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SO7

Abbreviations commonly used in 7 Days

Alert/News: Sackers Extra publications (available from the client area of our website or from your usual contact)

DB: Defined benefit

DC: Defined contribution

DWP: Department for Work and Pensions

ECJ: European Court of Justice

FAS: Financial Assistance Scheme

HMRC: HM Revenue & Customs

PPF: Pension Protection Fund

TPR: The Pensions Regulator

ELECTION SPECIAL**Stop press**

At the time of going to press it seems likely that the Conservatives will be able to form a Government with (or without) support of the Liberal Democrats, although negotiations between the parties are ongoing. Leaked details suggest those negotiations have focused on the economy and electoral reform. But what would a Conservative Government (perhaps with Liberal Democrat support) mean for pensions?

The good news is that there is, in theory, a cross-party consensus on pensions (at least on the issues that transcend a single Parliament). For example, despite earlier Conservative rumbling about withdrawing the reforms, there now appears to be cross-party support for the 2012 workplace pension reforms. But that doesn't mean that there aren't differences between the Conservatives and the Liberal Democrats (and Labour).

We analyse some of the key issues below:

- Tax relief for high earners – A policy battle potentially looms. The Conservatives have previously opposed the proposed restrictions on higher rate tax relief for pension contributions whilst the Liberal Democrats have said they will scrap it altogether. Perhaps the silver lining for schemes is that the complicated reforms to restrict tax relief proposed by the Labour Government may be amended or shelved as a result.
- State pension – There is seemingly cross-party support for restoring the basic state pension's link to earnings. In addition, the Conservatives wish to review the rise in state pension age, possibly bringing the increase from 65 to 66 forward to 2016 for men and 2020 for women (currently slated for 2026).
- Public sector pensions – Change is on the agenda. The Liberal Democrats have proposed an independent commission and the Conservatives have already said they wish to cap public sector pensions "above £50,000".

Finally, who will be the Pensions Minister? Nigel Waterson, the Conservatives Shadow Pensions Minister, lost his seat at the election, perhaps leaving an opening in any coalition cabinet for Steve Webb, the Liberal Democrats spokesman. But whoever is appointed, we just hope for continuity – as, at our count, 10 ministers have held the post since 1997.

We will be following developments closely.

LEGISLATION

Explanatory Notes to the Finance Act 2010

The Government has published [Explanatory Notes](#) to accompany the [Finance Act 2010](#).

The Finance Act 2010 includes provisions (originally announced in the 2009 Budget) for restricting tax relief on pension contributions for individuals earning £150,000 and over (including employer pension contributions), subject to a pre-tax income floor of £130,000. These are contained in Section 23 and Schedule 2 to the Act.

In addition, Section 48 amends Schedule 35 to the Finance Act 2009, to extend the “anti-forestalling” measures to individuals earning £130,000 or more from 9 December 2009 (the date of the Pre-Budget Report).

For more information on recent developments on this subject, please see our Alert: [Scant relief for pensions in Darling's pre-Election Budget](#) (dated 25 March 2010).

PENSIONS POLICY INSTITUTE

The Pensions Primer

The PPI has updated its “[Pensions Primer](#)” which provides a detailed description of the current pensions system and some of its history. It is aimed at people who want to learn about UK pensions policy.

CASES

Mr McLeish (Pension Ombudsman)

This recent decision concerned the level of information which should be provided to an early leaver in respect of their options.

Background

Mr McLeish (Mr M) left the UK Can Pension & Assurance Scheme (the “Scheme”) on 31 March 1995 and received a letter detailing his options from the Scheme administrator. These were: a refund of contributions, a deferred pension, or a transfer. Figures were given in respect of each option.

Mr M decided to take a deferred pension.

In March and May 2007, Mr M wrote to the new administrator to request an early retirement quotation. He received no response. On 7 November 2007, he received a cheque which represented a return of his contributions to the Scheme less a tax charge and the amount required to buy him back into the State Second Pension. The letter contained no explanation as to why a refund had been sent. Mr M returned the cheque and complained.

After the complaint had gone through both stages of the Scheme’s Internal Dispute Resolution Procedure, Mr M took it to the Pensions Ombudsman.

Decision

The Ombudsman noted that Mr M's circumstances were such that there was no advantage to him in taking a deferred pension. In fact, the refund option was beneficial. This was because Mr M would receive the refund in addition to a pension from the State of, broadly, the same amount of the deferred pension he would have received had he not taken a refund. The Ombudsman considered that Mr M would not have been able to work that out for himself.

Although he recognised that the circumstances were unusual, the Ombudsman concluded that the administrator should either have excluded the option of a deferred pension or given Mr M sufficient information to make a decision himself. On this basis he determined that, had Mr M been given the appropriate information in 1995 as part of his options letter, he would have taken a refund of contributions at the time.

The Ombudsman therefore upheld this part of the complaint and directed the administrator to pay Mr M simple interest on the refund of contributions, calculated from the date he could have elected to receive a refund (1995) to 7 November 2007 (the date he received the cheque) together with simple interest on that amount from 7 November 2007 to the date of payment.

Comment

This case indicates that, in certain circumstances, trustees and administrators must go a step further than providing early leavers with details of their options. Where a particular option is, as was the case here, "worthless", and it will not be easy for the member to identify this themselves, this should be made clear.