



THE CHEVIOT TRUST

Pensions for the legal sector

PENSIONS UPDATE – APRIL 2011

1. Government announces end to compulsory retirement at 65

The Government has confirmed its intention to phase out the default retirement age (DRA) from 6 April 2011, with complete abolition on 1 October 2011.

From 6 April 2011, employers will no longer be able to issue compulsory retirement notifications using the DRA procedure. Between 6 April and 1 October, only people who were notified before 6 April and whose retirement date falls before 1 October can be retired using the DRA. After 1 October, an employee cannot be compulsorily retired using the DRA. Employers will be able to operate a compulsory retirement age only if it can be objectively justified.

Cheviot comment – Despite requests that there should be a statutory code of practice to cover how an employer can have a discussion with an employee around retirement planning without an inference of discrimination, the Government has decided that guidance will be sufficient and has published this with ACAS (Advisory, Conciliation and Arbitration Service), “Working without the default retirement age”.

The Money Purchase Scheme continues to have a Normal Retirement Age of 65, unless otherwise agreed in a particular case. The rules allow for contributions to continue past this age providing the Employer agrees and the Employee is in the employment of the Participating Employer.

2. The Pensions Regulator (TPR) publishes updated information on workplace pension reform

On 13 January, TPR published a press release stating that it will be publishing new information during 2011 to help employers get to grips with their new responsibilities in relation to workplace pension reform.

TPR intends to publish detailed guides for advisers, intermediaries and large employers during the Spring of 2011. The guides will cover the details underpinning the legislation and the new employer duties. Further detail will be published in Summer 2011 for small employers.

View the leaflet “[An introduction to work-based pensions](#)” updated since April 2010 with the auto enrolment proposals.

Cheviot comment – We continue to ensure the Money Purchase Scheme meets the criteria for a Qualifying Workplace Pension Scheme, alternative to NEST and will keep you informed of future developments.

3. Department for Work and Pensions (DWP) launches call for evidence to prepare for automatic enrolment

On 31 January, the DWP launched a call for evidence which seeks views to assist the review of the regulatory differences between occupational and workplace pension schemes. The consultation is aimed at organisations representing employers, pension providers, pension scheme trustees and administrators, and consumer groups.

The DWP’s objective is to ensure that the separate rules and regulations governing workplace personal pensions and occupational pension schemes are consistent with the aims of automatic enrolment. It hopes to prevent regulatory differences being exploited or adding unnecessary burdens on business. It is particularly interested in views and evidence concerning the use of short service refunds and disclosure of information.

View the [consultation paper](#). The consultation ends on 18 April 2011.

Cheviot comment – We shall keep a watching brief.

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4. TPR publishes final version of employer debt guidance for trustees and employers

TPR has published its final guidance on using any of the six mechanisms for reducing or avoiding employer debts in multi-employer defined benefit (DB) schemes. The guidance applies to employer departures from 6 April 2010.

The guidance sets out TPR's expectations of both employers and trustees. It emphasises that it is essential for trustees to understand fully the implications of an employer's departure from a scheme and the mechanism under which such an exit may be achieved.

View the [guidance](#). View TPR's [consultation response](#).

5. TPR publishes final guidance for trustees on monitoring the employer covenant

TPR has published guidance for trustees on monitoring the strength of the employer covenant, together with its related consultation report. The guidance sets out how TPR expects trustees to assess and monitor the strength of the covenant, in addition to recommendations on taking action in relation to the covenant and improving it by putting in place contingent assets and other forms of security.

The guidance highlights that trustees should monitor the covenant on a regular and ongoing basis, not simply at the time of the triennial valuation. TPR hopes that regular monitoring will enable trustees to act early if they anticipate that a covenant has weakened or will weaken in future.

View the [guidance](#). View the [consultation report](#).

Cheviot comment - We adopted this approach some time ago.

6. The Pension Protection Fund (PPF) publishes its 2011/12 Pension Protection Levy Policy Statement and Final Determination

The PPF has published its 2011/12 Pension Protection Levy policy statement, which confirms that the total levy for the period is to be £600 million, compared to £720 million in 2010/11. This change is in response to the expected move from the Retail Prices Index to the Consumer Prices Index as the basis for indexation and revaluation of PPF compensation.

View the [statement](#).

The PPF has also published its Final Determination, together with several appendices, including one specifically for contingent assets. Documentation relating to both new contingent assets and re-certified existing contingent assets must be filed with the PPF no later than 5pm on 31 March 2011.

View the [Determination and accompanying documents](#).

7. PPF confirms revised levy framework for 2012/13

The PPF has announced that, following a recent consultation which closed on 20 December 2010 (October 2010 update) it intends to implement its new pension protection levy framework from 2012/13. Schemes will therefore be able to take the PPF's new approach into account when meeting deadlines for providing scheme information for the calculation of future levies. The deadline for submitting scheme information for the 2012/13 is 31 March 2012.

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However, the PPF has highlighted that it is still important for schemes to provide up-to-date scheme information by 31 March 2011, as this will be used by the PPF to set the levy scaling factor under the new framework. The levy scaling factor is used by schemes to calculate their individual levy bills.

8. DWP states Guaranteed Minimum Pensions (GMPs) legislation will be issued "around Easter"

After years of uncertainty on the issue of the equalisation of GMPs, the DWP has stated in a note to a joint industry body that draft legislation will be published for consultation "around Easter".

Cheviot comment – View the [joint industry note](#) here. We shall keep a watching brief.

9. TPR publishes final guidance on incentive exercises

In our August 2010 update, we informed you that TPR had published updated guidance on transfer incentives for consultation, clarifying the role of the employer and trustee. The final [incentives guidance](#) can be viewed here.

Cheviot comment - the Regulator continues to make it clear that trustees should approach such exercises from the perspective that it will not be in the members' interest to accept such offers. Cheviot adopted this approach some time ago.

10. Legislation

New Pensions Bill published, includes provisions relating to the following:

- **Auto-enrolment** - implementation date deferred to October 2016 for employers who already have a qualifying scheme.
- **CPI replacing RPI as increase measure** - amendments address the concern that some schemes might be caught in a "best of both" situation for pensions increases.
- **Payment of surplus to employer - section 251 deadline extended** - to 6 April 2016.
- **Extension of time limits for contribution notices (CN) and financial support directions (FSD)** - a warning notice only needs to be issued within current time limits.
- **State pension age** - to be increased to 66 for both men and women by 6 March 2020.
- **PPF - assessment process simplified.**
- **Default retirement age (DRA) abolished.**

View the [Pensions Bill](#) and the [explanatory notes](#).

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