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WINTER / SPRING 2016-17

Current Pensions Issues

WPSC Recommendations

Ahead of publication of the Green Paper, the Work and Pensions Select Committee (WPSC) had recommended a series of changes to the regulation of DB pension schemes, some of which were reflected in the Green Paper itself.

The underlying theme of the WPSC's recommendations was that TPR, the Pension Protection Fund (PPF) and scheme trustees should be 'empowered' to make decisions "beneficial to the efficiency and sustainability of DB schemes and, ultimately, therefore, to scheme members and PPF levy payers". Recommendations set out in the Committee's report included:

- changing the statutory timescales for Scheme Funding valuations
- extending TPR's powers to impose contribution schedules and a 'nuclear deterrent' that would allow TPR to issue fines three times the size of funding deficits where an employer attempts to avoid pension scheme obligations
- streamlining the process for Regulated Apportionment Arrangements
- giving TPR the power to wind up schemes where it appears that transfer to the PPF is inevitable
- making it a mandatory requirement to obtain 'clearance' from TPR for major corporate transactions involving significant pension arrangements
- allowing trustees to restructure benefits in struggling schemes where this would be more beneficial to members than entering the PPF
- establishing a statutory fund - operated by the PPF - enabling the consolidation of smaller DB schemes
- incentivising good governance via reductions in PPF levies
- making it easier for DB scheme members to exchange pensions for lump sums

DWP Green paper: Security and sustainability in DB schemes

The Department for Work and Pensions (DWP) has published a Green Paper on security and sustainability in defined benefit (DB) pension schemes, beginning a discussion on how legislation and regulation could be updated to reflect employers' and members' needs, and to help better manage the risks involved in DB pension provision.

The Green Paper is not intended as a policy statement and many of the issues raised are open-ended in nature. Nevertheless, in many ways the Government's intended direction of travel is at least hinted at.

Responses to the Green Paper must be submitted by 14 May 2017. If you have any comments you would like us to include in our response please speak to your usual Barnett Waddingham consultant or email tyron.potts@barnett-waddingham.co.uk.

The Green Paper follows recent recommendations by the Work and Pensions Committee among others and considers the pros and cons of changes to legislation in four main areas:

1. FUNDING AND INVESTMENT

- The Government will conduct research into the quality of trustees' investment decision-making
- There is no firm evidence of 'over-conservatism' in funding approaches
- The Pensions Regulator (TPR) could be given more influence over:
  - schemes' approaches to risk-taking
  - valuation methodologies
  - levels of prudence in scheme funding
- Improved Summary Funding Statements may help member understanding
- The Government will consider risk-based reporting, but is not minded to vary valuation timescales according to risk-levels
- The Government could mandate the use of professional trustees in a wider range of circumstances than currently

2. MEMBER PROTECTION

- Mandatory clearance for all corporate activity might be considered 'disproportionate'
- Introducing fines for sponsors who try to avoid their obligations could have an impact on sustainable growth
- New powers for TPR will be considered – but these should be "proportionate and not detrimental to the economy"
- Further calls on TPR's resources may be met by charging for services such as clearance (rather than increasing its current 'General Levy')
- The Government will consider creating a legal duty for parties to co-operate with TPR
- Employer-trustee relations could be improved if a joint statement of objectives was required. The Government may then specify a range of acceptable objectives

3. SCHEME CONSOLIDATION

- The Government is minded to encourage voluntary consolidation – possibly by requiring schemes to report on administration and investment costs and explain actions taken to reduce those costs. However, the Government will not be making consolidation compulsory
- Significant barriers to scheme consolidation are noted – in particular section 75 debt regulations. The Government will consult on a new option for non-associated multi-employer schemes following its call for evidence in 2015
- The Government is unlikely to create a taxpayer-backed 'superfund' (as proposed by the Work and Pensions Select Committee). Instead, the industry should be able to offer consolidation vehicles (for example DB master trusts)
- Government is considering allowing schemes to partially wind-up so that small benefits entitlements can be discharged as lump sums

4. EMPLOYER CONTRIBUTIONS AND AFFORDABILITY

- The Government feels many employers could clear funding deficits if present contributions continue
- The speed at which deficits are cleared could be improved by introducing interim funding targets and / or by limiting the ability of trustees to agree extensions to recovery plans
- Employers may be required to consult trustees before paying dividends to shareholders
- Measures suggested for severely underfunded schemes with 'stressed' employers include:
  - making it easier for struggling employers to use Regulated Apportionment Arrangements to separate themselves from pension schemes;
  - giving TPR the power to separate a scheme from its sponsor;
  - allowing schemes to cut or renegotiate certain benefits.
- However, there is not enough evidence to warrant reducing or abandoning indexation 'across the board'

DWP: Equalising GMPs

The DWP has been consulting on a proposed method for equalising Guaranteed Minimum Pensions (GMPs) as well as associated changes to GMP conversion legislation.

The DWP has stressed that they are not forcing schemes to use this equalisation method and that their proposal should not be taken as legal advice to schemes on how to equalise. However, the DWP believes the proposal meets the legislative requirement to equalise and so would be reasonable for schemes to use. Other approaches may be possible and it is for the trustees to decide what action is needed, if any.

The proposed method is a one-off calculation comparing the actuarial value of the member's future benefit payments with the value of these benefits had they been of the opposite sex. The benefits with the highest value is then used and members' GMPs are 'converted' to main scheme benefits.

An additional paper has been published by the Work and Pensions GMP conversion working group which sets out more details about the proposed method of equalising GMPs and notes practical difficulties with carrying out the calculations in respect of pensioners.

The working group has suggested a ten-step process:

1. Trustees and employer reach agreement that conversion will take place and on what terms
2. Trustees and employer identify which members will have benefits equalised (this can be a subgroup of the membership with GMPs and can include other benefits accrued from 1978 to 1997)
3. Trustees and employer agree effective conversion date
4. Members are notified that conversion will take place
5. Actuary values member's benefits as current sex and as if they had been of the other sex
6. The higher amount is the selected member's conversion amount
7. The value is converted into a revised non-GMP pension benefit using a consistent (but unisex) approach
8. Members are notified of their converted benefits and HM Revenue and Customs (HMRC) is notified if required
9. Actuary certifies equivalence
10. Scheme documentation amended (if not already done) to permit payment on agreed basis

The Government's response to this consultation (which also confirmed the new GMP pre-retirement revaluation rate of 3.5%pa for those leaving service after 5 April 2017) has now been published. There are a number of areas that the DWP has said it will have to look at in more detail before further guidance on GMP equalisation is issued.

Budget 2017

Chancellor of the Exchequer Philip Hammond delivered the first of two Budget speeches expected this year, following his announcement last autumn. From now on, his plan is for an Autumn Budget (allowing policy announcements to be made well in advance of the start of the next fiscal year) and a Spring Statement (which, it is intended, will only cover the Treasury's response to the Office for Budget Responsibility (OBR)).

There were very few pensions-related points to note in the Budget, however:

- Following a consultation earlier this year, the planned reduction in the Money Purchase Annual Allowance from £10,000 to £4,000 will go ahead in April 2017
- Transfers to Qualifying Recognised Overseas Pension Schemes (QROPS) will be subject to a 25% tax charge unless, for example, the transfer is paid within the EU, or the individual is resident in the country to which the transfer is made

HMRC: LTA Protections

HMRC has developed a Lifetime Allowance Online Service which allows individuals to amend details of their Lifetime Allowance (LTA) protections. Amendments will be possible where a mistake was made previously or where a pension sharing order (following a divorce) affects the amount protected.

Applications for three types of protection remain open, with one imminent deadline:

- Taxpayers applying for 'Individual Protection 2014' – relating to the reduction in LTA from £1.5 million to £1.25 million in April 2014 - must submit their completed applications by 5 April 2017
- There is currently no deadline for individuals to register their intention to rely on 'Fixed Protection 2016' or 'Individual Protection 2016' - relating to the reduction in LTA from £1.25 million to £1.0 million in April 2016

Further reading:

Open for business: HMRC's online registration for Fixed and Individual Protection

Latest from TPR

IRM for small schemes

TPR has published a new quick guide to integrated risk management (IRM) and an IRM checklist aimed at trustees of smaller DB schemes, who may have limited resources. The guide and checklist include the following five steps for the IRM process:

- **Step 1:** Initial considerations to put an IRM framework in place
- **Step 2:** Risk identification and initial risk assessment
- **Step 3:** Risk management and contingency planning
- **Step 4:** Documenting the IRM framework and the decisions reached
- **Step 5:** Risk monitoring

Scheme Funding: Tranche 9 analysis

TPR has published its annual review of Scheme Funding valuations with an effective date between 22 September 2013 and 21 September 2014 (known as 'Tranche 9' schemes), together with its supporting analysis.

TPR notes that deficits have increased for Tranche 9 schemes since their last valuations, although 'sponsor affordability' has improved for around half of those schemes.

TPR says that a majority of schemes in Tranche 9 have "made use of the flexibilities" in the funding regime to prioritise employers' plans to invest in their business over increasing Deficit Reduction Contributions.

Coats Group: £255 million settlement

Following Warning Notices issued in 2013 and 2014, TPR has reached an agreement with Coats Group plc, securing a total of £255 million additional funding for two pension schemes.

In addition, support for the schemes has effectively been strengthened through a change in the statutory employer and full guarantee of the schemes' liabilities.

Meanwhile, in a recent blog post, TPR has discussed use of its enforcement powers and actions it takes to thwart employers who try to "avoid paying for their pension scheme".

2016 Purple Book

TPR and the PPF have published the eleventh edition of their annual Purple Book, in which they present statistics collected in the course of their interaction with DB pension schemes. The report summarises the risks faced by DB pension schemes, and highlights developments over the year to 31 March 2016 (i.e. before the EU referendum), as well as analysing trends between 2006 and 2016.

Key findings:

- Although gilt yields fell over the year, the aggregate 'section 179' deficit reduced from £244 billion at 31 March 2015 to £222 billion at 31 March 2016
- The average allocation to bonds rose from around 48% at 31 March 2015 to over 51% at 31 March 2016 with a corresponding fall in schemes' equity allocation
- Within these asset classes the proportion of schemes' investments in gilts and overseas equities rose, whilst allocations to corporate bonds and UK equities fell
- Around 17% of schemes paid no risk-based levy for the 2015/16 levy year (relatively stable since the introduction of the new levy framework in 2012/13)
- 3.6% of schemes had their risk-based PPF levy capped (at 0.75% of the scheme's PPF liabilities)
- The number of contingent assets certified to the PPF for the 2016/17 levy year was 591 compared with 632 in the previous year. This is mainly due to a fall in the certification of Type A (company guarantees) following more stringent certification requirements
- In the first half of 2016, employers made £10.5 billion in special contributions – compared with £11.3 billion in the whole of 2015

Record keeping

TPR will ask trustees to report on record-keeping in their scheme return to help improve standards. This follows a recent survey that shows standards having stagnated in recent years. TPR believe the inclusion of this information in the scheme return will enable them to target schemes where records are poor.

TPR has also launched a quick guide to record-keeping and will be providing further materials to help trustees later this year.

Standards for Trusteeship

TPR has warned of its determination to drive up standards of governance and trusteeship with an educational and enforcement drive taking place during 2017 with clear expectations of 'what good looks like'.

TPR already published its 'quick guide to personal development' in September 2016 for helping demonstrate trustee knowledge and understanding. TPR strongly recommends that trustees identify any gaps in their learning on an annual basis.

Governance standards

Following consultation, TPR plans to set out higher standards for professional trustees and targeted education for lay-trustees in spring 2017. TPR will also encourage employers to make time and funds available to support trustees.

The areas TPR intends to particularly focus on are investment governance, conflicts of interest, administration and record keeping. TPR has said it will look to target schemes that are failing to meet its expectations and will consider taking enforcement action where necessary.

Silentnight: Court ruling

TPR has defeated a legal challenge from private equity investors in an ongoing anti-avoidance case related to the Silentnight pension scheme.

The claimants had suggested TPR was acting 'beyond' its powers to issue of a Warning Notice in its attempt to secure recoveries for of the Silentnight Group DB scheme.

However, the Administrative Court judge held that Warning Notices should ordinarily be challenged through TPR's Determination Panel and the Upper Tribunal, rather than seeking judicial review in this way.

PPF News

2017/18 PPF Levies

The PPF has issued its final levy determination for the 2017/18 year. The provisional determination is largely unchanged from the draft issued in September 2016.

The PPF has agreed a transitional arrangement whereby companies can self-certify if they feel their experian score has been unfairly affected by the change in accounting standard to FRS102 (although the PPF believe the change to FRS102 should have a limited impact on most levy payers).

The PPF has also launched a consultation on 'a levy rule for schemes without substantive sponsors' under which levies will be calculated with a derivatives pricing model.

This follows discussions around the British Steel Pension Scheme (see Current Pensions Issues: Summer 2016) leading to the PPF highlighting that the usual methodology for calculating levies was not appropriate where a scheme's sponsoring employer is a shell company or a Special Purpose Vehicle (SPV).

The PPF will consult on the methodology for the 2018-2021 levy triennium later this Spring.

Key Dates for the 2017/18 PPF levy:

- Employer Experian Scores will be based on month-end data between 30 April 2016 and 31 March 2017
- Scheme returns submitted on Exchange by midnight on 31 March 2017 will be reflected in the 2017/18 levy. Note that, in some cases, TPR has notified schemes of a deadline to submit Scheme Returns after 31 March
- Contingent Asset Certificates and Accounting Change certificates should be submitted (with supporting evidence as appropriate) by midnight on 31 March 2017
- Deficit-Reduction Contributions Certificates should be submitted on Exchange by 5pm on 28 April 2017
- Full 'block transfers' certificates should be submitted on Exchange by 5pm on 30 June 2017

Invoicing for the 2017/18 levy will start in the autumn.

Long-service cap

Legislation to adjust the PPF compensation cap for members with long service has been finalised and will come into force on 5 April 2017.

Schemes currently in PPF assessment will not be required to adjust members' benefits to reflect the long-service cap, nor to carry out further valuations if these have already been completed.

Following the change, the cap will be increased for members with more than 20 years' pensionable service, by 3% for each full year of service above 20 (up to twice the standard cap).

Whilst individuals who are currently receiving PPF compensation will have their benefits recalculated (where they meet the long-service requirements). However, uplifts will not be backdated.

Further reading:

2017/2018 levy determination

Further reading:

Take action! Time is running out for the 2017/18 PPF levy

News in brief

Reminder: End of contracting-out resolution

Trustees and employers of formerly contracted-out DB schemes in which members are still accruing benefits, should ensure that they have taken action by 5 April 2017 to avoid fixed rate GMP revaluation applying earlier than intended.

Many schemes' rules apply fixed-rate revaluation from the date a member's contracting-out service ends. Contracted-out service automatically ceased on 5 April 2016. Rules can be amended by resolution (made before 5 April 2017) so that the fixed-rate of revaluation applies instead from the date the member leaves pensionable service.

Judicial pension scheme: Age discrimination

When new arrangements were introduced in 2012, many members of the final salary Judicial Pension Scheme were transferred without consent into a replacement 'career-average revalued earnings' scheme whilst some older judges were able to remain until their retirement or the end of a protection period. An employment tribunal has ruled that this arrangement amounted to age-discrimination and should be amended. The Government may appeal to the employment appeal tribunal.

Bulk transfers of DC pensions

The Government has called for evidence on how the provisions currently in place for the bulk transfer of defined contribution (DC) pensions without member consent could be improved. The Government is particularly focussing on reducing 'unnecessary burdens' whilst ensuring members are adequately protected and removing potential barriers for smaller DC schemes to to exit the market or consolidate.

Auto-enrolment review

The Government have launched a review of auto-enrolment with the aim of encouraging as many people as possible to start/continue saving in workplace pensions. The investigation will examine the success of auto-enrolment so far, whilst exploring ways in which it can be extended.

Meanwhile, TPR has announced that it will be carrying out spot-checks on employers across the UK to make sure they are complying with their workplace pension duties.

Lifetime ISA (LISA)

Following the announcement of the LISA and in advance of its intended launch in April 2017, the Financial Conduct Authority (FCA) has announced that it intends to regulate the LISA in the same way as other ISA products, with additional protections to allow for the flexible purpose of the LISA. These extra requirements include risk warnings to be given at the point of sale, a reminder of the early withdrawal charge and the offer of a 30 day cancellation period.

New single financial guidance body

The government is consulting on how pensions, publicly-funded debt advice and money guidance may be brought together into a proposed single body. This would replace the Pensions Advisory Service, Pension Wise and the Money Advice Service. The new body would deliver some services directly (via telephone, web or face to face) and commission specialist providers to deliver other services.

Overpayment of benefits – IDRPs

Following a Pensions Obudsman case, and subsequent High Court ruling in Webber v the Department for Education, trustees should ensure that they act promptly when information comes to light indicating an overpayment of benefits to ensure that protracted Internal Disputes Procedures, for example, do not impact on the six-year statute of limitation period.

FSCS limits

The FCA is consulting on changes to the Financial Services Compensation Scheme (FSCS) which could potentially increase the compensation limits for pension drawdown products. The consultation closes on 31 March 2017.

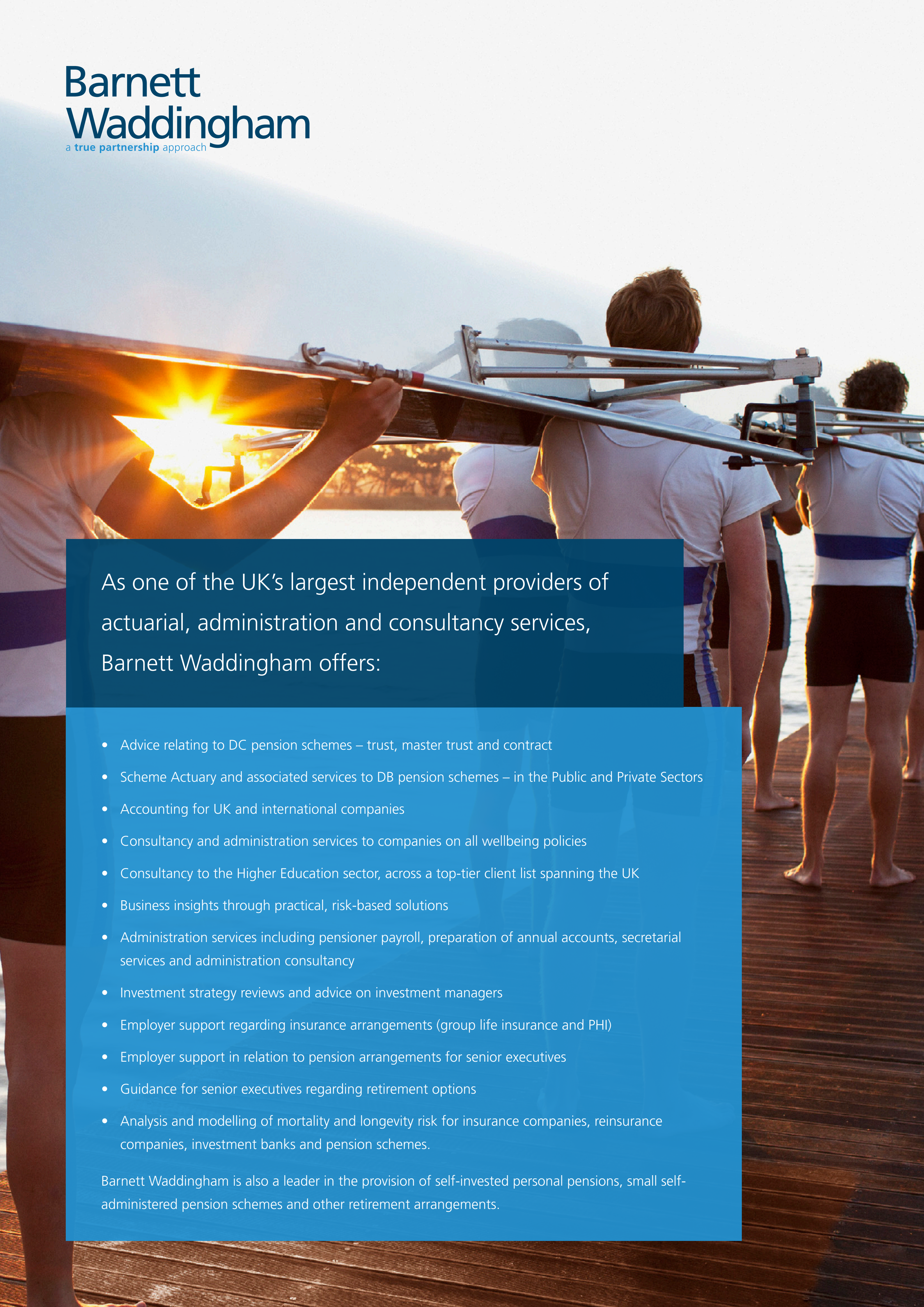
Pension Scams

The Government has been consulting on potential legislative changes to reduce pension scams.

It has proposed a ban on cold calling, a limit on the statutory right to pension transfer (allowing trustees or managers of schemes more scope to block transfers to arrangements that they believe may be a scam) and a requirement that only non-dormant companies may register a pension scheme (making it more difficult for fraudsters to open small pension schemes).

Early exit charges for occupational pension schemes

Pensions Minister, Richard Harrington, has announced details of plans to cap early exit charges for occupational trust-based DC pensions. The cap is to be set at 1% of the value of existing savings and nil for any new members, thus bringing exit charges in line with personal pension schemes. Compliance will be policed by TPR with the duty to comply falling with either trustees or service providers, depending on who applies the charge in practice. After consulting in early 2017, the cap is set to come into force during October 2017.



Barnett Waddingham
a **true partnership** approach

As one of the UK's largest independent providers of actuarial, administration and consultancy services, Barnett Waddingham offers:

- Advice relating to DC pension schemes – trust, master trust and contract
- Scheme Actuary and associated services to DB pension schemes – in the Public and Private Sectors
- Accounting for UK and international companies
- Consultancy and administration services to companies on all wellbeing policies
- Consultancy to the Higher Education sector, across a top-tier client list spanning the UK
- Business insights through practical, risk-based solutions
- Administration services including pensioner payroll, preparation of annual accounts, secretarial services and administration consultancy
- Investment strategy reviews and advice on investment managers
- Employer support regarding insurance arrangements (group life insurance and PHI)
- Employer support in relation to pension arrangements for senior executives
- Guidance for senior executives regarding retirement options
- Analysis and modelling of mortality and longevity risk for insurance companies, reinsurance companies, investment banks and pension schemes.

Barnett Waddingham is also a leader in the provision of self-invested personal pensions, small self-administered pension schemes and other retirement arrangements.

Forthcoming events

Annual Pensions Conference (Today's Trustee: Under the Microscope)

London: 28 March 2017

As the pensions industry continues to evolve, our full day conference will dissect the genetic makeup of today's trustee – helping them to future-proof their strategy and tackle complex issues effectively.

We are thrilled to welcome Andrew Neil to this year's conference as our special guest speaker.

Seminar: Taking the longevity view

London: 4 April 2017 | Cheltenham: 6 April 2017 | Leeds: 27 April 2017

How well do you understand the factors that affect longevity for individual schemes? And how informed do you feel about the latest developments in the fast-moving area of longevity research?

Our seminars focus on a practical approach to understanding and managing longevity risk for your scheme. We highlight new tools that allow longevity effects to be quantified so that pension schemes can adjust their technical provisions appropriately, as well as looking at longevity insurance and new options for mid-sized schemes.

Pensions Outlook Conference

Edinburgh: 9 May 2017

At our half day conference we will welcome expert speakers to discuss a number of hot topics in the ever-evolving pensions industry. We also look forward to hearing from our keynote speaker Fergus Muirhead, correspondent for BBC Scotland.

Webinar - Administration Transfers: A seamless move

Our webinar on 4 April 2017 considers how transferring administration services to a new provider can be a challenging process, but an efficient and seamless transfer can be achieved through approaching the project with transparency, cooperation and accountability.

Trustee Training 2017

Leeds: 8 June 2017 | London: 14 September 2017

Barnett Waddingham's interactive one day courses are designed to give new DB scheme trustees a thorough grounding in pensions matters and the confidence to complete TPR's trustee toolkit.

Further information

You may also find the following Barnett Waddingham briefing notes and blog posts interesting:

Blogs

- Pension flexibilities: opportunities for final salary pension schemes
- Green Paper raises interesting questions but avoids setting a radical agenda
- Credit where accreditation's due
- The pros and cons of four alternative DC investment approaches
- Interest rates to rise but no return to normal anytime soon
- Don't be paralysed by political risk

Briefings and research

- Master Trust Schemes
- Current Issues in Pensions Financial Reporting - 31 December 2016

DC Training

Leeds: 22 June 2017

London: 13 September 2017

Whether you are a newly appointed trustee, pensions manager or member of a Pension Management Committee (PMC) or you already have some experience in these roles, our DC Training is your first port of call to prepare for robust scheme management.

VISIT OUR WEBSITE TO FIND OUT MORE INFORMATION ABOUT OUR EVENTS OR TO REGISTER >

This newsletter is intended as a summary of recent pensions-related events. Whilst we have taken care to ensure all information is correct at the time of going to press, the content of this newsletter should not be relied on as advice to act, or refrain from acting, in relation to any of the subjects contained herein. Before taking any such action (or deciding not to act) you should seek appropriate professional advice.

Please contact your Barnett Waddingham consultant if you would like to discuss any of the above topics in more detail. Alternatively contact us via the following:

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