First Actuarial briefing for trade unions
Q1 2021

In this briefing, we look at the remedy to remove age discrimination in public service pension schemes, following the publication of Government's consultation response. Staying with public service pensions, we examine the removal of the exit payments cap.

We explore the new Pension Schemes Act and the proposed increase to the earliest age at which individuals can draw their pension benefits. We also discuss Government's response to cases of underpaid State Pensions.

Pension Schemes Bill receives Royal Assent

The Pension Schemes Bill received royal assent on 11 February 2021 and is now the Pension Schemes Act 2021.

Learn more about the Bill in articles in the Q3 2020 briefing and the Q4 2020 briefing.

Many provisions in the Act need regulations to bring them into effect. At the beginning of March, Guy Opperman, Minister for Pensions and Financial Inclusion, outlined a timetable for these.

The draft regulations for pension scams and Collective Defined Contribution (CDC) schemes are slated to be consulted on in early summer. This should bring the strengthened scam measures into force swiftly – probably in autumn.

Government is due to consult on the regulations for Defined Benefit (DB) scheme funding "later this year". Alongside the development of the draft regulations, The Pensions Regulator (TPR) will be developing the new DB Funding Code, which will also be opened to consultation in due course.

Consultation on the climate change governance and reporting regulations is already complete, though a response has not yet been published. The pensions dashboard consultation should be launched at some point this year. Draft regulations are expected to be debated in parliament in 2022, with the dashboard going live in 2023.

Remedy for discrimination in public service pension schemes

In February, Government published its response to the consultation on public service pension schemes. This deals with the remedy to remove the discrimination in public service pension schemes (the McCloud remedy, named for the judgment which first determined the need to rectify the discrimination).

The reforms to public service pensions introduced in 2015 unlawfully treated scheme members differently based on their age. Those close to retirement were allowed to remain in the final salary schemes (also known as the legacy schemes), but all other members were moved, either immediately or after a transition period, to the newly-formed career average (CARE) schemes.

Government consulted on two possible methods of removing the discrimination last year. The recent consultation response confirmed that the Deferred Choice Underpin (DCU) remedy will be implemented across all public service pension schemes for the remedy period – 1 April 2015 to 31 March 2022.

DCU means that all in-scope members – those in active service on both 31 March 2012 and 1 April 2015 – will receive a choice at retirement to have all their pension scheme service during the remedy period either in their legacy scheme or in the reformed scheme. A combination of both legacy and reformed scheme service will not be allowed under the remedy, despite members with tapered protection currently having a mix of membership.

The benefit of making a choice shortly before benefits are paid is that members can then be fairly certain of their entitlements under both schemes, rather than having to make assumptions about the future. Government cited this as the main reason for choosing the DCU remedy. The default for members yet to make a choice will be the legacy scheme.

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Where members with remedy period service have already retired, cases will be revisited to make allowance for the remedy. Death cases and ill-health retirements (including those who applied unsuccessfully) will be revisited as a priority. Retrospective benefits will be paid where applicable.

At the end of the remedy period, all members will be placed immediately into the reformed schemes, but any existing final salary link to legacy scheme service will continue to apply.

Minimum pension age set to increase

Government has now published a consultation to increase the normal minimum pension age (NMPA) from 55 to 57, with the planned increase taking effect from 6 April 2028.

Find out more about the minimum pension age in our Q3 2020 briefing.

First introduced in 2006, the NMPA is the earliest age at which most UK pension savers can access their pension benefits without incurring an unauthorised payments tax charge. The NMPA was 50 until 6 April 2010 when it was increased to the current minimum of age of 55. Minimum pension age does not apply to ill-health retirement cases.

Government first announced plans to further increase the minimum pension age in 2014, citing increasing life expectancies and the aim of restoring a sustainable balance between time spent in work and in retirement as reasons for the increase. The intention was to set the NMPA to 10 years below the State Pension Age (SPA), which can change according to longevity trends. However, the consultation states that Government is not proposing an automatic link between NMPA and SPA at present.

Members of the police, fire services and armed forces pension schemes are proposed to be exempt from the increase to NMPA.

The NMPA consultation opened on 11 February and closes on 22 April 2021.

State Pension corrections

In 2020, Government identified an issue that resulted in underpaid State Pensions. Those potentially affected are married couples or those in a civil partnership who reached State Pension age before 6 April 2016. Affected individuals may be entitled to a larger State Pension based on their partner's National Insurance contributions.

The underpayments followed a change to the law in 2008, which made the benefit uplift automatic, whereas it previously needed to be claimed by the individual. As a result of this change, those entitled to the uplift should have been identified automatically and any uplift implemented, but this did not happen in all cases.

Government is now reviewing potentially affected cases and will contact the individuals concerned with further details. Arrears will be paid where appropriate.

The Department for Work and Pensions estimates the correction exercise will cost around £2.7bn and that it will take some time to correct and settle all cases.

Cap on public sector exit payments reversed

The Restriction of Public Sector Exit Payments Regulations 2020 came into force on 4 November 2020. The main aims were to achieve greater consistency of exit payments and to ensure value for taxpayers. A cap of £95,000 was set on exit payments from public service employment.

Trade unions fought for Government to revoke the regulations, arguing that the cost resulting from employers having to fund immediate retirement for members made redundant over the age of 55 meant the cap would affect many employees on modest salaries and not just the highest earners. The Government Actuary's Department observed that almost 9 in 10 local government employees who were made redundant between 2013 and 2016 would have had their exit payments capped under these regulations.

On 12 February 2021, Government revoked the exit cap regulations after a review found the cap may have had "unintended consequences". Affected individuals with an exit date between 4 November 2020 and 12 February 2021 should speak to their former employer to request the additional amount they would have received on exit had the cap not applied.

However, there is still a possibility that a cap on public sector exit payments will be reintroduced. In its guidance document, Treasury stated that it will “bring forward proposals at pace to tackle unjustified exit payments”.

Pensions fun fact!

In our last briefing, we asked:

According to Pensions Age, what percentage of British adults believe they have been the target of scams since lockdown began in March 2020?

7% 17% 27% 37% 47%

Answer to Q4 2020: 37%

Question Q1 2021:

According to The Pensions Regulator, what proportion of Defined Benefit pension schemes are open to future accrual as of 31 March 2020?

13% 23% 33% 43% 53%

How First Actuarial can help

First Actuarial is a nationwide firm of pensions actuaries and consultants, helping trade unions with all their pensions issues.

We can help support trade unions negotiate with employers, lobby government, resolve problems within specific schemes, and explain any changes or choices members have to make. We also provide administration, actuarial and investment services to a large number of trade unions’ own schemes.

If you or any of your colleagues would like to receive future briefings but are not on our circulation list, you can sign up to our briefings. Under Topics of particular interest, select Pensions for Trade Unions.

We welcome feedback on any of the issues covered and suggestions for issues that should be covered in the future.

If you’d like more information on any of the issues contained in the briefing, please contact:

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