TRAVERS SMITH

What's happening in Pensions

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Incentive exercises: code of good practice

Code and other documents:
http://www.incentiveexercises.org.uk/

A pensions industry group has published a non-statutory "*code of good practice*" and accompanying practitioners' notes on the conduct of incentive exercises. These cover the offering of enhanced transfer values and benefit modification exercises such as pension increase exchanges (but not the offer of alternative benefit options at retirement).

The code, which applies immediately, is officially supported by (among others) the Government, FSA, Pensions Regulator, NAPF, ABI, CBI, SPC and the Actuarial Profession. Compliance is voluntary but the Pensions Ombudsman and Financial Ombudsman Service may have regard to it when considering complaints against those involved in such exercises.

The code specifies seven principles. These are quoted in italics below, with our summary of points of interest in the code.

1. *No Cash Incentives should be offered that are contingent on the member's decision to accept the offer.*

   Cash Incentives include anything with a value to the member that is not a registered pension scheme benefit. Incentives to encourage members to take advice are permitted. The backdating of additional pension payments to create an arrears cash lump sum are not.

2. *For Transfer Exercises, Advice should be provided to the member. For Modification Exercises, either:*

   a. Advice should be provided to the member, or;

   b. A Value Requirement should be complied with and Guidance should be provided to the member.

   The advice (where required) should be given by an independent person and paid for by the party initiating the offer, usually the employer. Payment to the adviser should not be based on take-up rates or be on a commission basis. The advice should be specific to the member's individual circumstances, include at least one face-to-face or telephone meeting, and include a written, tailored recommendation with reasons. The member must have contractual legal recourse against the adviser.

The value requirement (where permitted) calls for an actuarial valuation of benefits before and after the modification, on a cash equivalent transfer value basis. The post-modification value must be higher than the pre-modification value on an overall (rather than member by member) basis and the percentage figure should be communicated to members with the guidance. In these circumstances, no individually tailored advice is needed but there should be at least one face-to-face or telephone meeting.

3. *Communications with members should be fair, clear, unbiased and straightforward.*

   There are detailed communication requirements in the code, which are of particular relevance to employers' communications to members but which also apply to others involved in the process, including advisers.

4. *Records should be retained by the various parties involved in an exercise so that an audit trail is maintained that can be examined in future. When providing Advice, the Member Adviser should record and report on Insistent Customers to the other parties.*

   An "*Insistent Customer*" is a member who decides to act contrary to the adviser's recommendation. The code recognises that the member's consent may be needed in order to make the required report.

5. *Exercises should allow sufficient time for members to make up their mind with no undue pressure applied.*

   Members should be given at least three months to make their decision and the deadline should also be at least two weeks after the final advice or guidance is given. Offers should not be communicated on a "*first come, first served*" basis but it is accepted that employers may have a fixed budget to spend on an incentive exercise. There should also be a two week cooling-off period after the member has returned his or her option form.

6. *Incentive Exercises should only be offered to members who are over age 80 on an "opt-in" basis. Member Advisers should adhere to a Vulnerable Client policy when providing Advice.*

   The over-80s should only receive a short letter asking them to make contact if they want to opt in to the exercise.

7. *All parties involved in an Incentive Exercise should ensure that they are aware of their roles and responsibilities and act in good faith in the areas over which they have direct control.*

   Employers making incentive offers should engage with trustees at an early stage. Trustees may choose not to participate in the exercise. The code does not address trustee responsibilities directly but it does expect trustees to seek legal advice on data protection, conflicts of interest, their trust deed and rules, and the extent to which they should satisfy themselves that what is happening is appropriate for members.

   Any concerns should be reported to the Pensions Regulator, which is considering whether reporting of incentive exercises should be included in the scheme return.

The Pensions Minister has reportedly said that the Government has already drafted legislation in this regard, which he will implement if the code is ignored. He did not say what the draft legislation would require.

RPI and CPI

Consultation:
http://www.ons.gov.uk/ons/about-ons/consultations/open-consultations/owner-occupiers-housing-costs/index.html

The Office for National Statistics (ONS) is consulting on a new, additional measure of price inflation and on changes to how RPI is calculated, with a view to removing any "*unjustifiable and unnecessary gap*" between RPI and CPI. The proposals would not result in any change to the legal requirements for the revaluation of deferred pensions and the indexation of pensions in payment but RPI and CPI figures may become more closely aligned.

- A new index, "*CPIH*", is proposed that would be the same as CPI save that it would include owner-occupiers' housing costs (as RPI already does). The ONS thinks that this should replace CPI because, it says, it more accurately reflects consumption expenditure. It will in due course focus on CPIH as the main measure of consumer price inflation and clearly thinks that others should too. It accepts, however, that this will not happen in the short term. Both CPI and RPI figures will continue to be published.
- There are instances of CPI and RPI measuring the same aspect of price inflation, for example clothes prices, at very different rates. This is one area where a change to RPI might be made to make it consistent with CPI and so bring the two figures closer to one another.

The consultation closes on 31 August 2012. It is proposed that the CPIH index is first published in March 2013 and monthly thereafter. The timescale for changing RPI is not specified but is expected to be longer.

Automatic enrolment

Salary sacrifice

As expected (see **WHiP Issue 33**), HMRC has updated its salary sacrifice Q&As web page to address an issue arising from automatic enrolment opt-outs. The changes make it clear that HMRC no longer considers that salary sacrifice for employer pension contributions can only be made, unwound or adjusted once a year or if the member has a "*lifestyle change*".

The issue that had been raised with HMRC was that allowing a member who opts out of the scheme to revert to his or her original salary would seem, according to earlier HMRC guidance, to render the sacrifice ineffective (even for members who do not opt out). This is because the member is still entitled to be paid the full salary if he or she asks for it. The member might therefore be liable to pay income tax on his or her pre-sacrifice salary. (Note: unlike income tax, NICs are due only on earnings actually paid, not contractual entitlements, so the same issue does not arise for NICs.)

HMRC's position on pensions salary sacrifice now seems to be as follows:

- It is possible to opt in and out of salary sacrifice from time to time. If the sacrifice is made by a legally enforceable variation of the terms of employment, even with a right to revert to the original salary going forward, then there is no contractual entitlement to receive the sacrificed salary and it is not chargeable to income tax.
- The value of the benefit provided in return for the salary sacrifice is not subject to income tax as "*money's worth*" if that benefit is expressly exempted from tax in the statute (ITEPA 2003) (rather than under the benefits code). Employer contributions to a registered pension scheme are so exempted.

Revised HMRC Q&As:
http://www.hmrc.gov.uk/specialist/sal-sac-question-and-answers.htm

HMRC guidance:
www.hmrc.gov.uk/specialist/salary_sacrifice.pdf

Pensions Regulator guidance and web tool

The Pensions Regulator has issued a short guide "*Selecting a good automatic enrolment scheme*" and its website now contains a basic tool for checking that a scheme is a qualifying scheme. These accompany the Regulator's materials on enabling good member outcomes under DC schemes generally (see below).

Regulator guide:
http://www.thepensionsregulator.gov.uk/employers/explaining-qualifying-schemes.aspx

Compliance and enforcement

The Pensions Regulator has published three documents relating to its approach to monitoring compliance with the automatic enrolment requirement and enforcing employer duties:

- *"Compliance and enforcement strategy"*
- *"Employer duties – our regulatory approach"*
- *"Compliance and enforcement policy"*

The Regulator intends to publish regular reports of its enforcement work.

Press release:
http://www.thepensionsregulator.gov.uk/press/pn12-18.aspx

Cross-border workers

The Government has issued a consultation response and amending regulations on the exemption of workers who work in both the UK and another EEA state from the automatic enrolment requirement. The exemption applies if the worker works in the other EEA state to such a degree that he or she is subject to that state's laws relevant to occupational pensions. (If employers were required to enrol such persons, the scheme would need to become a cross-border scheme and satisfy onerous legal requirements, especially (as regards DB schemes) relating to scheme funding.)

Consultation response:
http://www.dwp.gov.uk/consultations/2012/auto-enrol-european-employers.shtml

Regulations:
http://www.legislation.gov.uk/uksi/2012/1477/contents/made

Pensionable pay cap: High Court decision

In the High Court case *Bradbury v BBC*, the BBC has successfully defended the imposition of a pensionable pay cap in its DB pension scheme, primarily because members who accepted pay increases had done so on the basis that only part of the increase was pensionable.

Case report:
http://www.bailii.org/ew/cases/EWHC/Ch/2012/1369.html

In 2011, the BBC decided, after agreement with trade unions, to amend benefit accrual under its DB pension scheme by imposing a 1% cap on increases in pensionable pay in each year and giving members the option to avoid the cap by joining a new career average section or a separate DC scheme. No rule amendment was made to implement the cap. Rather, pay rises were offered on the basis that, if accepted, only a 1% increase would be pensionable.

The definition of "*Pensionable Salary*" in the scheme rules had originally referred to "*basic salary*", which was not defined, but was amended in 2006 to refer to "*Basic Salary*". This was defined as "*the amount determined by the BBC as being an Employee's basic salary or wages payable under the terms of his or her Continuing or Fixed Term Contract ...*".

Mr Bradbury did not accept the pay increase on the terms offered and challenged the BBC's actions. The BBC argued that, for those who accepted, there was an extrinsic agreement that overrode the scheme rules and that in any event the drafting of the definition allowed it to apply the cap when determining Pensionable Salary. It argued that the trustee would therefore have to administer the scheme on that basis. Mr Bradbury argued against this and also argued that the BBC could not make changes adversely affecting his accrued benefits without consultation with the trustee and a rule amendment. He pointed out that the amendment power prohibited amendments that substantially prejudiced the interests of active members (as to which the scheme actuary's certificate was required). The scheme actuary had certified the 2006 definition amendment.

The Pensions Ombudsman determined in October 2011 (in a determination not published until now) that Mr Bradbury's complaint be dismissed. Mr Bradbury appealed to the High Court.

Earlier Pensions Ombudsman determination:
http://www.pensions-ombudsman.org.uk/determinations/docs/2012/may/82214.doc

The High Court's decisions on the key legal issues were as follows.

- Mr Bradbury could not sever the terms of the BBC's offer. He could not accept the pay increase without accepting the terms regarding its treatment for pensions purposes. In any event, he had refused the offer.
- An agreement by a member to accept a pay rise on terms that only part of it would be pensionable is binding on him or her notwithstanding the provisions of the scheme rules. In other words, the member would not be entitled to claim against the trustees for the full entitlement due under the rules. This follows the decision in the 1997 case, *South West Trains v Wightman*.
- The BBC was not entitled, under the terms of the definition, to determine that some of what would normally be considered "*basic salary*" was not within the definition of "*Basic Salary*". Its role was to resolve whether borderline or doubtful elements of pay were pensionable.
- If Mr Bradbury had accepted the BBC's offer, he would not have been surrendering any benefit for the purposes of section 91 of the Pensions Act 1995 (which says that a purported surrender is ineffective). Members had no right to a salary increase. Accepting one on terms that only part is pensionable does not involve surrendering any benefit.

The judge (Warren J) was not asked to decide whether the 2006 definition amendment was contrary to section 67 of the Pensions Act 1995 (regarding the amendment of subsisting rights).

TUPE and early retirement pensions

Case report:
http://www.bailii.org/ew/cases/EWHC/Ch/2012/1257.html

A High Court case, *Procter & Gamble v Svenska and SCA*, has considered some of the issues outstanding following the *Beckmann* and *Martin* cases regarding the liabilities for early retirement pensions that transfer under TUPE when a business is sold or transferred.

Following the ECJ decisions in the *Beckmann* and *Martin* cases, it is clear that rights under occupational pension schemes:

- to normal retirement, ill health and survivors' pensions do not become liabilities of the new employer; and
- to early retirement benefits triggered by redundancy, compulsory retirement or agreement with the employer do become liabilities of the new employer, even if there is no transfer of funds between the employers' pension schemes.

The analysis hinges on whether the benefits are "*benefits for old age, invalidity [or] survivors*", these being the rights excluded from transferring under TUPE (and under the relevant EU directive).

It has been unclear:

- whether liability for rights to voluntary early retirement pensions (other than by agreement with the employer, typically with actuarial reduction) transfers to the new employer; and
- for rights that do transfer, whether the new employer is liable for the member's pension in respect of his/her pre-transfer service even after normal retirement age, when the member's deferred pension under the old employer's scheme starts (ie, whether the

new employer can deduct the old employer's deferred pension from its liability).

In this case, Procter and Gamble ("P&G") sold part of its business to SCA in 2007. 129 active members of the P&G DB pension scheme transferred with the business under TUPE. They became deferred members of the P&G scheme.

Both active and deferred members could retire before the normal retirement age of 65. For active members, this was only with the consent of their employer. For both actives and deferreds, the early retirement reduction factor was more favourable for members with 15 or more years' service. Retiring active members were paid a bridging pension until state pension age.

The transferring DB members therefore lost the following potential enhancements to their accrued P&G scheme benefits:

- the bridging pension (if their employer were to consent to their early retirement); and
- (for those who had not already achieved it) the possibility of accruing 15 years' service and thereby qualifying for a more favourable early retirement factor.

The business sale agreement included a price adjustment covering the value of any past service pension liabilities that transferred to SCA under TUPE. SCA had turned down P&G's offer of an indemnity in this regard.

The case concerned the valuation of the pension rights and liabilities (if any) that transferred under TUPE. P&G argued that the value of the early retirement enhancements was nil because there was no right to early retirement from active status. SCA valued the transferred liabilities at £19 million on the basis that it would be responsible for paying the whole of members' early retirement pensions before and after normal retirement age, without any reduction for the retained deferred pension.

The High Court ruled as follows.

- It does not matter if rights to pension scheme benefits are contractual or not. Non-contractual pension rights are rights "*under or in connection with*" an employment contract for the purposes of TUPE. (This was already widely considered to be the case.)
- "*Rights*" to discretionary benefits (here, early retirement pensions subject to employer consent) are rights that transfer under TUPE (unless within the occupational pensions exemption for old-age, incapacity and survivors' benefits). They are rights to be considered for such benefits. Discretionary decisions in this regard must be made in good faith. In this case, the value of these rights was not nil and could be valued by reference to the actuarial assumptions in the business sale agreement.
- Where an early retirement pension is paid, the pension paid from normal retirement age is "*old-age benefit*" (and, pursuant to the *Beckmann* decision, the earlier pension is not). It cannot have been intended that members would get a double benefit – ie, a full early retirement pension for life from the new employer and a deferred pension from the old employer's scheme. The judge decided that this was so clear that the question did not need to be referred to the European Court.
- The judge avoided such an outcome by ruling that the old employer's contractual liability to fund a deferred pension was satisfied by the vesting of an interest in its scheme. That liability therefore did not transfer. The only liability in respect of past service benefits that transferred was for enhancements to the deferred pension (ie, to make it equal in value to the early retirement pension). In this case that meant that SCA took on liability for the funding of the bridging pension and, if the 15 year service condition is satisfied, the application of more favourable reduction factors.

The judgment addressed only those questions that were relevant to the particular dispute. It therefore did not consider, for example, whether liability for purely voluntary early retirement rights (ie, without any agreement/consent being needed) transfers under TUPE.

HMRC

Short service refunds and former protected rights

HMRC has published draft regulations to address the issue we noted in **WHiP Issue 33** (summarised below) concerning short service refunds paid to members of formerly contracted-out DC schemes, following the abolition of protected rights on 6 April 2012.

HMRC announcement:
http://www.hmrc.gov.uk/pensionschemes/ss-refunds-ps.htm

Under the Finance Act 2004, in order to be an authorised member payment, a short service refund lump sum has to extinguish the member's whole entitlement to benefits under the scheme, except where legislation prevents it. Before 6 April 2012, protected rights legislation prevented the extinction of all the member's benefits because protected rights pensions still had to be provided. Since this legislation was repealed on 6 April, short service refunds must now include protected rights contributions (insofar as they are member contributions) or the payment will be unauthorised. Scheme rules drafted to reflect protected rights rules may require the protected rights contributions to be retained in the scheme to provide benefits (and not refunded) even after 5 April 2012 (this will depend upon the drafting).

The proposed regulations will allow affected schemes to pay partial short service refunds when required by their rules, leaving the former protected rights still in the scheme, without making an unauthorised payment. This may be useful until the scheme rules are amended to remove the provision preventing the refund of former protected rights. In practice, and where possible, trustees may wish to delay refunds until their scheme rules have been amended so that they can make a single refund payment.

Comments are requested by 27 June 2012. The regulations will not be retrospective.

Asset-backed employer pension contributions

Amendments to the Finance Bill have been tabled. These are designed to reflect the government's most recent announcements on asset-backed employer pension contributions (see **WHiP Issues 31** and **32**).

HMRC has also issued draft guidance in this area.

Finance Bill web page:
http://services.parliament.uk/bills/2012-13/financeno4/documents.html

HMRC draft guidance:
http://www.hmrc.gov.uk/pensionschemes/abc-guidance.pdf

RPSM consolidation

HMRC's Newsletter 54 indicates that the consolidation of the Registered Pension Schemes Manual (see **WHiP Issue 23**) is targeted for around September 2013. From September 2012, there should be new online HMRC guidance on frequently arising topics.

HMRC Newsletter 54:
http://www.hmrc.gov.uk/pensionschemes/newsletter54.pdf

NICs on pre-A day FURBS contributions

The Court of Appeal has ruled in favour of HMRC in the long-running case of *Forde and McHugh Limited v HMRC*, concerning the NICs treatment of non-contractual employer contributions to a funded unapproved scheme under the pre-6 April 2006 tax regime. It found that they were "*earnings*" and therefore liable to NICs (even though they were not "*emoluments*" for income tax purposes).

Case report:
http://www.bailii.org/ew/cases/EWCA/Civ/2012/692.html

Pensions Regulator

DC schemes

The Pensions Regulator has published documents on "*Enabling a good member outcome in DC pensions*". These are based on the six key principles previously identified (see **WHiP Issue 31**) for DC schemes to follow:

"Principle 1 - schemes are designed to be durable, fair and deliver good outcomes for members

Principle 2 - a comprehensive scheme governance framework is established at set-up, with clear accountabilities and responsibilities agreed and made transparent

Principle 3 - those who are accountable for scheme decisions and activity understand their duties and are fit and proper to carry them out

Principle 4 - schemes benefit from effective governance and monitoring through their full lifecycle

Principle 5 - schemes are well administered with timely, accurate and comprehensive processes and records

Principle 6 - communication to members is designed and delivered to members to encourage member engagement so that they are able to make informed decisions about their retirement savings."

Regulator documents:
http://www.thepensionsregulator.gov.uk/employers/what-makes-a-good-scheme.aspx

Lehman Brothers - Upper Tribunal decision

The trustees of the Lehman Brothers Pension Scheme have succeeded in defending a strike-out application brought against them in the Upper Tribunal. The trustees are challenging the September 2010 determination of the Determinations Panel (see **WHiP Issue 22**) to issue a financial support direction ("FSD") to six Lehman Brothers group companies but not to 38 others that had been given a warning notice by the Pensions Regulator. The trustees are challenging the Panel's decision not to include those 38 companies in the FSD.

37 of the 38 companies sought to strike out the trustees' application, arguing that:

- the trustees were not "*directly affected*" persons entitled to refer a determination to the Tribunal;
- a decision not to issue an FSD to a party was not a determination that could be referred; and
- the two year time limit for the Determinations Panel's power to be exercised had passed and so it was too late for an FSD to be issued to them.

Tribunal judgment:
http://www.tribunals.gov.uk/financeandtax/Documents/decisions/trustees_lehman_bros_pensions_scheme_and_pr_v_lb_re_financing_no1_ltd_and_36_others.pdf

The Tribunal dismissed the strike-out application and ruled that the trustees' application should be heard. It held that the trustees, as the intended recipients of the financial support, were directly affected and that a negative decision was part of the Panel's determination. It also held that the two year time limit only applied to the Pension Regulator's administrative processes and that the potential extension of the FSD to more companies would not be a fresh exercise of the Determination Panel's power. (Note that this time limit was changed from 3 January 2012 by the Pensions Act 2011: the Regulator now has two years to issue a warning notice and the Panel's determination can be made outside that period.)

The Tribunal's decision may be appealed.

Report on the BMI pension scheme
The Pensions Regulator has issued a report on its involvement with the British Midland (BMI) pension scheme, which led to a regulated apportionment arrangement.

Press release:
http://www.thepensionsregulator.gov.uk/press/pn12-15.aspx

BMI was owned by Lufthansa until its sale to IAG (BA/Iberia) in April 2012. Prior to the sale, the Regulator became involved in discussions about the future of the BMI scheme. It declined to issue a clearance statement in connection with what it considered to be an inadequate funding proposal. But it nevertheless concluded that its contribution notice and financial support direction powers could not be used against Lufthansa because "*not all of the relevant legal tests were met*". This seems to be because BMI had received significant financial support from Lufthansa (rather than Lufthansa taking value from the company), enabling it to keep contributing to the scheme and without which BMI would have become insolvent.

The Regulator ultimately provided clearance and agreed to a regulated apportionment arrangement under which the scheme received £16 million. The Regulator considered that £16 million was more than the scheme would receive on BMI's insolvency, which was avoided. The scheme now enters a PPF assessment period. The Regulator also noted that Lufthansa had voluntarily agreed to make £84 million available to provide benefits for members, topping up their PPF compensation.

Analysis of funding and recovery plans
The Regulator has published its latest statistics on scheme funding and recovery plans.

Regulator announcement:
http://www.thepensionsregulator.gov.uk/doc-library/scheme-funding-recovery-plans-of-uk-defined-benefit-and-hybrid-schemes.aspx

Corporate Plan 2012-15
The Pensions Regulator has published its corporate plan for the next three years. It will concentrate on:

Press release:
http://www.thepensionsregulator.gov.uk/press/pn12-13.aspx

- *"ensuring that employers are ready for automatic enrolment, tailoring our approach for businesses of different sizes;*
- *continuing the progress made on the regulator's six principles for good design and governance of workplace DC pension provision and working with the industry to agree the criteria and standards that underpin them;*
- *helping DB schemes navigate through the challenging economic environment and setting out our strategy for the regulation of DB schemes in the next funding cycle;*
- *continuing our focus on good administration, ensuring the existence of adequate internal controls and measuring the uptake of our record-keeping guidance, and taking on governance and administration cases;*
- *continuing to respond effectively to market developments, ensuring we direct our resources in the areas of greatest risk to members, educating and enabling the industry to respond to changes and improve, and reducing the risk of calls on the Pension Protection Fund;*
- *using our resources as efficiently and effectively as possible through closer working with other organisations and regulators; and*
- *working with the pensions industry, our UK government partners, and EIOPA to ensure the UK position is recognised in Europe and the right outcome is achieved for UK pension schemes from the EC's review of European pensions law."*

Scheme governance survey
The Pensions Regulator has published the results of its 2012 scheme governance survey, covering DB and DC schemes. Its headline findings are:

Governance survey:
http://www.thepensionsregulator.gov.uk/docs/governance-survey-report-2012.pdf

- *"Larger schemes tend to be associated with higher levels of governance activity.*
- *Previous waves of the Scheme Governance Survey have identified that the frequency with which the trustee board meets is a strong indicator of good scheme governance and administration.*
- *The Trustee Toolkit is established as a key source of knowledge for both existing and new trustees.*

- *The proportion of schemes that provide trustees with an induction programme of learning activities on appointment has declined.*
- *The number of trustees undertaking formal structured training remains low.*
- *Trustees are both aware of and engaged with the regulator's record keeping guidance.*
- *Most schemes report that default funds have been established principally on the basis of risk profile and appetite of the scheme members.*
- *Member communication is identified by schemes as an area where trustee boards can make improvements.*
- *Trustee boards' knowledge of DC scheme charges remains low. Additionally, a significant proportion of schemes are not confident that the charges incurred by their members offer value for money."*

Record-keeping survey
The Pensions Regulator has published a report on its latest record-keeping survey, showing some improvements but much more yet to be achieved. In 2010, the Regulator set standards on data for schemes to have attained by December 2012 (see **WHiP Issue 19**).

Press release:
http://www.thepensionsregulator.gov.uk/press/pn12-14.aspx

IORP directive review

Press release:
http://www.dwp.gov.uk/newsroom/press-releases/2012/jun-2012/dwp066-12.shtml

The EU Commissioner for the internal market has reportedly said that the Commission will not publish any proposals for a revised IORP directive (see **WHiP Issue 27**) before summer 2013. It had previously been expected by the end of 2012.

The Pensions Minister has made it clear that the UK opposes any move to require occupational pension schemes to calculate technical provisions in the same way as insurance companies will be required to do under "*Solvency II*".

Consultation:
https://eiopa.europa.eu/consultations/consultation-papers/index.html

Separately, EIOPA is consulting on the technical specifications for the quantitative impact study (see **WHiP Issue 32**) it will be undertaking in connection with the review of the IORP directive. The Government is encouraging those involved with DB pension schemes in the UK to respond to the consultation. The consultation closes on 31 July 2012.

SMPI projection assumptions

Press release:
http://www.frc.org.uk/News-and-Events/FRC-Press/Press/2012/May/FRC-consults-on-actuarial-assumptions-used-in-pens.aspx

The FRC and FSA have published a joint consultation on proposals to change the assumptions used in projections of returns from financial products, including DC pensions. The key point is that the maximum projected rate of return that could be used in a statutory money purchase illustration may be reduced from 7% pa to 5% pa or the maximum may be removed altogether.

New Pensions Bill

Queen's speech:
http://www.cabinetoffice.gov.uk/queens-speech-2012

In the Queen's speech on 9 May, the next Pensions Bill was announced. It will provide (as previously announced) for:

- state pension age to increase faster from 66 to 67, between 2026 and 2028 and ultimately in line with longevity improvements; and
- a single-tier state pension, replacing the current basic state pension, state second pension and pension credit. (This is also expected to result in the end of contracting-out.)

Public sector pension reforms will be the subject of a separate Bill.

Pension Protection Fund

Strategic Plan 2012
The PPF has published its Strategic Plan for 2012 to 2015. It predicts that between 150 and 160 schemes will enter an assessment period each year.

Guidance leaflet:
http://www.pensionprotectionfund.org.uk/newlevyframework/Documents/Block%20Transfer%20Guidance%202012-13.pdf

Levy: certification of block transfers
The PPF has published a guidance leaflet on the certification of block transfers for pension protection levy reduction purposes.

Press release:
http://www.pensionprotectionfund.org.uk/news/pages/details.aspx?itemID=267

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If you wish to discuss any points arising from this note, please speak to your usual contact in the Travers Smith Pensions team or to one of the Pensions partners: Paul Stannard, Peter Esam, Philip Stear, Susie Daykin and Daniel Gerring.

Travers Smith LLP
10 Snow Hill
London EC1A 2AL
T +44 (0)20 7295 3000
F +44 (0)20 7295 3500

www.traverssmith.com