Core Unit 2 – Regulation of Retirement Provision

Assignment 4 Notes

*(Part 5 – Governance Requirements and Part 6 – Current Issues)*

*Recommended Time: 1 Hour*

# List some key risk indicators for trustees and members to spot pensions liberation scams.

**5 marks**

Answer should cover:

Members are often targeted by unsolicited text messages and cold calling. They are offered pension reviews, higher returns on investments, pension loans and upfront cash to lure them into transferring. Members may also be pressured by liberators to push through the transfer and sign the paperwork quickly

Some key risk indicators for trustees and members to spot a scam include:

* + newly established schemes with little or no formal documentation;
  + cold calling or unsolicited text or emails;
  + pressure to force through the transfer quickly;
  + encouragement to take cash and reinvest it;
  + claims to allow access to pension before age 55; and
  + transfers of money into an overseas investment. (Relevant section of the manual is Part 6 Chapter 2.1)

# Outline the Statutory Right To Transfer.

**5 marks**

Answer should cover:

* + Section 94 of PSA 1993 provides a right for a member of an occupational scheme who has ended his pensionable service to take a cash equivalent transfer value (CETV).
  + Section 95 provides that the transfer payment may only be made to an occupational scheme, personal pension schemes or annuity contract.
  + Additionally, under section 169 of the Finance Act 2004 a transfer will only be an authorised payment if

it is a ‘recognised transfer’.

* + If relevant statutory requirements satisfied, right to take a CETV within the statutory timescale (can be extended in certain limited circumstances by the Pensions Regulator)

From 6 April 2015, (section 48, Pension Schemes Act 2015).trustees or providers cannot make a transfer payment relating to DB benefits of £30,000 or more to a DC arrangement unless the member has first taken independent financial advice.

(Relevant section of the manual is Part 6 Chapter 2.2)

# Describe the key governance requirements for trustees in the Occupational Pension Schemes (Charges and

**Governance) Regulations 2015 and define “core financial transactions”.**

**10 marks**

Answer should cover:

The key governance requirements in the regulations for trustees will be:

* + core financial transactions must be processed promptly and accurately;
  + the value of costs and charges borne by members must be assessed;
  + a statement of investment principles governing decisions about investments for the purposes of the default arrangement must be prepared;
  + default arrangements must be designed in the members’ interests and kept under regular review;
  + the scheme deed and rules must not restrict the choice of administrators, fund managers or advisers to the scheme; and
  + a chair of trustees (the Chair) must be appointed with responsibility for signing off an annual statement describing how the governance requirements have been met.

Core financial transactions are defined as including, but not being limited to:

* + investment of contributions to the scheme;
  + transfers of assets into and out of the scheme;
  + transfers between different investments within the scheme; and
  + payments from the scheme to or in respect of members. Some of the new governance requirements apply only to “default arrangements”. Broadly these are investment arrangements where the member does not have to express a choice for his contributions to be allocated to that fund. In addition, the arrangement must be used by the employer in relation to at least one worker as a qualifying scheme to discharge its automatic enrolment obligations. So, a fund could be considered a default arrangement even if it is not being used to meet automatic enrolment duties in relation to all members.

(Relevant section of the manual is Part 5 Chapter 1.1.5)

# List the ways in which a pension arrangement might be contracted out prior to 6 April 2012 and outline how this changed in April 2012 and in 2016.

**5 marks**

Answer should cover:

Prior to 6 April 2012, there were four ways in which a pension arrangement might be contracted out:

* + Contracted out Salary Related (COSR) Scheme;
  + Contracted -out Money Purchase (COMP) Scheme;
  + Contracted out Mixed Benefit (COMB) Scheme; and
  + Appropriate Personal Pension (APP) / Stakeholder.

From 6 April 2012 contracting out on a money purchase basis was abolished. From that date, the only contracted out schemes have been COSRs. In 2016 contracting out on a defined benefit basis (COSRs) ceased.

(Relevant section of the manual is Part 6 Chapter 1 Introduction)

# Provide some examples of the types of charges that might apply in a DC scheme.

Answer should cover:

* + Annual Management Charge. Here, an amount is charged each year (often a proportion of a member’s fund). The AMC that applies in NEST is 0.3% per annum (with an additional 1.8% contribution charge).
  + Fund Switches and Bid/Offer Spread. If a member wants to move their fund from one investment to another, there may be a fee for doing this. The fee would be either a fixed amount or a proportion of the member’s fund. However, the trustees/ provider may allow members a certain number of free switches a year. The bid/offer spread is an investment charge which usually applies when switching investments and reflects the difference between the buying and selling price of a unit in a unit linked investment. A unit linked investment is a fund split into smaller parts called units and contributions into the fund buy further units. The value of the units fluctuates in line with the underlying investments. A typical bid/offer spread is 5%. The buying and selling price is related to the value of assets in the fund.
  + Policy fees. These cover the cost of administration and are usually included within the AMC (but may be separate for legacy policies).
  + Allocation Rates. Under the terms of some pension policies (typically legacy ones), the provider may use less than 100% of a member’s fund to buy investment units and keep the rest. The proportion that is invested is called the Allocation Rate. Older policies tended to have a low allocation rate but, due to pressure to offer fairer terms, most providers have increased the amount they allocate to be closer to 100%
  + Initial and Accumulation Units. Charges may be taken through using different types of units. Typically, in the first few years of a pension policy, contributions are invested in capital units, which have higher charges. Then, as per the terms and conditions of the policy, additional contributions are invested in accumulation units which have lower charges. At the end of a year, a provider may allocate additional accumulation units rather than pay a bonus reflecting the investment performance.
  + Charges on transfers. There may be charges involved in transferring a pension fund between schemes/providers and the charges in the new scheme may be higher or lower than those in the existing scheme.

(Relevant section of the manual is Part 5 Chapter 1.5.1)

# 10 marks

1. **Outline five areas of UK pension law which are currently subject to EU law and where UK law may diverge from EU regulations following the withdrawal of the United Kingdom from the European Union.**

**10 marks**

Answer should cover:

Five of the following areas of UK pension law which are currently subject to EU law:

* + **Scheme funding** the current technical provisions funding regime derives from the IORP Directive. There is unlikely to be any major change in the short or medium term but there would be scope for relaxing some of the more technical detail in future if desired.
  + **Investment** Some of the investment requirements (including limits on employer-related investments and the requirement to diversify) derive from IORP. There are unlikely to be major changes to the current requirements in the foreseeable future. Many of the rules governing the financial services industry more generally also derive from the EU - it is unlikely there will be major changes here as the UK industry will need to continue to comply to operate in the European market. Once the position is clearer, a review of specific investment documents may be advisable.
  + **GMP equalisation** The Government position that GMPs must be equalised is based on EU law. It may therefore be that this issue could disappear.
  + **Equal treatment** There are unlikely to be major changes here on policy grounds. There may be an opportunity to relax some of the age discrimination provisions to allow pension schemes to operate with more certainty and not have to rely on justification arguments.
  + **TUPE transfers** There will be scope for the Government to amend or relax the TUPE requirements and to give more clarity on early retirement (Beckmann) issues.
  + **PPF** The PPF was established to fulfil the UK’s obligations under the EU Insolvency Directive. It is unlikely there will be any major changes to the PPF in the current climate.
  + **Sex based annuity factors** It is an EU requirement for annuity providers (but not occupational pension schemes) to use gender-neutral actuarial factors. There would be scope for this to change and for providers to revert to gender-based factors.
  + **Data protection** It is likely that current data protection legislation will remain in place (as well as new requirements equivalent to those under the EU General Data Protection Directive) so that UK business can continue to transfer data to the EU.

(Relevant section of the manual is Part 6 Chapter 3.1)

# The Pensions Regulator's Code of Practice on “governance and administration of occupational trust-based schemes providing money purchase benefits” (the “Code”) came into force on 28 July 2016. Outline five of the six specific areas of good practice that are covered by guidance.

**5 marks**

Answer should cover five of the following:

The requirements for communicating with members are largely set out in regulations. However, in the, TPR expects trustees to consider what additional information members might need to make informed decisions. This might include reminders about the right to transfer out or about flexible benefit options not offered by the scheme.

The six guides provide more detail and best practice in the following areas:

# Trustee board

* + **Management skills**
  + **Scheme Administration**
  + **Investment governance**.
  + **Value for members**
  + **Communicating and reporting**.

(Relevant section of the manual is Part 5 Chapter 1.8.2)