a copy to the Pensions Minister.

For a copy, please CLICK HERE.

SPC responds to the European Commission Consultation: The Regulation of Indices

We have responded to the European Commission's consultation document on the regulation of indices.

For a copy of our response, please CLICK HERE.

The consultation document is available CLICK HERE.

National Statistician announces outcome of consultation on RPI

The National Statistician announced on January 10th 2013 that she had concluded that the formula used to produce the RPI does not meet international standards and recommended that a new index be published.

Therefore, a new RPI-based index is due to be published from March 2013, known as RPIJ.

In developing her recommendations the National Statistician also noted that there is significant value to users in maintaining the continuity of the existing RPI's long time series without major change, so that it may continue to be used for long-term indexation and for index-linked gilts and bonds in accordance with user expectations.

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National Statistician announces outcome of consultation on RPI

Therefore, while the current arithmetic formulation of RPI would not be chosen, were the Office for National Statistics constructing a new price index, the National Statistician recommended that the formulae used at the elementary aggregate level in the RPI should remain unchanged.

The Board of the UK Statistics Authority has accepted these recommendations.

The Office for National Statistics will continue to pursue its research programme in the area of consumer price statistics and work with users to maintain the quality of its consumer price statistics.

Treasury Consultation response and further questions on Fair Deal Policy

The Treasury has published a consultation response and further questions on its Fair Deal Policy on staff compulsorily transferred from the public sector to an external provider.

For a copy, please CLICK HERE.

At the time of preparing this issue of **SPC News**, we had the further consultation under consideration.

The government has committed to retaining the existing approach to the Fair Deal policy, but to deliver this in the future by offering access to the public service schemes for all transferring staff.

This document also contains further consultation questions and draft guidance. The additional questions for consultation explore how Fair Deal should apply to employees, who have already been transferred out under the existing Fair Deal, as well as the procedure once contracts are subsequently retendered under new Fair Deal policy.

About SPC

SPC is the representative body for the providers of advice and services needed to establish and operate occupational and personal pension schemes and related benefit provision. Our Members include accounting firms, solicitors, life offices, investment houses, investment performance measurers, consultants and actuaries, independent trustees and external pension administrators. Slightly more than half the Members are consultants and actuaries. SPC is the only body to focus on the whole range of pension related functions across the whole range of non-State provision, through such a wide spread of providers of advice and services. We have no remit to represent any particular type of provision.

The overwhelming majority of the 500 largest UK pension funds use the services of one or more of SPC's Members. Many thousands of individuals and smaller funds also do so. SPC's growing membership collectively employ some 15,000 people providing pension-related advice and services.

SPC's fundamental aims are:

(a) to draw upon the knowledge and experience of Members, so as to contribute to legislation and other general developments affecting pensions and related benefits, and

(b) to provide Members with services useful to their business.

THE SOCIETY OF PENSION CONSULTANTS

St Bartholomew House, 92 Fleet Street, London EC4Y 1DG
TELEPHONE: 020 7353 1688 FACSIMILE: 020 7353 9296
EMAIL: john.mortimer@spc.uk.com WEB: http://www.spc.uk.com

SPC News is produced by the SPC Secretary and contributors from Mercer