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Pension Protection Fund

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Technical News

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Welcome...

...to ***Technical News***, the Pension Protection Fund's (PPF) newsletter on topical issues including practical guidance for schemes in PPF assessment periods and Financial Assistance Scheme (FAS) qualifying schemes. Our aim is to provide you with regular updates about topics of interest. If there are any technical issues about which you would like to hear from us, please do submit a comment via our website here: **www.pensionprotectionfund.org.uk/Pages/Feedback.aspx**

GMP Equalisation Project Update

All schemes transferring since 1 June 2013 have been required to perform equalisation calculations on all members with a GMP while in the Assessment Period. In the majority of cases this work will be completed by one of the firms on the Specialist Administration Services Panel, and should only be completed once the GMP reconciliation has been finalised. The results of the calculations will need to be reflected on the DIL and populated on the GMP Equalisation Template. Further guidance on requirements and queries can be found using the following link: **www.pensionprotectionfund.org.uk/TechnicalGuidance/Pages/Guaranteed_Minimum_Pension.aspx**

Pension and Compensation Sharing following Divorce

A recurring issue for the PPF to deal with when schemes have transferred, is analysing data received in relation to Pension Sharing Orders and Compensation Sharing Orders, and taking account of these in compensation calculations.

The guiding principles for the PPF in all pension sharing issues is to:

- act within the law
- act in accordance with the will of the Court
- ensure that member and ex-spouse are fully and accurately informed, and
- ensure that the correct compensation can be paid to the correct people at the correct time.

Providing all of us work together to those aims, we should continue to provide a high quality service to our members during what may often be a difficult period in their lives.

The following is a summary of the implications of pension sharing to the PPF and any schemes in assessment. It is important that schemes check for such cases before the scheme transfers, deal with any implementation issues and ensure appropriate information is provided to the PPF.

➜ Pensions Sharing and the PPF

Completion of the DIL

For Pensions Sharing Orders (PSOs), it is particularly important that the pension debit member's debit is re-valued to the assessment date, with full details provided about pension credits awarded and how they were re-valued under scheme rules. Full GMP splits must be provided where relevant. Where this is not done (and often in the past it hasn't), the PPF is left with a very difficult task in trying to obtain the relevant information from previous administrators. This means that members often suffer unnecessary delay or uncertainty in respect of the compensation they are due.

To assist this process, certain changes are being made to the Data Interface Layout (DIL) Guidance in the New Year. These will be described in more detail in the next newsletter.

Implementation during Assessment Period

Where a PSO is received during the assessment period, it is important that it is fully implemented before transfer wherever possible for the reasons detailed above, but also as the member's ex-spouse still has the ability to transfer to a different provider if she or he prefers (rather than receiving a credit within the scheme, and hence PPF compensation after scheme transfer).

In certain circumstances it may be possible for pension debit/credit data to be resolved after a scheme has transferred to the PPF, however these should be very much the exception rather than the rule. If your scheme has a member affected by a PSO, or a request for a Cash Equivalent Transfer Value (CETV) relating to a divorce, please ensure you raise this with your Scheme Delivery Associate (SDA) straight away so that it can be taken into account when planning activities prior to transfer.

Schemes in assessment are required to complete a PSO Information Form three months prior to transfer. The information on the front page of this form is very helpful to the PPF in resolving any member queries once the scheme has transferred, and essential for dealing with any exceptional cases where data issues remain to be resolved. Outstanding PSOs must also be indicated on the Work In Progress.

Care should be taken in respect of any information provided to members or ex-spouses during the assessment period, and expectations should be managed. In particular credit members should be warned that they cannot transfer their benefits to another scheme once scheme transfer has occurred. Any agreements entered into with members or ex-spouses in respect of charges should be first discussed with the PPF. Any issues in respect of charges should be discussed with the SDA.

As scheme transfer approaches, any members who have enquired about pension sharing, or requested a CETV in relation to their divorce, need to be advised how they may be affected by scheme transfer. Once a scheme has transferred to the PPF any PSO received after that date is invalid and would need to be replaced by a Compensation Sharing Order (CSO). If a CETV has been requested for a PSO and it has not yet been provided, a Compensation Equivalent Value (CEV) for the CSO will have to be requested and calculated instead, with the member paying an administration charge.

It is probably worth mentioning the issues for schemes in assessment when a CETV is requested. Trustees should bear in mind that the purpose of the CETV is to provide the court with a reasonable assessment of the value of the member's pension benefits. If the members benefits are expected to transfer to the PPF member's are better served getting an indication of the value of the PPF compensation payable and this may best be achieved by basing calculations on CEV benefit levels and assumptions. There is no absolute requirement for trustees to do so but they should consider whether this is appropriate. It may not be appropriate if, for example, the scheme is overfunded and unlikely to transfer to the PPF.

Any PSOs received before transfer but not implemented, should be checked for acceptability. Often PSOs received by the PPF are not fit for purpose and have to be returned. For example, we have received orders without a court seal, insufficient information on the annexe, lack of clarity on charges etc. Perhaps the most common is receipt of a 'share' represented as a small percentage, for example 0.33% (or similar), which the PPF assumes to mean 33%, but requires agreement from both the debit and credit member that this reflects their understanding of the court's intentions.

Pension Sharing and FAS

FAS is also able to take account of PSOs in some circumstances, though this is more limited than in the case with the PPF.

If a pension sharing order takes effect before the scheme wind up is complete (FAS1) or before the scheme has transferred to FAS (FAS2), the scheme should implement the order in accordance with scheme rules and regulatory requirements as normal. This means that it must be implemented even if the scheme has actually wound up or transferred to FAS. There are practical issues with this, as the Trustees will not be able to finalise the pension debit/credit member's benefits until after the order is implemented.

If a PSO takes effect after wind up completion (FAS 1) or transfer (FAS 2), the Trustees do not have to implement the order by sharing the member's pension rights. It is not possible to share FAS assistance as there is no regulatory mechanism to do so, and currently there are no plans for FAS regulatory change in this area. This means that although the annuity provider may implement the order in respect of any annuity secured (FAS1) (provided the PSO is addressed to the annuity provider), FAS will not be able to share any assistance top ups to the annuity (FAS1) or any assistance paid as the result of scheme transfer (FAS2).

It is therefore very important that Trustees advise the members who they know are considering a PSO, and courts of the above and the estimated date of scheme transfer where they are requested to provide a CETV for divorce purposes. It is important for Trustees to tell the member that the PSO must be implemented before the scheme wind-up is complete (FAS 1) or the scheme is transferred (FAS 2). As the legislation generally allows Trustees four months to implement a PSO Trustees should remind the member that ideally the PSO should take effect at least four months in advance so that implementation does not delay scheme wind-up or transfer to FAS.

The S1 guidance details how pension credit and debit members should be completed on the S1.

As with PPF cases, once the ex-spouse is a pension credit member, they will not be able to take a transfer value of any assistance after the scheme has completed wind up or transferred to FAS. If the ex-spouse has become a pension credit member and then later requests a transfer value before the scheme has completed wind up or transferred to FAS, the Trustees would need to submit an application to the scheme manager to approve the transfer request, and this would be governed by the usual FAS transfer applications policy guidance.

Earmarking and Attachment Orders

PPF members may also be subject to earmarking orders. These are generally much more straightforward than PSOs and merely involve the designated amount being deducted from the member at the appropriate time and re-directed to the ex spouse.

However, there is no regulatory mechanism for FAS to take account of such orders, and currently there are no plans for FAS regulatory change in this area. If the member and their ex-spouse are unable to resolve the matter to their satisfaction, they would need to engage solicitors and potentially seek further guidance from the courts.

Finance Update

On 14th March 2013 the Financial Reporting Council issued FRS 102, the Financial Reporting Standard applicable in the UK and Republic of Ireland, providing succinct accounting and reporting requirements for unlisted entities, including pension schemes. This has prompted the Pensions Research Accountants' Group (PRAG) to initiate a revision to the Statement of Recommended Practice: Financial Reports of Pension Schemes, which will provide trustees and their accountants with specific guidance on the interpretation of FRS102 when preparing pension scheme accounts. PRAG is authorised by the Financial Reporting Council as the pension scheme SORP-making body.

PRAG are planning to consult on the revision to the SORP in the first quarter of 2014, and the final revised SORP will apply for the first time to accounting periods beginning 1 January 2015. More at **www.prag.org.uk**

Schemes in PPF assessment periods and FAS qualifying schemes of course remain fully subject to the requirements to obtain audited accounts throughout their assessment and qualifying periods, and the SORP sets out the form and content of the accounts required to give a true and fair view of a scheme's financial position.

To Watch...

PPF Compensation Cap

On 25 June, the Minister for Pensions made a written statement to Parliament outlining proposed changes to the PPF compensation cap. The Minister also indicated he is still considering whether there will be any changes for FAS.

The Minister stated the aim of the changes is to prospectively increase the compensation cap to reward long-serving members who are already or will in future receive compensation. The proposals will apply a 3% Cap increase for each full year of service above 20 years. Some amending clauses were introduced and considered as part of the Pensions Bill in early July. Further legislative amendments are expected during the passage of the Bill, which is expected to receive Royal Assent at the end of the year. We expect that the changes will come into force some time in 2014.

As the long service cap will be applied for capped members with service in excess of 20 years, we would like to remind scheme trustees and administrators of the importance of correct data.

Bridge

At the end of October, DWP published a consultation setting out the legislative changes that will be required as a result of the change in the definition of money purchase benefits in the Pensions Act 2011. The consultation is open until 12 December. Until such time as any legislative changes take place, we will continue to treat money purchase benefits under our established procedures. If you have any questions about benefits in your scheme please contact your Scheme Delivery Associate.

Defined Ambition

On 7 November, DWP published a paper with proposals for a new regulatory framework for pensions. These proposals include changes to the provision of DB benefits and DC provision. They also include measures which are intended to permit greater innovation and risk-sharing between members and their employers in pension provision. The consultation is open until 19 December.

The information we provide is for guidance only and should not be taken as a definitive interpretation of the law.

PPF Technical Team, November 2013.

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