SPC news

ISSUE NO. 6, 2005

in this issue ...

THE BIMONTHLY NEWSLETTER OF THE SOCIETY OF PENSION CONSULTANTS

New SPC committee membership

SPC has completed its annual review of committee membership and the membership is now as follows:

Actuarial Committee

James	Atherton	Deloitte Total Reward and Benefits Limited
John-Paul	Augeri	Towers Perrin
Mike	Bartlet	Buck Consultants Limited
Ben	Brown	KPMG LLP
Mike	Carson	Jardine Lloyd Thompson Benefit Solutions
Isabel	Coles	Barnett Waddingham LLP
Martin	Collins (Chairman)	Watson Wyatt Limited
Deborah	Cooper	Mercer Human Resource Consulting Limited
Darren	Fleming	Aon Consulting
John	Forrest	Scottish Equitable plc
Darren	Greenwell	Hewitt
John	Herbert	FPS Actuarial Services Limited
Elizabeth	Rye	Punter Southall & Co
Bill	Sharp	Gissings Ltd
Chris	Sheasby	Hymans Robertson LLP
Audra	Windley	HSBC Actuaries and Consultants Limited

Administration Committee

David	Barnes (Chairman)	SBJ Benefit Consultants Ltd
Cath	Cooney	HS Administrative Services Ltd
Richard	Hardy	Capita Hartshead
Nigel	Howarth	Hazell Carr plc
Griff	Jones	Gissings Ltd
Leonie	Jones	Hewitt
Gareth	Kitchener	Norwich Union
Rosie	Kwok	Mercer Human Resource Consulting Limited
Tracey	Lennon	Jardine Lloyd Thompson Benefit Solutions
Rachel	Low	Fidelity Pensions Management
Stewart	Mason	Clerical Medical Investment Group
Brendan	Mooney	Hymans Robertson LLP
David	Parker	HSBC Actuaries and Consultants Limited
Karen	Rhodes	Punter Southall & Co
Anne	Salzedo	Aon Consulting
Sarah	West	Edis Partnerships Limited
Deborah	Wilson	MNPA Ltd
Malcolm	Winter	Standard Life

European Sub-Committee

Tony	Bacon	Wedlake Bell
Christopher	Cooke	Linklaters
Edmund	Downes	Norwich Union
Gordon	Harkes	Standard Life
Brian	Harvey	Entegria Ltd
Robert	Lockley	Mercer Human Resource Consulting Limited
Andrew	Payne	Hewitt
Elisabetta	Russo	PricewaterhouseCoopers
Dan	Schaffer	Freshfields Bruckhaus Deringer
Robert	Sperl	Watson Wyatt Limited
Ian	Walker	Buck Consultants Limited
David	West (Chairman)	Aon Consulting
Graham	Wrightson	Hammonds
Michael	Wyman	Simmons & Simmons

Financial Services Regulation Sub-Committee

Tom	Calvert-Lee	Gissings Consultancy Services Limited
Donald	Campbell	Mercer Human Resource Consulting Limited
Ian	Cass	Compliant Solutions Ltd
Chris	Halewood	Griffiths & Armour (Financial Services) Ltd
Joanne	Hull	Hazell Carr plc
Rachel	Kent	Lovells
Chris	Kinsey	Fidelity Pensions Management
Peter	Lovegrove	Heath Lambert Consulting Limited
Colin	Murphy	Legal & General Life & Pensions Group
Peter	Williams	Aegon UK
Deborah	Wilson	MNPA Ltd
Mike	Young (Chairman)	Buck Consultants Limited

Investment Committee

David	Clare	HSBC Actuaries and Consultants Limited
Jill	Clark	Buck Consultants Limited
Judith	Donnelly	Linklaters
Frank	Doyle	Citigroup Asset Management
Tony	English	Mercer Investment Consulting
Anne	Fairchild	PIMCO Europe Ltd
Andrew	Fraser	Henderson Global Investors
Brian	Henderson	Hymans Robertson LLP
David	Hepplewhite	FPS Benefit Consultants
Peter	Martin	Aon Consulting
Bart	Peterkin	Schroder Investment Management Limited
Tim	Rees (Chairman)	Insight Investment Management Limited
Finlay	Ross	KPMG Pensions
Clifford	Sims	Hammonds
Chantal	Thompson	Baker & McKenzie LLP
Alan	Wilcock	Russell/Mellon Ltd
Natalie	Winter	PricewaterhouseCoopers
Iain	Woods	Watson Wyatt Limited

Legislation Committee

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Eleanor	Dowling	Mercer Human Resource Consulting Limited
Peter	Esam	Travers Smith
Helen-Mary	Finney	Aon Consulting
Gillian	Graham	Punter Southall & Co
Brian	Huggett	Pearl Group Limited
Wendy	Hunter	Hammonds
Claire	Lancaster	Higham Group plc
Ian	Long (Chairman)	Norwich Union
Paul	Marshall	Prudential
Jade	Murray	Addleshaw Goddard
David	Roberts	Watson Wyatt Limited
Peter	Sayers	Entegria Ltd
Ron	Thom	Lawrence Graham
Kris	Weber	Charles Russell LLP
John	Wilson	HSBC Actuaries and Consultants Limited

Money Purchase Committee

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Clive	Briggs	Towers Perrin
Bob	Champion	Mercer Human Resource Consulting Limited
Dot	Clark	Barnett Waddingham LLP
Liz	Hinchliffe (Chairman)	Prudential
Mike	Kelly	Fidelity Investments Ltd
Stewart	Lee	HSBC Actuaries and Consultants Limited
Michelle	Mansell	PIFC Consulting plc
Stewart	Mason	Clerical Medical Investment Group
Colin	Mayes	Hymans Robertson LLP
Gavin	Moffatt	Gissings Ltd
Mike	Morrison	Winterthur Financial Services UK Ltd
Ian	Neale	Aries Pension & Insurance Systems Ltd
Malcolm	Paterson	Collingbourne Limited
Tim	Richards	Pearl Group Limited
Robert J	Smith	Lawrence Graham
Pauline	Vassiades	Norwich Union

Public Relations Committee

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Jason	Coates	Wragge & Co LLP
Lindsay	Davies	Hymans Robertson LLP
Michael	Dowding	PIFC Consulting plc
Ken	Edis	Edis Partnerships Limited
Christopher	Holmes	Ashurst
Duncan	Howorth	Jardine Lloyd Thompson Benefit Solutions
Stephen	Ingamells	Capita Hartshead
Roger	Mattingly (Chairman)	HSBC Actuaries and Consultants Limited
Clive	Pothecary	Punter Southall & Co

North West Committee

Clive	Hamilton	Jardine Lloyd Thompson Benefit Solutions
James	Hunter	PricewaterhouseCoopers
Graham	Ratcliffe	Aon Consulting
Steve	Robinson	HSBC Actuaries and Consultants Limited
Stephen	Scholefield (Chairman)	Pinsent Masons
Marie	Wilkinson	Mercer Human Resource Consulting Limited

Scottish Committee

Nick	Frankland	Buck Consultants Limited
Paul	Hamilton	Barnett Waddingham LLP
Graham	Hanna	Mercer Human Resource Consulting Limited
Liz	Hinchliffe (Chairman)	Prudential

Yorkshire Committee

Gemma	Hanley	Hammonds
Richard	Hardy	Capita Hartshead
John	Harrison	Barnett Waddingham LLP
James	Patten	Watson Wyatt Limited
Richard	Robinson	Hewitt
Terry	Saeedi (Chairman)	Hammonds
Kevin	Sowerby	YiG Consulting Limited
Peter	Woods	PricewaterhouseCoopers

PENSIONS UPDATE 155: Annual Valuation reports

Pensions Update 155 removes the requirement to submit actuarial valuation reports (AVRs) to HMRC, which would be due after 5 April 2006 (for SSASs this means AVRs with an "as at" date on or after 6 April 2005, and for Large Self-Administered Schemes this means AVRs with an "as at" date on or after 6 April 2004).

However, where AVRs fall due before 6 April 2006, they must still be submitted to the Revenue after A-Day (by virtue of Paragraph 6 of Schedule 36 to the Finance Act 2004). There is one exception to this and that is where, in the case of a SSAS, no member's notionally earmarked share of the fund exceeds £750,000 in the previous AVR submitted. In this case, no AVR need be submitted.

PENSIONS UPDATE 156:

Scheme rule changes

HMRC has issued an Update, explaining the position regarding scheme rule changes in the run up to A-Day.

Amendments to scheme rules and retirement annuity contract endorsements, effective on or after A-Day, do not need to be submitted to HMRC for approval. Amendments which take effect before A-Day should continue to be submitted for approval in the normal way. ■

New disclosure of information regulations

DWP has issued draft regulations, replacing the Occupational Pension Schemes (Disclosure of Information) Regulations SI 1996/1655 (as amended). Two main changes are:-

- Annual benefit information for non money-purchase benefits is to be provided automatically in respect of scheme years ending on or after 6th April 2007. Benefit information must be provided:
  - To all active members
  - To all active members who become deferred members on or after 6th April 2007
  - To anybody who becomes a pension credit member on or after 6th April 2007
  - On request to any other deferred member or pension credit member, who will receive the information automatically thereafter.

Most of the present time limits in are replaced with a requirement that information should be furnished within "a reasonable period". A draft Code of Practice issued by the Pensions Regulator at the same time provides guidance on what the Regulator considers to be reasonable (mostly the recommended time periods are the same as in the current regulations).

The new regulations are due to come into force from 6 April 2006. ■

DWP RESEARCH REPORT 266:

Micro-employers' attitudes towards pensions for themselves and for their employees

On October 11th DWP published the findings of a small-scale qualitative study looking at attitudes towards retirement saving amongst micro-employers (employers with fewer than five members of staff).

The aims of the research were exploratory: to draw a picture of the views of these micro-employers towards pensions, both for themselves and for their members of staff; and to assess their views on the likely impact of any measures aimed at raising awareness and understanding of pension issues.

Main Findings

Micro-employers' views on saving for their own retirement

Amongst participants the notion of saving for retirement was a familiar one and was generally well received. However, the options for doing so were met with some difference of opinion. Concerns about the reliability and return of pension options were high while trust in providers was low. Credibility of pensions was considered to be lacking by both high and low income participants.

The level and type of saving and investment plans held by individual employers varied greatly. Influencing factors included experience of saving, age, age of the business and profit levels. Participants were averse to what they perceived as handing over control of their money preferring the autonomy and flexibility to remove and re-invest funds when necessary. This fuelled their apparent ideal that investing in property or the business itself was the most appropriate option in terms of profitability, security and accessibility.

However, there was no evidence that these attitudes were causing participants to withdraw from or close existing pension funds. Participants appeared to recognise the need for having a range of options.

Micro-employers' attitudes towards pension provision for their staff

There was little evidence of participants providing workplace pension provision, information or guidance for their staff. Pensions for staff had, in general, not been considered. Little benefit was seen in offering pensions provision or guidance to short-term staff, since these tended to be considered outside their remit. Their view was that if staff wanted to save their preference would be for higher wages and a choice of how and where to invest.

The merit of offering pensions or pension guidance was more positive when micro-employers were asked to consider long-term members of staff. However, micro-employers projected their own need for autonomy and control over their finances on to their employees, believing it was not their place to interfere and that this view was shared by employees. Participants questioned the relevance of pensions to their employees where wages are low and whether recruitment and retention benefits were relevant to micro-employers.

Views on potential improvements to pensions engagement through workplace information.

Participants anticipated limited impact from the provision of workplace information on pensions. Whilst some employers saw the merit of raising awareness, a common view was that barriers to pension savings (e.g. perceived lack of credibility and lack of disposable income to invest) were more important obstacles. There was some willingness to act as a conduit for information, passing on leaflets and packs, but seminars and one-to-one discussions were met with concerns about time out of the business and the relative value due to anticipated low take-up.

Views on other options for improving pensions saving

Participants' views on improving pensions saving among their employees were charged by their personal views of the pension system and desire to limit the consequences for them as employers. Participants saw the need for quite bold changes to the system: clear and transparent saving schemes, a guaranteed return, more reassurances from Government and providers and provision of incentives and rewards to encourage saving Financial education from an early age was seen as a way to inform saving behaviour throughout working life. The participants believed their employees shared their own desire for greater control and ownership over pension funds.

The report was published by Corporate Document Services. The research was conducted on behalf of DWP by James Noble. A free summary is available from Paul Noakes at the DWP Social Research Branch (Room 4-26a, Adelphi, 1-11 John Adam Street, London WC2N 6HT, 020 7962 8557). The report and summary are available free on the DWP website: http://www.dwp.gov.uk/asd/asd5. ■

DWP RESEARCH REPORT 292:

An evaluation of scheme joining techniques in workplace pension schemes with an employer contribution

On November 3rd DWP published research designed to evaluate how pension scheme joining techniques work in a UK context, and what circumstances may support or enhance their effectiveness. The study evaluated the impact of these techniques on pension scheme membership where there is an employer contribution and the effects for individuals who did, and did not, become scheme members.

The main findings are:-

- The study evidence collected suggested that Automatic Enrolment can be an effective technique for increasing pension scheme membership and that it is one of a range of techniques that can reduce employers' and providers' administrative burdens and costs whilst simplifying the process for employees.
- Automatic Enrolment and Active Decisions were found to be more effective at increasing membership and tackling inertia than Streamlined Joining. There were considerable variations in participation rates, however, after enrolment techniques changed in the 11 private sector schemes studied, including variations among schemes adopting the same technique.
- Employees reported that their need for information and advice about retirement planning was not reduced by the joining technique their scheme used. Across all three joining techniques, employees valued in-person communications for providing personal advice and problem-solving.
- Interviews with employees across all joining techniques showed that non-members had commonly considered whether or not to join. Some felt that they could not afford to save into a pension, and in these cases, there was some evidence that non-members had made a conscious decision not to join or had made the effort to opt-out regardless of the enrolment technique.

The research was carried out on behalf of DWP by Sarah Horack and Andrew Wood at RS Consulting. DWP Research Report 292 is published by Corporate Document Services. A free summary is available from Paul Noakes at the DWP Social Research Branch (Room 4-26a, Adelphi, 1-11 John Adam Street, London WC2N 6HT, 020 7962 8557). The report and summary are available free on the DWP website, http://www.dwp.gov.uk/asd/asd5. ■

DWP RESEARCH REPORT 293:

Combined pension forecasts - a survey of their impact on recipients

On November 3rd, DWP published new research on the effectiveness of the Combined Pension Forecast (CPF) scheme. DWP works with employers and pension providers, on a voluntary basis, to supply forecasts of an individual's state pension alongside their annual personal/occupational statements to create a Combined Pension Forecast. To measure the effectiveness of this initiative, this research investigates levels of CPF recall amongst recipients and the extent to which it has impacted their retirement planning activities.

Impact on savings behaviour

Analysis shows CPF recall has the strongest correlation with both "soft" actions, such as discussing arrangements with others or requesting pensions information, and the likelihood of taking more than one retirement planning action. It also accounts for a limited amount of variation in "harder" increased saving actions specifically, although increased saving is more likely to be associated with other variables such as respondent's income and existing savings provision. There are some significant indicators that recallers who have taken action found the CPF useful. These include:

- Half of respondents who recalled the CPF and carried out planning activity said they had been prompted to do so by the CPF.
- Of those who recalled receiving a CPF and said that it had prompted increased saving, four out of 10 said they would not have done so without the CPF.
- Strong agreement from all respondents that CPFs are useful and should be issued.
- Those who have received more than one CPF were both more likely to recall it and to have undertaken retirement planning activity.

Recall of the Combined Pension Forecast

38% of respondents remembered having received a CPF. Levels of recall may have been affected by potentially long periods of time between receiving CPF and interview. Awareness of the CPF was higher among those known to have been issued more than one CPF by their employer or pension provider (45 per cent recalled). Similarly, those who have been issued a CPF by more than one employer or personal pension provider were more likely to remember the CPF (60 per cent recalled).

Without a comparable group of scheme members who have not received a CPF in this research, there cannot be certainty of the extent to which CPF recall alone caused increased retirement planning, although survey results are encouraging. There was positive reaction among respondents to the concept of Combined Pension Forecasts, even among recipients who do not remember having received one in the past. Planning activity is associated with CPF recall, and both recall and planning activity appear to increase as subsequent CPFs are issued.

The research was conducted on behalf of DWP by BMRB. The authors are Graham Kelly, Warren Linsdell and Dawn Scanlon. The report is DWP Research Report 293. A free summary is available from Paul Noakes at the DWP Social Research Branch (4th Floor, Adelphi, 1-11 John Adam Street, London WC2N 6HT, 020 7962 8557). The report and summary are available free on the DWP website; http://www.dwp.gov.uk/asd/asd5. ■

PUBLICATION OF DWP RESEARCH REPORT 294:

Providing pensions information and advice in the workplace where there is little or no employer contribution

On November 3rd, DWP published the findings of an evaluation of the effectiveness of four different ways of providing pensions information and advice in the workplace.

The research explored: the effects of the pilot options on the pension knowledge, attitudes, awareness and savings behaviour of employees; and the roles, experiences and views of participating employers, employees, pension providers and Independent Financial Advisers. The pilot was implemented specifically with employers who are offering no contribution, or one of less than three per cent of salary, for staff who join the stakeholder scheme set up by the company.

Main Findings:

- Overall, the evaluation identified no significant impact on pension knowledge or attitudes towards pensions. The pilot appeared to have no impact on surveyed employees' attitudes towards the perceived security of pensions or their commitment to saving now.

- Recall of receiving written information was poor (just over half of those surveyed) although the majority of these had read all or some of the pilot Pension Information Pack. Under a third of surveyed employees recalled the availability of the provider SHP literature and a minority had read it. Employee apathy and significant logistical barriers faced by employers resulted in fewer presentations and one-to-one sessions being held than planned.
- Examples of aspects that seemed beneficial to changes in attitudes, knowledge or saving behaviour among employees were: a positive employer attitude to pensions; personalised pension forecasts for employees; assistance in completing application forms; a presenter able to build rapport; and presentations tailored to the needs of the audience.
- There was a general view from pilot employers, providers, IFAs and employees that the workplace is an appropriate channel for communicating information about pensions. Providers and IFAs were most supportive of this, with the caveat that without additional incentives for employees to save this method would not be effective and without additional fees to allow providers/IFAs to recover costs, nor would it be commercially viable to service this target group. Employers preferred a restricted role involving a paper based cascade of information only.
- Providers and IFAs felt that employer contributions were the key to success for the types of intervention tested. Most surveyed employees thought that their employer should contribute and claimed an employer contribution would act as a catalyst for action. The majority of employers were opposed to the idea on cost grounds, because they did not see employees' pension arrangements as their responsibility, or because they did not believe there would be recruitment and retention benefits.

The research was conducted on behalf of DWP by John Leston and Margaret Watmough from RS Consulting. The report is DWP Research Report 294. A free summary is available from Paul Noakes at the DWP Social Research Branch (Room 4-26a, Adelphi, 1-11 John Adam Street, London WC2N 6HT, 020 7962 8557). The report and summary are available free on the DWP website: http://www.dwp.gov.uk/asd/asd5. ■

Draft TPR policy on expectations for scheme funding

The Pensions Regulator has issued a document, explaining how it intends to approach monitoring and intervention in relation to funding policies developed in response to the Statutory Funding Objective. *For a copy click* here.

The main points are:

- All valuations and recovery plans submitted to TPR will be reviewed for potential risks to members and the PPF.
- The assessment will be based on the strength of the funding target, the period over which the deficit is being corrected, and employer covenant information.
- Where review is triggered, the result is more likely to be scrutiny of the approach adopted by TPR. This does not mean that the approach adopted will be deemed unacceptable, just that justification may be sought.
- For a typical scheme the trigger point is likely to be determined by the proportion of buyout funding targeted. The exact formula is unclear, but TPR believe that for most schemes 100% funding on FRS17 or PPF levy liability bases produces a target in the range 70%-80% of buyout funding, and this appears to be its point of reference. Where employer covenant was weak or the scheme more mature, the trigger would be at the higher end of the range, and conversely. If a 100% target for FRS17 and PPF fell below this range the range would be adjusted.
- Recovery plans of longer than 10 years are also likely to trigger scrutiny. Plans of 10 years or less appear more likely to be accepted, but the document says TPR may still intervene where "they consider that the financial position of the employer is such that it could reasonably clear the shortfall in a shorter period, bearing in mind the strength of the funding target."
- TPR is sympathetic in principle to allowing more flexibility where "contingent security", e.g. a letter of credit or an escrow account, is in place, although it has not yet determined exactly how this should be done.
- To avoiding waiting until the last schemes adopt the Statutory Funding Objective in 2009, TPR intends to identify schemes which are below 110% on MFR and examine whether trustees have taken all appropriate actions to improve funding in advance of this, eg by considering bringing forward the first SFO valuation.
- Nothing is said about the extent to which investment performance in excess of bond returns can be anticipated in determining a recovery plan.

SPC has the document under consideration. ■

SPC highlights burdensome FSA rules

SPC, through its Financial Services Regulation Sub-Committee, participated in a workshop, for trade bodies, as part of FSA's study of the cost of regulation.

FSA indicated it would be interested to have details of parts of the FSA Rule-book, which are viewed as particularly disproportionately burdensome.

The sub-committee let FSA have some suggestions.

The definition of Intermediate and Private Customers for investment business

For investment business the rules are complicated and refer to financial criteria. For example, to be an Intermediate Customer, the trustees of an occupational pension scheme have to have net assets of more than £10 million and 50 members. This catches many money purchase pension scheme trustee clients. Moreover, it is necessary to check the classification of clients on an annual basis. Apart from being administratively burdensome, this can lead to the irrational situation of a client classified as Intermediate one year, being changed to a Private Customer the next because the asset values of the scheme happen to change.

It would be far preferable (and would lead to no diminution in consumer protection, since these trustees are usually experienced individuals who now have to receive training as trustees) if the definition of Commercial/Retail customers used in non-investment contracts of insurance could be used.

Apart from anything else it is contradictory and confusing to have different definitions for different types of business. Our Members might have clients classified as Intermediate/ Commercial for one type of business but Retail/Private for another.

We would also suggest that this is in line with the FSA's own thinking on simplifying the rules for Wholesale Customers. Rather than trying to find rules, which can be disapplied for Wholesale Customers it would be far easier if FSA changed the definition of Intermediate/ Private Customers, as that would in itself take out the whole swathe of companies and trustees, which do not naturally fall within the layman's definition of a Private Customer. We suggest that the consumer protections for Private Customers should be restricted to individuals and those organisations not acting in the course of a business.

The IDD and Menu

The requirement to issue an Initial Disclosure Document and Menu does not make sense for firms which simply arrange investment as opposed to advise on investments. We are thinking of Pension Administrators in particular, since in the act of arranging investments or assisting in administration or performance of contracts of insurance they currently come within the disclosure rules.

This requirement is inappropriate in dealings with companies or trustees of occupational pension schemes and causes disproportionate effort for no additional consumer protection. These types of customers will already have been issued with terms of business containing most of the information in the IDD and menu. So, we suggest that the requirement to issue them should only be where one is advising a Private Customer on package products.

Whilst it is possible to draft a Menu/ IDD, what the document actually says is meaningless. It is still possible to comply with the IMD without having to provide an IDD/Menu, simply by covering the requirements in Terms and Conditions. It is FSA's interpretation of the IMD, and how it is implemented in the UK that is the problem, not the IDD itself. The result is that the trustees receive a pointless piece of paper, not relevant to the services they actually receive from the Pensions Administrator and which could be very simply covered in terms and conditions.

Disproportionately costly rules for regulated pension scheme administrators

- **Provision of a Demands and Needs Statement.** ICOB 4.4 (and equivalent COB 5 Rules) require the provision of a Demands and Needs Statement when an intermediary arranges a regulated investment. However, whilst Pensions Administrators may technically be arranging under the definition provided by the Regulated Authorities Order, they are not undertaking any form of "non-advised sale". Typically, Pensions Administrators act on instructions to arrange policies, which have been recommended to the trustee/scheme by a regulated financial adviser. That adviser will have already provided a Demands and Needs Statement / Suitability Letter as required by the relevant rules. To also require a third party administrator to provide a Demands and Needs Statement will be wholly confusing for the trustee and will not add anything to the sales process.
- **Provision of product disclosure material.** ICOB 5 (and equivalent COB 6 Rules) require product disclosure material to be provided by a firm undertaking an arranging activity. As highlighted above, pensions administrators might be arranging in accordance with the strict RAO interpretation, but we would stress that they are not acting as a true intermediary in advising or recommending sales. It is typically the IFA (or other intermediary) who is responsible for the advice and who will have provided product disclosure information. To also require pensions administration firms to provide the same information will lead to the investor (in this case the trustees) receiving twice the normal amount of paper (and the amount provided is already very significant).
- **CASS.** Before the implementation of the IMD, firms who offered pension administration services were not subject

to CASS. Instead, scheme payments and their administration were covered by pensions legislation, which is specifically designed to ensure that the scheme is financially protected.

With the implementation of the IMD, because firms are now regulated, the operation of holding and administering scheme funds has now additionally become subject to CASS Rules.

Given the additional cost involved in complying with CASS, this is disproportionate in light of the protection which already exists for scheme trustees and members. ■

Reform of the law against perpetuities and excessive accumulations

In ***SPC News No. 4, 2005*** we reported that the Courts Service had written to us, advising us that a draft bill was under preparation to implement, essentially, the Law Commission's recommendations on changing the law on perpetuities and excessive accumulations.

Among the planned content of the draft is a provision excluding most pension schemes from the rule against perpetuities.

Our only comment to the Court Service at present was that, if the proposed pension exemption is wider than the existing one, overriding provisions might be needed for schemes which have a perpetuity period in their rules, requiring that they be wound up at some specific date, for example unapproved pension schemes.

The Court Service has responded that it does expect a wider class of pension schemes to be exempt from the rule against perpetuities than at present. However, this should not, it suggests, cause difficulties in respect of existing schemes as the new provisions, including the wider definition, will generally only apply to schemes created by instrument coming into effect after the legislation comes into effect.

The only exception might be stand alone death in service benefit schemes. It appears that with the coming into effect of the Pension Act 2004, and the new definition of pensions which it introduces, stand alone death in service benefit schemes are (with effect from 22 September) no longer exempt from the rule against perpetuities. This issue, and any action required to remedy, is being considered. If this consideration indicates a need for the proposals to apply an exemption to existing schemes of this nature, the Court Service will need to consider how this should affect such schemes which have a perpetuity period expressly written into their rules. ■

GAD consults on revised contracting-out rebates

The Government Actuary's Department has issued a consultation document on the contracting-out rebates for the years 2007/8 to 2012/13. *For a copy, click* here. In brief, the rebates are about 15% higher for DB schemes. The age-related rebates for PPs/COMPs are about 30% larger for those approaching state pension age, while there is a smaller increase for younger members (the rebates are actually less for some members).

The Government needs to agree the revised rebates by April 2006, as legislation requires there to be at least 12 months before new rebates can come into effect.

SPC has participated in an Occupational Pension Schemes Joint Working Group response to the document under consideration.

For a copy click here. ■

Scheme Administration

The Pensions Act 2004 contains a number of changes to the administration requirements on trustees of occupational pension schemes and to the requirement to obtain audited accounts. These are largely a result of the EU Pensions Directive. This article sets out the changes, as well as containing a reminder of the rules in this area that have not changed since the Pensions Act 1995.

Summary

- Trustees of money purchase schemes must ensure that a payment schedule covering the scheme year (or part scheme year, if appropriate) has been implemented and maintained.
- Where contributions are deducted from earnings, the employer must pay those contributions to the trustees within 19 days of the end of the month in which those contributions were deducted. However, the time limits for reporting late payment of contributions have been relaxed.
- Trustees must keep any money received by them in a bank account separate from the employer's business bank accounts. Employers are required to pay into a separate bank account any payment of benefits not made to the member within two business days.
- Schemes which must appoint an auditor must obtain audited accounts and a statement from the auditor about contributions. Earmarked schemes must make available on request a copy of the insurer's annual accounts.
- Trustees must keep books and records covering the transactions they carry out in respect of the scheme and written records of their meetings. These records must be kept for six years.

Payment schedules

The trustees of money purchase occupational pension schemes must prepare and maintain a payment schedule. The schedule should cover the following items payable in the scheme year:

- Except where an insurance premium is payable, the rates of contributions payable towards the scheme by or on behalf of the employer, and the active members of the scheme.
- Amounts payable towards the scheme by the employer in respect of expenses likely to be incurred in the scheme year.
- The dates on, or before, which payments of such contributions or other payments are to be made (referred to as 'due dates').

Any amount which remains payable after the due date (whether payable by the employer or not) is treated as a debt due from the employer to the trustees. In addition, the employer will be liable to civil penalties.

Once established, a payment schedule will cover a scheme year and should be revised at each subsequent scheme renewal date. Should any changes occur during a scheme year, a revised schedule should be established to cover the remainder of that scheme year.

Where member contributions are deducted from earnings, the employer must pay those contributions to the trustees within 19 days of the end of the month in which those contributions were deducted.

There are no longer strict time limits for informing the Regulator of late payments. Instead, reports should only be made if a late payment "is likely to be of material significance" as defined in a Code of Practice.

Exemptions

The requirement for payment schedules does not apply to the following:

- Schemes with fewer than two members.
- Schemes with fewer than 12 members, where all members are trustees, and either all trustee decisions are made only by unanimous agreement, or the scheme has a registered independent trustee.
- Schemes with fewer than 12 members where all are directors of a company that is the sole trustee, and either all decisions made by the company as trustee are made only by unanimous agreement, or one director is a registered independent trustee.
- Schemes with less than 100 members which are not registered after 6 April 2006.
- Certain statutory and public sector schemes.

Trustee bank account

Trustees must keep any money received by them in a bank account separate from the employer's business. This requirement, however, does not apply where either:

- The trustees have entered into an arrangement or contract with a person that the money is paid into a separate account held by that person, any interest earned on the account is credited to the scheme and records are kept for at least six years.
- The trustees have a separate account kept by them at an institution other than a bank, such as a building society, and any money received by them is held in that account.

If the trustees do not receive any money, they do not need to keep a separate bank account.

Payments by employers

Where benefit payments are made by the employer, they must pay into a separate bank account any benefits which have not been made to the member within two business days from the date of receipt by the employer.

Audited accounts/statement

Where schemes are required to appoint an auditor, the trustees must obtain both the following within seven months of the end of each scheme year:

- Accounts audited by the auditor.
- The auditor's statement "as to whether or not in his opinion

contributions have in all material respects been paid at least in accordance with the schedule of contributions or payment schedule" and, if this statement is negative or qualified, a statement of the reasons.

The following schemes are not required to appoint an auditor:

- Schemes with fewer than two members.
- Schemes with fewer than 12 members where all members are trustees and either all trustee decisions are made only by unanimous agreement, or the scheme has a registered independent trustee.
- Schemes with fewer than 12 members where all are directors of a company that is the sole trustee, and either all decisions made by the company as trustee are made only by unanimous agreement, or one director is a registered independent trustee.
- Schemes with less than 100 members which are not registered after 6 April 2006.
- Unfunded schemes.
- Certain statutory and public sector schemes.

An 'earmarked scheme' is not exempt from having to appoint an auditor but it is exempt from the requirement to obtain audited accounts. Instead, the trustees must:

- On receiving a written request from a member, prospective member, spouse or civil partner of a member/ prospective member or recognised trade union, make available (within a reasonable time) a copy of the most recent accounts of each of the insurance companies with which they hold earmarked policies of insurance or annuity contracts.
- Within 12 months of the end of each scheme year, provide each member with a statement detailing the contributions credited to them during that scheme year.

The regulations only require the trustees to make copies of the insurer's accounts available (on request).

An earmarked scheme is a defined contribution occupational pension scheme, under which all the benefits are secured by insurance policies specifically allocated to the members.

Records and bookkeeping

The trustees are under a duty to ensure that books and records covering the following are kept:

- Contributions received in respect of active members.
- The date members joined the scheme.
- Payments of pensions and benefits.
- Payments made by or on behalf of the trustees to any person (including a professional adviser); such records must include the name and address of the person to whom the payment was made and the reason for that payment.
- Any movement or transfer of assets from the trustees to any person (including a professional adviser); such records must include the name and address of the person to whom the assets were moved or transferred and the reason for the transaction.
- The receipt or payment of money or assets in respect of the transfer of members into or out of the scheme and, in particular, the discharge forms signed by withdrawing members. Such records should include: The name of the member, the date and terms of the transfer, the name of the transferring scheme (or scheme transferred to), and the date of receipt (or payment) of money or assets.
- In a case where an appropriate policy of insurance is taken out (on the discharge of protected rights on winding up) the name of the insurance company, the name of members in respect of which the appropriate policy of insurance is taken out, the payment of money or assets and the date of such payments.
- Payments made to a member who leaves the scheme, other than on a transfer. Such records must include the name of the member, the date of leaving, the member's entitlement at that date, the method used for calculating any entitlement under the scheme and how that entitlement was discharged.
- All tax deducted from the refunds of contributions to withdrawing members and from pensions in the course of payment.
- Payments made to the employer.
- Other payments to, and withdrawals from, the scheme, including the name and address of the person the payment was made to or from whom it was received.

Notice of a trustee meeting must, unless a meeting is necessary "as a matter of urgency" (not defined), be given to each trustee to whom it is reasonably practicable to give such notice. Unless the trustees agree otherwise, the notice must include the date, time and place of the meeting and it must be sent to the last known address of each trustee no later than 10 business days before the meeting is due to take place.

Where meetings are held, the trustees are required to keep a written record (minutes) of:

- The date, time and place of the meeting.
- The names of all the trustees invited, those who attended, and those who did not.
- The names of any professional advisers or other persons who attended the meeting.
- Any decisions made at the meeting.

Whether any decisions have been made since the previous meeting and, if so, the time, place and date of such a decision, and the names of the trustees involved in the decision.

Records must be kept for at least six years from the end of the scheme year.

The requirement for trustees to keep books and records does not apply to the following:

- Schemes with fewer than two members.
- Schemes unregistered after 6 April 2006 with less than 100 members.

Timetable

Those parts of the new regulations which derive from the Pensions Directive came into force on 22 September 2005 for all schemes set up after that date. Existing schemes have until the start of the first scheme year beginning after 23 September 2005 to comply. All other changes come into effect on 6 April 2006. ■

Conference discount for SPC members

C5 conferences are offering SPC Members a 15% discount on their pension Reform conference at Simpson's in the Strand, London WC2 on January 265 pt and 27th 2005.

The event aims to put the provisions of the Pensions Act 2004 into context, analyse the impact of the changes, discuss implementation and focus on the challenges posed by the new system.

To view the programme and register, please visit http://www.C5-online.com/pensions/pr01.

To obtain the SPC discount, quote **539P06.SPC** ■

A correction to SPC News No. 5, 2005

Page 11 of **SPC News no. 5, 2005** contains an article headed "HM Revenue & Customs delays action on VAT input tax".

In the second paragraph of the article we referred to an HMRC announcement that the effective date of changes would be put back to January 1st 2005. The date which we should have quoted was January 1st, **2006**. ■

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 14,000 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.

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