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**Core Unit 3 – Running a Workplace Pension Scheme**

Assignment 5 Notes

(Part 6 – Special Situations)

Recommended Time: 2 Hours

1. **Summarise the information trustees must provide to members during the process of winding up a scheme, and list the key activities that defined benefit and defined contribution schemes must complete within two years of the winding up date.**

**(15 marks)**

Answer should cover:

*Information to members (5 marks)*:

* Must issue notice informing all members and beneficiaries, in writing and within 1 month of commencement of wind up, to include:
	+ reasons scheme is being wound up;
	+ statement to active members on whether death benefits will continue to be provided;
	+ whether an independent trustee has been appointed (generally DB only);
	+ name and address for further enquires;
* Must issue progress report to members at least every 12 months thereafter, to include:
	+ action being taken to recover any assets not immediately available;
	+ estimated date when final details of members’ benefits are likely to be known;
	+ extent (if any) to which value of member’s benefits likely to be reduced.

*DB Key Activities – any 5 of the following (5 marks)*:

* Calculating whether there is a section 75 debt on the employer (where the assets of the scheme were not sufficient to buy out full accrued benefits with an insurance company), and if so, serving that debt;
* Obtaining terms from insurers to secure benefits for pensioners and non-pensioners;
* Allocating available assets to members in accordance with the statutory priority order;
* Issuing option letters to non-pensioners;
* Paying benefits in accordance with options exercised;
* Securing benefits;
* Providing details of the benefits that have been secured with an insurer;
* Conducting a final actuarial valuation;
* Obtaining final audited accounts;

*DC Key Activities – (5 marks)*:

* Receipt or recovery of all member/employer contributions due from the employer;
* Establishing that all pensioner members have annuity policies set up in their own name providing the correct scheme benefits;
* Production and sign off of final accounts accounting for and reconciling all assets/cash held in trustee bank accounts and investment manager / provider accounts;
* Establishing that all other beneficiaries have been identified, fund values determined, secured and statements issued;
* Providing options to members.

Relevant section of the manual is Part 6 Chapters 2.2 and 2.3.

1. **Describe the process of discharging duties on termination of a scheme that is not admitted to the Pension Protection Fund.**

**(5 marks)**

Answer should include 5 from the following:

* trustees responsible for using the assets of the scheme to discharge its liabilities;
* trustees get quotes from insurers to determine cost of buying an annuity for members of a DB scheme in receipt of a pension;
* members not in yet in receipt of benefits:
	+ trustees may offer the a transfer of their funds, OR,
	+ buy a deferred annuity on the member’s behalf;
* members with less than two years’ service, may be able to take a refund of their contributions to the scheme;
* if benefit value lower than a limit set by the Government each year, member may be able to take a ‘winding-up’ lump sum;
* If the benefits are being bought out with an insurer the purchase price will be paid over to the insurer with completed proposal form, benefit schedule and full data;
* wind up can be finalised and written statement sent to all members.

Relevant section of the manual is Part 6 Chapter 2.6.

1. **Outline the new transfer regulations that became effective from 30 November 2021, and list five red flags and five amber flags that could be identified during the checks that trustees must carry out under the regulations.**

**(20 marks)**

Answer should cover:

*Transfer Regulations (10 marks)*:

* The Occupational and Personal Pension Schemes (Conditions for Transfers) Regulations 2021;
* Give trustees the power to refuse a transfer where there is a risk that it’s part of a pension scam;
* Trustees now required to carry out specific checks before they process a member’s statutory request to transfer their pension savings to another pension arrangement;
* The checks require trustees to be satisfied that either one of two conditions set out in the regulations have been met:
* First Condition
	+ met if the receiving scheme is of a type listed in the transfer regulations
	+ receiving scheme must be one of the following:
		- public service pension scheme
		- authorised master trust listed by The Pensions Regulator (TPR)
		- authorised Collective Defined Contribution (CDC) scheme included on a list to be published by TPR
* Second Condition applies to transfers into all other receiving schemes
	+ trustees must consider additional scam risk indicators by carrying out certain checks, including:
		- whether there is an employment link if the transfer is to either an occupational pension scheme or a QROPS
		- whether there is a residency link if the transfer is to a QROPS
		- red and amber flags are present

*Red Flags – any 5 of the following (5 marks)*:

* The member has failed to provide the required information;
* The member has not provided evidence of receiving MoneyHelper guidance;
* Evidence that a regulated activity without the required regulatory status has been carried;
* The member requested a transfer following unsolicited contact;
* The member has been offered an incentive to make the transfer;
* The member has been pressurised to make the transfer.

*Amber Flags – any 5 of the following (5 marks)*:

* The member has not demonstrated an employment link or residency link;
* The member cannot demonstrate an employment link or residency link;
* High-risk or unregulated investments are included in the scheme;
* The scheme charges are unclear or high;
* The scheme’s investment structure is unclear, complex or unorthodox;
* Overseas investments are included in the scheme;
* A sharp, unusual rise in transfers involving the same scheme or adviser.

Relevant section of the manual is Part 6 Chapter 3.3.2.

1. **List the activities that would typically be carried out in relation to data cleansing, during the winding up of a pension scheme.**

**(5 marks)**

Answer should include 5 from the following:

* trustees check the accuracy of the scheme data;
* ensure they have not overlooked anyone who is (or will be) entitled to benefits from the scheme;
* trace any members for whom they do not hold a current address;
* advertise in a local paper and the London Gazette to seek any missing beneficiaries;
* specification of benefits for buyout/Pension Protection Fund (PPF) purposes must be agreed with the trustees;
* administrator requests missing data from the company or insolvency practitioner;
* obtain notification of leaving forms all active members of the scheme;
* check records to ensure that full details of all members’ addresses and benefit entitlements are held.

Relevant section of the manual is Part 6 Chapter 2.4.

1. **Describe the tax treatment of pension contributions in relation to an employee who is on a short term overseas assignment.**

**(10 marks)**

Answer should cover:

* No restriction on amount an overseas individual can contribute to a registered pension scheme;
* UK tax relief is only available on any pension contributions made where the individual is a ‘relevant UK individual’ for the tax year in which the contribution is paid;
* UK relevant individual for a tax year if any of the conditions met:
	+ they have ‘relevant UK earnings’ chargeable to Income Tax for that tax year;
	+ they are resident in the UK at some time during that tax year;
	+ they were resident in the UK at some time during the five tax years immediately before the tax year in question and were also resident in the UK when they joined the pension scheme;
	+ they have, or their spouse or civil partner has, general earnings from overseas Crown employment subject to UK tax for that tax year;
* ‘Relevant UK earnings’ means any of the following:
	+ Employment income;
	+ Patent income;
	+ Income chargeable under Part 2 or 3 of the Income Tax (Trading and Other Income) Act 2005 and is immediately derived from the carrying on or exercise of a trade, profession or vocation or the carrying on of a UK or EEA furnished holiday lettings business;
* limit for contributions eligible for tax relief - greater of individual’s relevant UK earnings or £3,600pa;
* where relevant UK earnings are not taxable in the UK because of a ‘Double Taxation Agreement between the UK and the country of residence, those earnings are not regarded as chargeable to Income Tax and so do not count towards the annual limit for relief;
* Relevant UK individuals are subject to the Annual Allowance (AA) and the Lifetime Allowance (LTA).

Relevant section of the manual is Part 6 Chapter 1.1.

1. **Outline the tax treatment of pensions in payment in relation to pensioners of a scheme who are resident overseas.**

**(10 marks)**

Answer should cover:

* enhancements to the LTA due to periods of non-UK residency must be taken into account when testing the benefits against available LTA.;
* scheme must provide member with a statement of % of standard LTA used up under the scheme, within three months of the BCE and annually thereafter, until member attains age 75;
* if LTA charge is payable, Scheme Administrator must provide member with details of:
	+ the chargeable amount;
	+ how it was calculated;
	+ what the tax charge was;
	+ whether it has been paid;
* Member retires on or after 6 April 2023 and their benefits exceed LTA limit:
	+ LTA charge does not apply;
	+ benefits in excess of member’s LTA will be taxed at the member’s marginal rate of income tax
* Usually, payment of pensions to a foreign country is permitted;
* Double Taxation Agreements (DTAs) ensure that pensions are not taxed twice;
* DTAs exist between most industrialised countries covering salaries, dividends, royalties and other payments including pensions;
* In most cases, but not all, the pension is paid gross from the country where the scheme is located and is taxable in the country where it is received.

Relevant section of the manual is Part 6 Chapter 1.5.

1. **Describe the eligibility requirements of the Pension Protection Fund (PPF) and the levels of compensation provided to members once a scheme enters the PPF.**

**(10 marks)**

Answer should cover:

*Eligibility (5 marks)*:

* PPF came into effect from 6 April 2005;
* PPF applies to defined benefit and hybrid schemes - defined contribution schemes are not eligible;
* Where a qualifying insolvency event occurs and the assets of the scheme are not sufficient to fully buy out the PPF compensation otherwise payable by the PPF with an insurance company, then the scheme providing all other eligibility conditions are met will go into the PPF;
* If the scheme not eligible to enter PPF, it must be wound up - may be allowed to run as closed scheme;
* Schemes which started winding up before 6 April 2005 are not covered (Financial Assistance Scheme was established to provide some assistance to members of those schemes);
* Schemes where the sponsoring employer became subject to an insolvency event before 6 April 2005 may still be eligible if a further insolvency event occurs.

*Compensation (5 marks)*

* Members over NPA/in receipt of ill-health or survivor’s pension - 100% of pension payable;
* Other members:
	+ 90% of accrued benefits, subject to cap:
* Cap depends on age and length of pensionable service at date benefits commence:
	+ service of 20 years or less – maximum £37,315 p.a. at 65, £31,275 p.a. at age 60 (year cg 1/4/23);
	+ benefits comprise of pension and the pension equivalent of any separate cash sum;
	+ service of 21 years or more - cap increased by 3% per complete year of pensionable service above 20 years, up to a maximum of double the standard compensation cap;
* Pensions increases - LPI indexation, capped at 2.5%, on benefits accrued from post 5/4/97 service;
* Spouse’s benefit payable on death of pensioner;
* July 2021 – PPF Cap deemed unlawful;
* New approach - offer the option of a lump sum and increase and pay arrears on monthly compensation.

Relevant section of the manual is Part 6 Chapters 2.8.1 and 2.8.2.

1. **List the five areas covered in the Pension Regulator’s guidance for trustees on cyber security, and briefly explain the ten steps in the Government’s “10 Steps to Cyber Security”.**

**(15 marks)**

Answer should cover:

*TPR Guidance (5 marks)*:

* A cyber risk assessment cycle, to assess risks, identify mitigations and then monitor and report;
* Governance requirements;
* Possible controls;
* How to respond to an incident;
* Recognition that cyber risk is a dynamic and evolving risk.

 *10 steps - a brief description of each (10 marks)*:

* Risk management – take a risk-based approach to securing your data and systems
* Engagement and training – Collaboratively build security that works for people
* Asset Management – To know what data and systems you manage, and what business needs they support.
* Architecture and configuration – design, build, maintain and mange systems securely.
* Vulnerability management – keep your systems protected throughout their life cycle.
* Identity and access management – control who and what can access your systems.
* Data security - protect data where it is vulnerable
* Logging and monitoring – designed your systems to be able to detect and investigate incidents.
* Incident management - Plan your response to cyber incidents in advance
* Supply chain security – collaborate with your suppliers and partners.

Relevant section of the manual is Part 6 Chapter 3.3.8.

1. **Describe the legislation and key facts in relation to cross border provisions.**

**(10 marks)**

Answer should cover:

* Implications of the cross border provisions must be considered if a UK based occupational pension scheme has members located in other EEA countries and their employer contributes to the scheme;
* Pensions Act 2004 introduced these requirements to ensure UK complies with the EU Directive on Institutions for Occupational Retirement Provision 2003/41;
* The legislation:
	+ allows employers to use a UK scheme to cover EEA based employees;
	+ defines cross-border activity in terms of the acceptance of contributions in respect of members working in an EEA country outside the UK (other than those exempted as ‘seconded workers’);
	+ Requires UK schemes operating cross border to be fully funded at all times;
	+ Requires UK schemes to comply with host country social and labour law relevant to occupational pensions, in respect of members in the host country (the EEA state in which the member works).
* From 1 January 2021 - UK stopped being a member of EU Single Market or Customs Union, therefore:
	+ Most of the EU laws that applied to the UK during the transition period became part of UK domestic law after 1 January 2021;
	+ These included nearly all of the pensions laws that came from EU Directives and Regulations;
	+ These pensions laws have therefore become part of UK law and they continue to apply to UK schemes on that basis.
* The UK laws that previously governed schemes operating cross-border between the UK and EU/EEA countries have largely been revoked, therefore:
	+ the previous cross-border legal regime that operated until the end of the transition period has changed significantly;
	+ occupational pension schemes previously authorised and approved to carry out EU/EEA cross-border activity are impacted by the change;
* Where relevant, trustees should also check the guidance issued by other countries outside the UK, including EU/EEA member states.

Relevant section of the manual is Part 6 Chapter 1.6.