Autumn Statement - pensions implications

Matthew Swynnerton looks at two of the key pensions announcements in this year's Autumn Statement

In this article we look at the potential implications of announcements made in the Autumn Statement about pension scams and the money purchase annual allowance.

Pension scams

If a member has a statutory right to transfer, the strict legal position is that trustees have to comply with the transfer request even if they have suspicions about the receiving scheme. As well as potential implications for members who could lose their savings, this causes difficulties for trustees. If their due diligence has revealed concerns about the receiving scheme but, despite warnings, the member is insisting on transferring, trustees may feel uncomfortable doing so when they think it may put the member's pension savings at risk. If the member does ultimately lose their savings, there is also a risk that they will bring a claim against the trustees arguing that the transfer should not have been made and that they should still be entitled to benefits from the transferring scheme.

It is therefore welcome news for trustees that the Autumn Statement announced that the government will be consulting on options to tackle pension scams including banning cold calling in relation to pensions, giving firms greater powers to block suspicious transfers and making it harder for scammers to abuse small self-administered schemes.

The consultation is due to be published before Christmas, but what sort of changes do trustees need?

Given the difficulties noted above, greater powers to block transfers could be useful in combating pension scams. However, it will be important for trustees that any such power does not create a further risk for them in the form of potential claims about the way they have exercised the power. It will therefore be important that legislation is clear about the scope of any powers and provides trustees with a discharge from future claims.

Another point that it would be useful to see addressed is the requirement that in order for a statutory transfer right to exist, the member is an 'earner'. Earlier this year, the High Court held that 'earnings' for this purpose are not restricted to those paid by an employer sponsoring the receiving scheme but that earnings from another source will suffice. Amending the legislation to require regular earnings from a sponsoring employer could be a useful step in increasing the circumstances in which suspicious transfers can be blocked.

Money purchase annual allowance

The money purchase annual allowance (MPAA) was introduced on 6 April 2015. It applies when a member has accessed their benefits flexibly (for example through flexi-access drawdown or an uncrystallised funds pension lump sum) but wishes to make further DC contributions. The MPAA is currently £10,000 but the government does not believe that this level is needed or appropriate on an ongoing basis.

The government has announced that the MPAA will be reduced to £4,000 from April 2017 and has published a consultation on the details. It believes that an MPAA at this level: (i) should allow those who need to access their pension savings to rebuild them if they subsequently have the opportunity to do so; but (ii) limits the extent to which pension savings can be recycled to take advantage of tax relief. An MPAA of £4,000 would also allow pension contributions at a level above those required under automatic enrolment.

Whilst limited to those who have already accessed their benefits flexibly, this reduction will bring more people into the potential scope of the MPAA. Some commentators have expressed concern about the potential for the change to effectively restrict flexibility.

Where contribution levels mean that the MPAA may be exceeded, employers may find that they receive requests from employees for changes to the way they are remunerated so that contributions are reduced. Trustees will need to be aware of the change and any impact on administration for their scheme.

The progress of both of these developments is therefore likely to be something which the industry will watch with interest over the coming months.

Written by Matthew Swynnerton, partner in the pensions practice, DLA Piper

In association with DLA PIPER