Industry Update

CARTWRIGHT

Protecting Defined Benefit Pension Schemes

More Bite and Less Bark Please

Following on from our Industry update on the Green Paper of March 2017, we now have the long awaited White Paper which promises some radical changes to protect Defined Benefit "DB" schemes and make them easier to run. The **devil will be in the detail** and the strength of the drivers that are needed to reverse what has been a very negative period recently are not yet clear. The past 12 months have seen uncertainty for DB members as high profile cases such as Carillion have hit the headlines. However, this is not a systemic problem. Many of the measures revealed are not necessarily new but instead existing measures will be strengthened.

The Pensions Regulator now has an opportunity to ensure it can successfully protect members under this new regime and fulfil their ambition to be **clearer, quicker and tougher**. Unfortunately, much of the change requires primary legislation which looks unlikely to be in force until the 2019/20 parliamentary session. In addition, as usual there is more consultation required on some aspects of the Government's proposals.

Stronger Powers for the Pensions Regulator

Companies putting their Defined Benefit schemes at risk have focused the Government on the need for clear and tangible measures that can be taken against those who put the company before members. The Pensions Regulator will be given new powers to fine companies and disqualify and criminally prosecute company directors where they have **"committed wilful or grossly reckless behaviour"** in respect of a DB pension scheme.

The new legislation will build on the Pension Regulator's existing anti-avoidance powers including strengthening information gathering powers, mandatory attendance at interviews, civil sanctions and requirements to produce financial information. Voluntary Clearance procedures will be revisited and strengthened. Whilst very few Contribution Notices enforcing what must be paid into schemes have ever been issued, the powers will be strengthened.

The Pensions Regulator already has in place lengthy Codes of Practice and Guidance but lacks powers that are sufficiently strong to deter negative corporate activity in relation to pension schemes. Existing Notifiable Events procedures should already sound alarm bells but the current scope of these is narrow. This will be overhauled and include more notice of intended events rather than past ones.

Stronger Trustee Governance

Whilst the Government has also followed through with stricter requirements for trustee boards to **demonstrate capability** to undertake their duties, it does not propose major change to the structure within which trustees perform their duties. Following on the heels of existing requirements for Defined Contribution schemes and master trusts, now the more complex Defined Benefit schemes will also have to appoint a formal chair of trustees who must provide an overall governance statement covering key competencies of trustee boards.

Such statements have proved to be highly effective in respect of Defined Contribution schemes, reinforcing with trustees the standard of governance required to protect member outcomes.

The existing 21st Century Trusteeship Guidance has led to more and more trustees taking formal qualifications and undertaking training online and at meetings.

Once again changes are ahead in respect of agreeing **scheme funding**. The Government would like all trustee boards to work towards a long term goal embedded within their Statutory Funding Objective. For schemes closed for all accrual this goal may be to buy out benefits with an insurance company within a set time, or to reach self-sufficiency on a low risk investment strategy. For open schemes it may simply be to run on the scheme with company support.

In addition, trustees will need to demonstrate the amount of prudence within their funding basis. In practice, this is already being done with the help of the Scheme Actuary and the Pension Regulator's Integrated Risk Management approach. Trustees will also be required to show that they are considering a long term funding approach when considering their statutory funding objective and that they have considered appropriate (scheme specific) factors in agreeing any recovery plan.

Cartwrights welcome the extension of these regimes and continue to support both professional and non-professional trustees in their excellent work on behalf of the membership.

Government intervention to assist companies and trustees alike

The DWP is going to work with the Pensions Regulator and industry about how consolidation of pension schemes might work including a proposed "Superfund" model. The Government has committed to tackle one of the biggest areas that often prevents a scheme from simplifying, being the thorny area of Guaranteed Minimum Pensions. Legislation is anticipated to make a benefit simplification a possibility ahead of such consolidation.

Conversely, the area that has not been supported in the White Paper is any form of override allowing schemes to switch to using the Consumer Prices Indices instead of the Retail Prices Indices which has ceased to be an official national statistic. This leaves schemes to work within the framework of their existing trust document. This will be disappointing for companies hoping for this possible override to help them reduce the value of their scheme liabilities.

Will this all lead to the necessary significant change?

For well-run schemes with good governance there is little to concern trustee boards and sponsoring employers within these proposals.

The proposals, if enacted, will provide the Pensions Regulator with additional and strengthened powers to support them in tackling the less well-run schemes and less supportive employers. In the past they appear to have been reluctant to use the powers that they already possess, however in recent months this appears to have been changing with more cases of poor practice being publicised. **We believe that this is the right way forward**. Without firm action members could become concerned about the security of their promised Defined Benefit they may look to transfer elsewhere and potentially fall victim to lower benefits at retirement.

We look forward to discussing this with you further and sharing ideas and views. In the meantime please get in touch with your usual Cartwright Consultant for further information.

Mill Pool House
Mill Lane
Godalming
Surrey GU7 1EY

T: 01483 860201

E: enquiries@cartwright.co.uk

250 Fowler Avenue
Farnborough Business Park
Farnborough
Hampshire GU14 7JP

T: 01252 894883

E: enquiries@cartwright.co.uk

Marlborough House
Victoria Road South
Chelmsford
Essex CM1 1LN

T: 01245 293300

E: enquiries@cartwright.co.uk

The Mansley Business Centre
Timothys Bridge Road
Stratford Enterprise Park
Stratford-upon-Avon
CV37 9NQ

T: 01245 293300

E: enquiries@cartwright.co.uk