# Pension News Bulletin

June 2009

## In This Issue



## Trivial Commutation - Legislation

The introduction of specific regulations designed to help schemes deal with members who have **small pension provision** have been delayed until 1st December 2009.

The regulations ease the way for occupational pension schemes to **commute** scheme specific 'pension pots' of **£2,000 or less** without reference to any other pension provision where HMRC's criteria is met. This should significantly improve scheme administration for those occupational schemes that have members with small pension amounts. However, **the regulations only apply to occupational pension schemes** and don't include personal pensions or buyout policies.

Before these regulations come into force, **trivial commutation** is limited to 1% of the lifetime allowance. The LA stands at £1.75 million for the tax year 2009/2010.

Useful links:
RPSM09104910 - Lump sums: Trivial commutation lump sum: When benefits may be commuted
RPSM09104960 - Lump sums: Trivial commutation lump sum: 12 month window
RPSM09104970 - Lump sums: Trivial commutation lump sum: Conditions for payment

## Authorised Payments - Legislation

The Registered Pension Schemes (Authorised Payments) Regulations 2009 (SI 2009/1171) come into force on 1st June 2009.

These regulations **expand** upon the current list of **authorised pension payments** and refer to the dispensations relating to pension and **lump sum benefits paid in error** which can be back-dated to 6th April 2006. From the Explanatory Memorandum

*'The regulations add categories of payments to the list of authorised payments that a registered pension scheme can make without attracting a charge to tax. These include commutations of certain small sums or pensions, payments made by pension schemes in error and payments which represent arrears of pension and lump sum made after the member has died.'*

## HMRC - Pension Schemes Newsletter 37

HMRC issued its latest newsletter containing details of the changes contained in the April 2009 Budget in respect of the **restriction to tax relief** for pension savings for those with **income of £150,000 or more**, starting from April 2011. Relief will be tapered away so that for those with income over £180,000 it is worth 20%, the same as to a basic rate taxpayer.

The newsletter also addresses:
- HMRC responds to customer concerns (Re-structuring borrowing/Re-mortgaging; Security / charging orders; Re-negotiating leases)
- Clarifying HMRC's position on employer contributions that include asset transfers
- Protection of low pension ages – transfers of crystallised rights

## HMRC - RPSM Updates

On 21st April 2009, HMRC published a list of updates to the Registered Pension Scheme Manual.

mycompanypension.co.uk the pension education website

## DWP - Publication of Research Report

On 5th May 2009, DWP produced a study on: *Older people's attitudes to automatic awards of Pension Credit*

The report itself explains: *'At present, older people have to actively claim Pension Credit, resulting in less than complete take up. Using data to automate elements of the process of awarding Pension Credit is a possibility that the Department for Work and Pensions (DWP) is considering in order to address this issue.'*

The report makes some interesting observations and is required reading for schemes that have members whose **smaller pension entitlement** means that they are likely to be eligible for **Pension Credit**.

In particular, Section 2.2 summarises the research by concluding that *'It was felt that notification would encourage take-up among those people who were unaware of Pension Credit, as well as among those who perceived themselves to be ineligible.'*

Citing one respondent, already in receipt of the benefit: *'The fact that you feel you're not entitled, you just don't even try. So if somebody said, 'well you might be entitled, here's the phone number…might encourage a lot more people to do it.'*

## DWP - Quarterly Statistics

Released on 13th May 2009, noteable points of interest about **State Pensions** and Pension Credit include:

- At November 2008, there were 12.2 million claimants of State Pension, a rise of 220,000 on a year earlier. Of these, 38% were male and 62% female. The average weekly amount in payment at November 2008 was £96.45, a rise of £4.52 since November 2007.
- At November 2008, there were 2.73 million claimants of Pension Credit (3.34 million including partners), a fall of 3,000 on a year earlier. Of these, 901,000 claimed Guarantee Credit only, 1.23 million claimed Guarantee and Savings Credit, and 598,000 were claiming Savings Credit only. See: DWP Quarterly Statistical Summary

## Pensions Policy Institute - Latest Research

The PPI has released a detailed study into **income needs for retirement**. The 85-page report focuses its attention on **four key issues**:

1. What income needs do people have after State Pension Age?
2. How do income needs change after State Pension Age?
3. What sources of income are available to people after State Pension Age?
4. Do pensioners have sufficient income to meet their needs?

Interestingly, the study concluded that:

- Pensioners tend to spend a large proportion of income on leisure and recreation in the early years of retirement (ages 65 to early 70s).
- Pensioners tend to decrease spending during the middle years of retirement (around ages 75 to 85) as a result of losses in mobility.
- Spending tends to increase again around age 85 as a result of the need for health related expenditure.
- Pensioners tend to reduce spending once more around age 90 as the need for spending on health, fuel, food and housing becomes paramount but expenditure on other goods drops off as a result of either mobility, preferences or the need to conserve income.

See: Retirement income and assets: do pensioners have sufficient income to meet their needs?

## The Pensions Regulator

The Pensions Regulator has issued a 3-page statement Alerts to risks in economic downturn. It has relevance to both **money purchase** and **defined benefit** pension arrangements.

## Pensions Ombudsman

The Pensions Ombudsman released its Corporate and Business Plan 2009.

The plan includes a 'longer term aim' to deal with 95% of investigations within 12 months – noting that this would depend on any new complaint trends. To spot such trends the PO liaises with other organisations such as The Pensions Advisory Service.

An immediate goal of the PO is to complete investigations within an average of 10 months from the date that the initial application is made. This compares with the 2008/09 goal of 24 months, so a step in the right direction.


## BERR

The Department for Business Enterprise & Regulatory Reform released **a Consultation Paper**: Implementation of the Agency Workers Directive. The consultation seeks views on who should be covered by the Directive, e.g. the definition of pay, holiday entitlement, duration of working time, the 12 weeks qualifying period, how the principle of "equal treatment" should be established, liability for compliance with obligations under the Directive, and dispute resolution.

Paragraph 4.18 states, *'Consistent with the TUC/CBI agreement, we would intend to exclude occupational social security schemes from entitlement to equal treatment. This would mean, for instance, that there would be no requirement to allow agency staff to participate in company pension schemes which are clearly more a reflection of the longer-term relationship between an employer and permanent staff.'*

Importantly though, the paragraph continues: *'However, it should be noted in this context that under the Pensions Act 2008, from 2012 "Personal Accounts" will include agency workers, giving them the benefit of* *workplace pension saving with an employer contribution – agency workers will have access to pension saving as other workers, and will be automatically enrolled from Day One on the same basis as permanent workers.'*

Question 11 of the Consultation Paper asks: *Specifically, in the light of the Pensions Act 2008, are you aware of any particular areas of concern regarding agency workers?*

No timescale has as yet been set for publishing draft regulations, but the UK is committed to implementing the Directive by 5th November 2011.

## Under the Magnifying Glass

### Transfers in a timely manner: Ombudsman upholds complaint where a pension transfer was completed outside of a firms own published timescale

Mr Miller, the complainant and who was a former independent financial adviser (IFA), wanted to transfer two money purchase pensions (a personal pension plan and a money purchase occupational pension plan) from Skandia Life to Scottish Widows.

Skandia Life quoted a total **transfer value** of £67,540.48 on 20th April 2006 when it issued the appropriate forms to Mr Miller's representatives. The transfer value was **not guaranteed**.

The correspondence included a discharge form which drew attention to *'short term movements in the stock market'* and the ability of the policyholder to be able to switch funds to protect against such movements.

Skandia received the completed discharge form on 4th May 2006. Its normal **turnaround time** for processing discharge forms was **10 working days**.

The PPP transfer was completed within the 10 day period, but a salary figure discrepancy highlighted by Skandia meant that according to them there was insufficient information to complete the remaining transfer.

On 18th May 2006, Skandia received a letter from Mr Miller's representatives advising that he understood the implications of completing a transfer without resolving the discrepancy (it had implications for the tax free cash lump sum).

On 19th May 2006, Skandia forwarded a cheque to Scottish Widows for £63,429.36, which was not invested until the end of the month.

Mr Miller complained that the *'unnecessary requirement'* in respect of the disputed information led to a loss of £4,111. A drop in equity values had reduced the transfer value.

Skandia Life accepted partial responsibility for the delay and offered Mr Miller £500 compensation but argued it had completed the transfers within the **guidelines** set down by the **Association of British Insurers** (ABI).

In the ombudsman's conclusions, he specifically referred to *'The question is what would have happened without maladministration by Skandia'*.

In summary, he determined that Skandia should have completed the transfer of the occupational pension plan within its normal turnaround time of 10 days on 18th May

2006.

The transfer value on that date would have been £65,480.22 (£2,050.86 more).

The ombudsman directed that given the small sum involved, and because of complications (Mr Miller had already taken tax free cash and purchased a pension), he ordered Skandia Life to pay compensation in the sum of £2,050.86 direct to Mr Miller.

**Points for consideration**

First published in March 2008 the determination by Tony King, the Pensions Ombudsman, could be considered a potential risk to any organisation involved with pension transfers where there is a published timescale for completing transfers.

The wider impact of the determination is now being felt by schemes and pension providers as other complainants start to cite this case.

What is also interesting is that as a former IFA, the complainant should have known that his pension funds were not guaranteed and could go down.

Skandia's **discharge form** clearly drew attention to the option to protect funds against short term movement in stock markets, and such switches could be made free of administration charge.  The statement also made clear that **financial advice** should be taken when considering switching funds.

However, Mr Miller took no action to protect his monies by switching funds. So, even though it could be argued that he was an informed individual, the ombudsman appears to have ignored that fact.

*What this case illustrates is that pension providers who have their own internal timescales to complete pension transfers cannot subsequently rely on ABI guidelines should a delay in transfer occur*

Hence, this case appears to shows that pension providers can no longer rely on ABI guidelines as a defence against similar complaints.

Pension schemes, administrators and financial advisers involved with transfers should consider the **wider implications** of this case.

Pensions Ombudsman
Case Ref: 26811/1
Determination date: 14/03/2008

## Other Research, Surveys and Reports

Statistics release: Insolvencies in the first quarter 2009 (The Insolvency Service) 8 pages

## Statistics

| Index | Year to April 2009 | Year to March 2009 |
|---|---|---|
| CPI | 2.3% | 2.9% |
| RPI | -1.2% | -0.4% |
| RPIX | 1.7% | 2.2% |

Bank Base Rate: 0.5%
(last changed 05/03/2009)

Notional Earnings Cap
2009/2010: £123,600

mycompanypension.co.uk

# Pension News Bulletin

June 2009

## About us


Our vision is to create an environment where high quality information is available to all members of pension arrangements, their advisers, sponsoring employers and trustees.

We aim to make employment based pension schemes more easily understandable: By bringing together useful, meaningful and relevant information and facts about employment based pension schemes we hope to make your understanding of pensions a lot easier.

- *We inform, educate and present facts; We simplify the complicated; We help our people understand; We save our members time.*
- *We don't sell pensions or insurance; We don't sell mortgages or investments; We don't give advice – but we help people that do.*

## What we do

### For Advisers

- **Useful tools** – including what is probably the best defined benefit pension transfer questionnaire in the UK.
- **File review** – send us a pension transfer file and we'll tell you whether it meets compliance requirements.
- **Mediation Service** – Got a dispute? Need help? Use our expertise to find the right solution for all parties.
- **Mentoring** – having conducted over 10,000 pension transfers, we've come across most scenarios. You may be very experienced or new to transfers, have a complicated case, or just want to double check your file for TCF or compliance.

### For Employers and Trustees

- **Regular Bulletins** to help keep you and your employees up to date with pension and work issues.
- **A dedicated confidential telephone helpline** for you, your employees and scheme members – we answer questions that may or may not be directly related to your scheme, and those sensitive queries that employees may not feel they can approach the scheme with, saving your HR or Pension Department precious time and money. Reliable and confidential help which is unbiased and independent of any advice process.
- **Member Forum -** an alternative solution to the Pensions Helpline, allowing scheme members to raise issues important to them. Users can choose to post anonymously for sensitive questions.

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