



Punter Southall

pensionsbulletin

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Clearing of the in-trays ahead of another busy year for pensions

The pace of pensions consultation and law-making has stepped up another gear in the last month or so, beginning with the Autumn Statement on 29 November. Both the Chancellor of the Exchequer and the Pensions Minister, Steve Webb, seem to have been clearing their in-trays before the end of 2011, although the regulations and guidance on GMP equalisation (promised by the end of the year) remain outstanding.

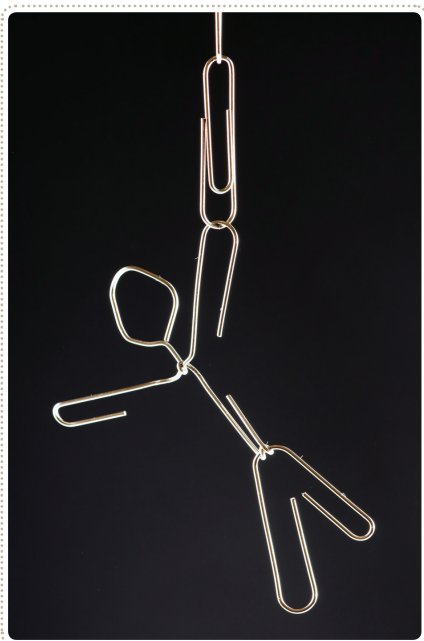
The Autumn Statement

Some had feared that the Chancellor of the Exchequer would not be able to resist the temptation to tinker with the pensions tax regime yet again. However, for once, the Autumn Statement was refreshingly 'light' on pensions, with most of the pensions-related announcements representing the latest stage of development for processes which began some time ago. State pension age will rise from 66 to 67 over a two-year period ending in April 2028 – some eight years sooner than the previous 2034-2036 timescale. It's highly likely that the increase to 68 will be brought forward from 2046, too. Draft legislation was also issued to curb excessive employer tax relief on asset-backed pension contributions with immediate effect.

With regard to investments, whilst the Government's decision to encourage pension fund investment in infrastructure projects may be welcome, less well-received was its decision not to issue any CPI-linked gilts in 2012/13. This announcement follows an earlier consultation by the Debt Management Office which considered the likely demand and cost-effectiveness of issuing such gilts.

Changes to auto-enrolment timetable

In the run-up to the Autumn Statement, with most employers being forced to tighten their belts, there had been much speculation as to whether employer duties would be postponed, either generally or at least for small businesses.



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Speed read

- **Increase in state pension age from 66 to 67 to be brought forward to April 2028**

- **Auto-enrolment for employers with fewer than 50 employees delayed until May 2015**

- **Slight changes to auto-enrolment timetable for employers with between 50 and 3,000 employees**

- **Earnings trigger for auto-enrolment proposed to be £8,105, whilst qualifying earnings band to be set at £5,564 and £39,853 for 2012/13**

- **From April 2012, people aged 60 or over with personal pension pots of £2,000 or less will be able to take two such pots in their lifetime as cash**

- **Short service refunds under DC occupational schemes to be abolished**

- **Consultation published on improving the transfer process and dealing with small pots**

- **Trade unions fail in High Court challenge to overturn Government decision to use CPI instead of RPI for public sector pension increases**

- **OBR revises its estimate of the long-run difference between CPI and RPI to 1.4%**

On the eve of the Chancellor's Statement, the Pensions Minister finally put an end to these rumours by announcing that small businesses are to be given an additional year to auto-enrol eligible employees into a qualifying pension scheme. The announcement means that the earliest staging date for employers with fewer than 50 employees will now be May 2015, instead of April 2014. Auto-enrolment for large employers will still go ahead as planned from October 2012, but businesses with between 50 and 3,000 employees will also see slight changes to their staging dates. In addition, employers using a qualifying defined contribution (DC) scheme for auto-enrolment purposes will see their initial minimum contribution levels (1% for employers and 2% in total) remain in place until all employers have begun auto-enrolment. Specific details on these changes are due to be published in January 2012, but, in the meantime, the Pensions Regulator has urged those working in the pensions industry not to take their foot off the accelerator in their preparations for auto-enrolment.

On the subject of contribution levels, shortly before the Christmas break, the Government began consulting on the auto-enrolment earnings thresholds for 2012/13. As expected, the minimum earnings trigger for auto-enrolment will be £8,105, to align with the personal tax threshold. The lower and upper qualifying earnings bands will be set at £5,564 and £39,853 respectively, with the lower level aligning with the lower earnings limit for the payment of National Insurance contributions.

Small personal pension pots

With the introduction of employer duties now less than 12 months away for the largest employers, one area of particular concern has been the issue of so-called 'small pension pots'. Both HM Revenue and Customs (HMRC) and the Department for Work and Pensions (DWP) are currently consulting on possible changes to the legislation in this area.

Currently, trivial commutation of lump sums of £2,000 or less is possible under trust-based schemes (even where total benefits across all schemes exceed £18,000) but not under contract-based schemes. Whilst the Autumn Statement was silent on this issue, HMRC has subsequently announced that, from April 2012, they will allow people aged 60 or over with small personal pension pots of £2,000 or less to withdraw a maximum of two such pots as cash during their lifetime instead of having to convert them into an annuity. This change will put personal pension arrangements on a virtually level playing field with occupational pension schemes, which have been able to pay lump sums of £2,000 or less as authorised payments since December 2009 (although there is no restriction on the number of pots of up to £2,000 that can be taken under occupational pension schemes).

This change to the lump sum regime is not the only one being given ministerial time. As part of its pre-Christmas in-tray clearing process, the DWP began a wide-ranging consultation on measures to prevent a proliferation of small pension pots following the onset of auto-enrolment. It is considering options to amalgamate small pension pots, which is vital considering that the average person works for 11 different employers over

the course of his career and may therefore build up a large number of small pension pots. The options include improving the current framework by simplifying the transfer process or introducing automatic transfers of small pots from job to job or to a central aggregator scheme.

The DWP has also been increasingly concerned that employers and providers may opt to establish trust-based schemes instead of contract-based schemes to exploit regulatory differences between the two. It is therefore proposing to abolish short service refunds under DC occupational schemes. However, it is imperative that this is addressed in tandem with the consultation on small pension pots, since the abolition of short service refunds on its own would automatically create many more small pension pots, the exact antithesis of what the Government aims to achieve.

Switch to CPI: judicial review and widening of the gap

Although not strictly in the Government's in-tray, the High Court's judgment in the judicial review into the legality of using of the Consumer Prices Index (CPI) as a measure of inflation must have come as welcome news to the Government. Since the announcement of the decision back in June 2010 to use CPI instead of the Retail Prices Index (RPI) as the basis for increasing public sector pensions and most state benefits, scarcely a week has passed by without some story on the matter making it into the news.

Public sector trade unions have been at the forefront of trying to get the decision overturned. Their campaign stepped up a gear in October 2011 when they presented their case for a judicial review of the legality of the switch, in which they accused the Government of putting 'the economic cart before the statutory horse'. Since CPI has tended to rise more slowly than RPI, it was hardly surprising that one of the points challenged in the judicial review was that cost-cutting considerations had been put ahead of the question of which index best reflected the general level of prices.

The latest estimates of the gap between CPI and RPI published by the Office for Budget Responsibility (OBR) at the time of the Autumn Statement suggest that the cost savings from the switch could be even greater than anticipated. Historically, the gap between CPI and RPI has averaged at around 0.9% per year, with the difference between the two resulting in part from differences in the method used to calculate the two indices, known as the 'formula effect'. At the time of the June 2010 announcement, the Government had assumed CPI to average 2% per year, with the CPI-RPI gap averaging 0.87% per year. Fast forward to the time of the Autumn Statement and the OBR now expects the gap to widen to around 1.4% per year. In fact, by 2016, the OBR is forecasting the gap to be as high as 1.8%, with CPI reducing to 2% whilst RPI remains higher at 3.8%.

Although the legal challenge was rejected by the High Court, it is worth noting that one of the three judges sided with the unions on whether it was relevant to take cost-saving considerations into account in choosing a measure of inflation. An appeal could be on the cards, which could present further challenges for the Government in the New Year.



Behind the scenes

Caroline joined Punter Southall in May 2011 as part of our central technical team. Based in our Wokingham office, she is mainly involved in monitoring new developments in pensions legislation and ensuring they are clearly communicated to both colleagues and clients. In addition, Caroline is a member of our specialist group covering the forthcoming employer duties and auto-enrolment.

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"What I enjoy about working in the pensions industry is that no two weeks or even days are the same! Thanks to constant tinkering by the Government on the tax and legislative framework, coupled with the fact that people are living much longer and want to achieve a good standard of living in retirement, pensions have been placed firmly in the spotlight. 2012 will be no exception, especially with the introduction of the auto-enrolment regime, and our challenge in the central technical team is to guide clients through the information maze and communicate to them in clear, plain English."

Caroline Ekins



Other recent developments

Hybrid schemes

The Pensions Regulator (TPR) has issued guidance to help trustees understand some of the risks inherent in hybrid pension schemes (i.e. those combining defined benefit (DB) and DC benefits). Amongst the main areas of concern highlighted in the guidance is a lack of governance, with trustees spending insufficient time considering the DC element of their hybrid scheme and failing to provide statutory money purchase illustrations and the open market option to members as required by legislation.

GMP equalisation

The Pension Protection Fund (PPF) has confirmed how it will adjust compensation for members of schemes being assessed for entry into the PPF and for those already in the PPF to allow for unequal guaranteed minimum pensions (GMPs). It will now undertake a six-month pilot project with selected schemes to iron out any teething problems before applying the revised method to all affected schemes. The approach only applies to PPF compensation and assistance from the Financial Assistance Scheme (FAS) and not to ongoing schemes (on which a DWP consultation is expected).

Reduction in pension scheme levies

The DWP is consulting on a proposed reduction to the general and PPF administration levies. The rate for both levies has not changed since 2008/09.

The general levy, paid by all occupational and personal pension schemes, covers the operating costs of the Pensions Ombudsman, Pensions Advisory Service and TPR. From 1 April 2012, it is set to fall by 12%.

The PPF administration levy, which is payable by all DB schemes eligible for support from the PPF, will fall by at least 25% from 1 April 2012. This follows the transfer of certain costs from the administration levy to the PPF itself.

Six principles for good workplace DC

TPR has set out six principles which it considers are essential for promoting good DC scheme governance and design. The principles span the lifecycle of a DC scheme and will form the basis of TPR's regulatory approach as auto-enrolment is rolled out. Further tools and guidance will be issued during 2012.

Window on the world: news from our international team

The introduction of an insurance-style 'Solvency II' funding requirement for DB pension schemes in Europe has long been touted by the European Commission (EC), despite ongoing resistance to such a move by some member states.

On 25 October 2011, the debate moved one step closer to becoming a reality when the European Insurance and Occupational Pensions Authority (EIOPA) published a consultation paper on its draft advice to the EC to help with the EC's review of the Institutions for Occupational Retirement Provision (IORP) Directive.

The issue of 'Solvency II' funding for DB schemes has evolved as part of the EC's desire to create a level playing field between pensions and insurance, alongside its wish to promote the use of cross-border schemes and the perceived need for EU-level risk-based supervision.

The introduction of such a funding regime would have significant repercussions for the UK as DB schemes may in future need to be funded on a basis similar to full buy-out, with an additional requirement to hold solvency capital. This would result in a significant increase in the funds required to be held by UK DB schemes. Similar (but perhaps slightly less dramatic) effects would be felt in the Netherlands and Ireland.

The EIOPA consultation closed on 2 January 2012. EIOPA is expected to deliver its final advice to the EC by the end of February and a quantitative impact assessment by September. A revised draft pensions directive will then follow, although it is likely to be a number of years before it is actually implemented.

Amendments to the employer debt regime

During the summer, the Government consulted on amending the Section 75 debt rules affecting multi-employer DB schemes. The amendments contain an easement (called a 'flexible apportionment arrangement') which the Government hopes will address criticisms that employer debt legislation unnecessarily inhibits corporate activity, particularly a company's ability to restructure.

Implementation of the proposed amendments was originally scheduled to take effect from 1 October 2011, but was then postponed. The final regulations have subsequently been laid and come into force on 27 January 2012.



Publications round-up

If you have missed any of our publications over the last quarter, you can find them on our website:

www.puntersouthall.com

Briefing notes:

The PPF levy: confirmed details from 2012/13

Following publication of the final Levy Determination, this briefing note summarises how the PPF levy will be calculated from 2012/13 and the rules governing the new levy framework.

Expectations around DC governance

A briefing note aimed at trustees of DC schemes, clarifying the behaviours the Pensions Regulator expects from trustees to improve levels of governance in order to achieve good member outcomes.

Will the 'holistic balance sheet' be Solvency II by the back door?

An overview of the proposals by the European Insurance and Occupational Pensions Authority (EIOPA) for a holistic balance sheet which could significantly increase the funding requirements of UK DB schemes.

Pensions Bill 2011 receives Royal Assent

A summary of the main pensions-related provisions included in the Pensions Act 2011, in particular amendments changing the definition of money purchase benefits and completing the switch from RPI to CPI.

News alerts:

Timetable for auto-enrolment to be altered for some employers

An alert on the Pensions Minister's announcement that auto-enrolment for smaller firms will be delayed until May 2015.

Countdown to employer duties:

Timetable of employer staging dates

This temporary update reflects the announcement of the delay to auto-enrolment for small employers; an updated timetable will be provided once full details are known.

High earners & contributors survival guide:

We are producing additional survival guides on some of the more technical aspects of the new taxation regime. If you would like to see any of these notes, please email sarah.tolson@puntersouthall.com for a copy.

HMRC provides further detail on fixed protection

A summary of the key points in HMRC's Newsletter 50, which sets out the circumstances in which it is possible for fixed protection to be lost.

HMRC revises its interpretation of the carry-forward rules

An update on HMRC's revised interpretation of the way in which unused annual allowance from the three tax years prior to 6 April 2011 can be carried forward.

Further notes will be available early in 2012, on topics including the 'carve-out' from the annual allowance for deferred members, the valuation of benefits for the purpose of the annual allowance and the new 'scheme pays' provisions.

Public sector outsourcing services:

RSL pensions update

An overview of the main pensions-related changes in 2011 that are likely to be of most interest to employers in the social housing sector.

Where can I get further information?

To discuss any of the issues covered in this edition, please get in touch with Jane Beverley on 020 7839 8600 or by email to jane.beverley@puntersouthall.com. Alternatively, please speak to your usual Punter Southall contact.

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Dates for your diary

Key dates (January to April 2012):

- 26 January** DWP consultation on thresholds for automatic enrolment closes
- 27 January** Amendments to employer debt legislation come into force
- 30 January** DWP consultation on general levy and PPF administration levy closes
- 31 January** HMRC consultation on draft regulations to allow commutation of small personal pension pots of £2,000 or less closes
- 10 February** HMRC consultation on draft Finance Bill clauses closes
- 14 February** Deadline for submitting quarterly Accounting for Tax return to HMRC (for the period ending 31 December 2011)
- End February** EIOPA expected to deliver its advice to the European Commission on the review of the IORP directive
- 21 March** Budget
- 23 March** DWP consultation on 'small pots' closes
- 30 March** Deadline for updating information held on Exchange (the Regulator's online database) for the purposes of the PPF levy
- 5 April** Deadline for notifying HMRC of intention to rely on fixed protection
- 6 April** Reduction in lifetime allowance from £1.8 to £1.5 million
- 6 April** Contracting out of the State Second Pension on a DC basis to be abolished

6 April

National insurance rebates for contracted-out DB schemes to reduce by 0.5% of band earnings (by 0.3% for employers and 0.2% for employees)

6 April

Revaluation rate for guaranteed minimum pensions expected to increase from 4% to 4.75% for members leaving pensionable service on or after this date

6 April

'Triple guarantee' for increasing basic state pensions to use CPI instead of RPI

Events:

Employer Masterclass, London

- 19 January *FULLY BOOKED* – London
1 March – London
15 May – London

DC Seminar series

20-23 March – Nationwide

Trustee training:

A full range of courses available throughout the year for trustees, ranging from courses for newly appointed trustees to courses for experienced chairmen of trustees.

Event booking

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Alternatively, get in touch with Sarah Tolson for more information on 020 7839 8600 or email her at events@puntersouthall.com

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