

PENSIONS UPDATE

Introduction

Pensions for many people can be a minefield of acronyms, complexity and confusion when all that they want is to know that they are saving enough money for as comfortable retirement as possible.

There are, however, many developments in the pensions world which members should be aware of in case they could benefit or be affected now or in the future. In this Reps Bulletin the intention is to highlight some of those matters.

What's going on in Pensions?

The straight answer is that there is a lot happening across the pensions landscape, including:

- 2019 Valuation of the Railways Pension Scheme
- Legislation in the form of the Pension Schemes Act
- Annual uprating of State Pensions
- End of the Public Sector Pay Cap

2019 Valuation of the Railways Pension Scheme

Many TSSA members are also members of the Railways Pension Scheme (RPS). In accordance with legislation, each of the 112 Sections of the RPS have been subject to the three yearly Valuation for the period 1st January 2017 to 31st December 2019.

Known as the 2019 Valuation, draft results have been produced by the Scheme's

Actuary, Willis Towers Watson, and sent to each Section's designated employer.

Actuarial valuations are a measure of a scheme's ability to cover its liabilities, mainly made up of:

- pensions currently in payment
- pensions accrued at the time of the valuation but payable in the future.

Pensions in general, and actuarial valuations in particular, are complicated and highly technical in nature, designed to ensure that the Scheme (or in the RPS's case, the individual Sections) can meet its "statutory funding objective," meaning that it has sufficient appropriate assets to cover its accrued liabilities.

Results of the Valuation vary between Sections dependent upon factors such as:

- Investment performance;
- the Covenant Rating of the company (defined by The Pensions Regulator (TPR) as the "employer's legal obligation and financial ability to support their defined benefit (DB) scheme now and in the future") which will also affect the type of investments that can be used;
- whether the particular Section is open or closed to new entrants
- level of member and employer contributions (106 of the RPS Sections are based on the Shared Cost Arrangement meaning that members and employers contribute on the basis of 40%/60%, respectively, of the cost).

In the event the scheme doesn't meet its statutory funding objective after being valued (ie, it is shown to have a deficit), it must put in place a recovery plan.

The results of the RPS Valuations has meant that those companies that have a strong covenant have reported surpluses whilst many other firms with lower or reduced ratings have seen deficits. In some cases, those deficits have reduced from the 2016 Valuation but others have found their shortfall to have increased.

Where deficits have arisen, action has to be taken which could take the form of:

- additional contributions towards the deficit which is likely to continue over a period of years because of the size of the deficit whilst also ensuring that it is affordable to employers and members;
- changes to pension benefits to reduce future pension scheme liabilities;
- introduction of pensionable pay capping (or increasing capping that is already in place) to cut future liabilities;
- potentially taking a revised investment outlook.

The Valuation also looks forward by taking account of a variety of elements before setting a Future Service Joint Contribution Rate. Those elements consider such matters as:

- general economic outlook;
- potential investment returns (based on detailed modelling);
- expected increases in pay and inflation;
- assumptions about mortality (based on an annual table produced by the Institute and Faculty of Actuaries);
- the cost of Section contributions to the Pension Protection Fund Levy.

The Valuation will also set:

- a "statement of funding principles" which is the policy for meeting the statutory funding objective;
- a "schedule of contributions" covering payments due to the scheme, including in respect of any deficit contributions.

TSSA officers and reps have been and, in some cases, continue to be engaged in consultations with individual firms about the implications for the employer's Section(s) of the RPS. This includes Sections where there are surpluses and those that have a deficit. Consultation can take the form of both discussions through the collective bargaining arrangements as well as a 60 day individual scheme member process.

The RPS Trustee has to agree to each Section's Valuation outcome (including any changes to contributions, benefits, etc) and will be mindful of factors such as member affordability and adequate consultation. The Trustee also has to notify TPR of the outcome of each Section's Valuation outcome by 31st March 2021 and any changes (eg, to contribution rates) would then be expected to be implemented on 1st July 2021.

The Pension Schemes Act 2021

The Government's Pensions Schemes Bill completed its legislative stages in the House of Commons on 16th November 2020 and achieved Royal Assent on 11th February 2021.

The Bill originally started its legislative process in the House of Lords but at the Committee Stage in the Commons, the Pensions Minister successfully argued, supported by the Conservative Government's majority, to reject all of the Lords' amendments, including one to Clause 123. That amendment was designed to ensure that The Pensions Regulator (TPR) adopted a different approach when dealing with open (to new members), as opposed to closed, Defined Benefit pension schemes like the Railways Pension Scheme and the TfL Pension Fund.

The reason that this was important was because TPR had started a consultation ("The Defined Benefit Funding Code of Practice Consultation") in March 2020. That consultation eventually closed on 2nd September and was designed to seek views on a revised regulatory approach, including the principles that would underpin the new framework.

TSSA and the other railway unions submitted a joint union response to the consultation and worked with other groups and MPs in an attempt to change the terms of the Pension Schemes Bill. Whilst this was unsuccessful, statements have been made by the Pensions Minister and senior officials in TPR that our concerns are being listened to and that there is no intention to undermine open DB schemes.¹ At this stage we are continuing to monitor the situation to ensure Government commitments to meet our concerns via secondary legislation required under the Act are fulfilled.

What else does the Pension Schemes Bill cover?

The Bill covers a number of other issues that include:

- Collective Defined Contribution (CDC) schemes (aka, Collective Money Purchase Schemes (CMPS)) The first example of this sort of pension scheme in the UK was the one agreed by the Post Office and the Communication Workers' Union. The new legislation will give a regulatory underpinning to that ground breaking scheme².
 - More powers to The Pensions Regulator, including:
 - introducing three new criminal offences;
 - adding a civil power to impose fines of up to £1m; and
 - extending information gathering powers.
 - Pension Dashboards. Many people do not have all of their pension savings in one place because during their working life they may have changed jobs and lost contact with their previous pension scheme or the employer who provided it. To enable individuals to plan better for their retirement, the concept of a digital "Pensions Dashboard" has been developed³. This is intended to enable savers to be able to locate all of their pension pots in one place so that they can make more informed decisions about their future retirement income.
- The Pension Schemes Act creates the

legislative framework for the Pensions Dashboard but, controversially, the provision of the scheme will now be offered not only by the DWP's public sector Money and Pensions Advisory Service (MaPS), but will also be a commercial opportunity for private pension and insurance firms. This is despite the recommendations of MPs on the House of Commons' Work and Pensions Select Committee which argued that consumers wanted "simple, impartial, and trustworthy information" and that multiple dashboards, hosted by "self-interested providers"⁴ would add complexity (and no doubt cost) for the pension saver;

- Managing climate risk. Clause 124 will require occupational pension schemes to manage the effects of climate change as a financial risk. This would be done via climate change governance, strategy and risk management targets from October 2021.
- Starting with larger schemes (£5 billion or more in assets, authorised master trusts and collective money purchase schemes), annual reports on the climate change measures would have to be made by October 2022. The arrangements would then be rolled out to other schemes, starting with those valued at £1bn or more from 2023;^{5,6}
- Provision for scamming safeguards. Clause 125 will introduce legal protections via regulations aimed at protecting pension scheme members from scammers. This will work by pension scheme trustees being prevented from making a statutory transfer of a member's benefits unless prescribed conditions are met.

Increases in State Pensions

Since 2011 the Government has been committed to a Triple Lock - the highest of earnings growth, price inflation or 2.5% - when it comes to calculating the annual increase in the State Pensions. Originally, the Triple Lock only applied to the basic State Pension but with the introduction in April

2016 of the new State Pension, the same level of increase has been applied to both arrangements.

In a recent announcement, the Government has confirmed that from April 2021 State Pensions will increase by 2.5%. The table below gives the current weekly rate and the increased amount:⁷

	2020/21	2021/22
<i>Basic State Pension</i>	£134.25	£137.60
<i>New State Pension</i>	£175.20	£179.60

Members should be aware that eligibility for these State Pensions is based upon when a person reaches their State Pension Age (SPA). Those people who reached it by 5th April 2016 were eligible for the basic State Pension whilst those achieving their SPA from 6th April 2016 would be entitled to the new State Pension.

The figures quoted are for the full weekly pension amount but to achieve that is reliant on the number of qualifying years of National Insurance payments or credits that a person has:

Basic State Pension – 30 years

New State Pension – 35 years

More information about the rules for both State Pensions appear on the Government's Website at:

■ Basic State Pension

<https://www.gov.uk/state-pension/eligibility>

■ New State Pension

<https://www.gov.uk/new-state-pension>

Continued use of RPI as an inflation measure

This may not seem very interesting to members but TSSA and the other railway unions use the Retail Price Index (RPI) as the basic comparator when arguing for annual pay increases. Pensions can also be affected by RPI in areas such as indexation (subject to the rules of the scheme) and amongst the assumptions that feature in a DB arrangement's Valuation.

In March 2020, the Government's HM

Treasury (HMT) and the UK Statistics Authority (UKSA) began a consultation about replacing RPI with CPIH.⁸ The reason for the change was said to be due to "statistical shortcomings" in the RPI measure that had been in use since June 1975.

However, despite HMT and the UKSA responding to the consultation responses by confirming it was going to press ahead with the proposed change, the Chancellor (Rishi Sunak MP) has exercised his power to postpone the implementation until the final specific index-linked gilt matures in 2030.

When the revised approach is applied, some commentators foresee a drop in the value of pension scheme assets, potentially leading to a funding shortfall across UK pensions to the tune of £25-35bn.⁹

HMT consultation on increasing Normal Minimum Pension Age

Currently, pension scheme members can take their occupational or private pension from the Normal Minimum Pension Age (NMPA) of 55, although for those people in Defined Benefits schemes (like the RPS and TfL Pension Fund) this would usually mean that an Early Retirement Factor (aka, an Actuarial Adjustment) is applied, reducing the member's pension because they have decided to take it earlier than the scheme's Normal Retirement Age.

Her Majesty's Treasury (HMT) opened a consultation¹⁰ on 11th February 2021 on increasing the NMPA from 55 to 57 from 6th April 2028. The increase in the NMPA corresponds with Government legislation that has set the increase in the State Pension Age from 66 to 67, due to take place between 2026 and 2028.

One advantage being proposed in the NMPA consultation, however, is that members of registered pension schemes at the date of the consultation and who have a right under their scheme's rules to take pension benefits before age 57 will have their pension age protected. What's more, the protected pension age is intended to apply to an individual of a specific scheme and proposed protection will apply to all the member's

benefits under the relevant scheme (ie not just those benefits built up before 2028).¹¹

Ending of Public Sector Exit Payments

The Government introduced legislation to cap public sector exit payments (which could affect pension strain payments) in November 2020 but, facing legal challenges, announced in February 2021 that due to “unintended consequences” the measures would be revoked and employees reimbursed if they left between 4th November 2020 and 12th February 2021. TSSA members in a number of companies were affected by the legislation and should check this document out.¹²

Reps’ Action

Reps are invited to share the contents of this Bulletin with their members and colleagues.

Acknowledgements and references

TSSA wishes to acknowledge all of the sources that appear in the footnotes and which were used to produce this Bulletin.

NOTES:

- 1 Government Minister Baroness Stedman-Scott said that both the regulations under the Act and TPR’s revised funding code “will acknowledge the position of open and less mature schemes”, and the scheme funding regime “will continue to apply flexibility to take account of individual scheme circumstances”. Reported in: <https://www.sackers.com/publication/pension-schemes-act-2021-the-dawn-of-a-new-regulatory-era/>
- 2 More information is available at: <https://commonslibrary.parliament.uk/research-briefings/cbp-8674/> and <https://www.cwu.org/news/royal-mail-cdc-pensions-could-outperform-db-as-well-as-dc/> and https://thepeoplespension.co.uk/wp-content/uploads/2018/01/One_Pager_Collective_Defined_Contribution.pdf
- 3 For more information on the Pensions Dashboard Programme, see: <https://www.pensionsdashboardsprogramme.org.uk/>
- 4 See: <https://www.ipe.com/pension-dashboard-should-be-taken-out-of-private-sector-say-mps/10024006.article>
- 5 Page 5, Sackers Quarterly Briefing December 2020 at: <https://www.sackers.com/app/uploads/2020/11/Sackers-Quarterly-Briefing-December-2020.pdf>
- 6 See also: “A changing climate for pension trustees”, a blog by David Fairs, TPR, at: <https://blog.thepensionsregulator.gov.uk/2020/10/01/a-changing-climate-for-pension-trustees/>
- 7 <https://www.gov.uk/government/publications/benefit-and-pension-rates-2021-to-2022/benefit-and-pension-rates-2021-to-2022>
- 8 CPIH is defined as the Consumer Prices Index including owner occupiers’ housing costs. This reflects the fact that it is identical to the CPI, with the exception of inclusion of owner occupiers’ housing costs and Council Tax. See: <https://www.ons.gov.uk/economy/inflationandpriceindices/methodologies/consumerpriceinflationincludesall3indicescpihcpiandrpqmi#:~:text=CPIH%20is%20defined%20as%20the,is%20known%20as%20the%20HICP.>
- 9 Eversheds Sutherland HR Group Online Pensions Briefing 8th December 2020
- 10 Downloadable from: <https://www.gov.uk/government/consultations/increasing-the-normal-minimum-pension-age-consultation-on-implementation>
- 11 See: <https://www.sackers.com/publication/7-days-15-february-2021/>
- 12 See: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/961147/Guidance_to_Public_Sector_Exit_Payments.pdf Please also follow the link to the Schedule in Paragraph 1.2 to ensure your company is covered.