In this update we summarise the government’s latest decisions on increasing the flexibility of pensions.

The government has delivered its main decisions and much of the draft legislation following the consultation on the changes to the pension tax rules that were announced in the March Budget (highlighted in our last Update). The “freedom and choice” in accessing retirement savings must be good news for all pension savers and will encourage more savings. Some details that might be important are still awaited and further consultation continues until early September. However, SSAS trustees may wish to start considering the changes that will open up in just eight months’ time.
OVERVIEW
From April 2015, those with “defined contribution” retirement savings, such as members in most SSASs, will be able to access them with much greater flexibility than at present. They will still be able to take part of their funds as a tax-free lump sum and have the choice to access the remaining funds through much more flexible drawdown rules.

Those already receiving pension under the Capped Drawdown rules will also enjoy greater flexibility, without the need to meet the existing requirements for Flexible Drawdown.

LCP comment
Those who already went the extra mile to opt for Flexible Drawdown may be left a little aggrieved that they jumped through legislative hoops that will shortly be removed.

DESIGNING THE NEW TAX FRAMEWORK
The government needs to adjust the pension tax framework in order to deliver the flexibility it seeks. Some of the key changes are discussed below.

Providing access to flexibility
A legislative override will enable schemes to change their rules (if they otherwise prevent this) to permit the new flexibilities. However, this is not mandatory and so trustees can choose whether, and the extent to which, to introduce the new flexibilities.

LCP comment
Until final legislation is in place, how the override will work is uncertain. However, we anticipate that the vast majority of SSAS trustees will want to opt for the new flexibilities.

Limiting the scope for abuse of pension contribution tax relief
There is concern that, when the new rules are in place, it would be possible for individuals over 55 to divert salary into pensions and immediately withdraw it, thus avoiding NI contributions and receiving 25% of the diverted salary tax-free.

Some of the detail is unclear but, to prevent such abuse, there will be a new “pseudo” annual allowance of £10,000 for those who have drawn funds under the new flexibilities. The current £40,000 annual allowance will also remain in place across all schemes and the interaction between the allowances might cause issues for some.

LCP comment
Although the current rules would allow such manipulation, in practice the numbers doing so would have been very small. The new allowance lessens, but does not eliminate, the scope for manipulation of the tax rules. However, given the limits and the costs of doing so, it will be unattractive for most. The government warns that it will be “closely monitoring behaviour under the new system”.

A small solace for those in Flexible Drawdown is that they will gain a “pseudo” annual allowance of £10,000 (up from zero).

CHANGES TO DRAWDOWN FROM 6 APRIL 2015
New retirees
The existing options of Capped Drawdown and Flexible Drawdown will no longer be available. Instead, those starting to draw their funds for the first time after 6 April 2015 will do so as either “flexi-access drawdown” or “uncrystallised funds pension lump sums”.

Under the drawdown route, up to 25% of the funds being crystallised (i.e. designate funds to provide benefits) can be taken, as currently, as a tax-free lump sum with the remaining 75% used to provide a pension under the new flexi-access rules. Those rules permit the pension funds to be drawn, subject to tax under PAYE, as fast or slow as the member chooses.

Alternatively, members can opt to draw funds as “uncrystallised funds pension lump sums” (effectively a type of phased drawdown). Such lump sums are treated as a single payment, with 25% being tax-free with the rest taxed as pension income.

LCP comment
There are subtleties between these options that may not be immediately apparent. For example, there are differences in the:

- tax treatment of funds not yet drawn on the death of the member;
- trigger for when the “pseudo” annual allowance applies; and
- ongoing requirements under the “Real Time Information” tax reporting system.

One key to the success of these options will be making sure that the right amount of income tax gets paid at the right time. It will be difficult to marry the order of the PAYE system’s allowances with irregular drawdown payments.

**Current users of Drawdown**

Those in Capped Drawdown may convert to the flexi-access drawdown and thus remove the need for regular recalculations of their maximum pension. However, if they do so, they should note the introduction of the “pseudo” annual allowance.

6 April 2015 will be a cliff edge – there will be no need for the member to wait until the end of their pension year to take advantage of the new flexibility. Anyone with a review between now and then may question the need for the review given the changes. The Treasury are “sympathetic” but haven’t yet suggested these reviews can be ignored.

Those in Flexible Drawdown will automatically move to flexi-access drawdown.

**PROVIDING MEMBERS WITH ACCESS TO FREE AND IMPARTIAL GUIDANCE**

The government’s key safeguard for the successful delivery of the flexibilities is a properly functioning new “guidance guarantee” service available at retirement. Some more detail of this policy has emerged.

- The guidance will be provided by independent organisations including the Pensions Advisory Service and the Money Advice Service, as well as possibly other consumer-facing organisations - this is to avoid actual or potential conflicts of interest in order to ensure complete impartiality.
- The guidance will be delivered through a “strong, recognisable brand” across all providers of the service – in order to distinguish it from sources of information or other services.
- The government intends that measures should be implemented to enable individuals to have drawn together information about all their pension wealth ahead of accessing the service.
- The proposed “face-to-face” guidance is now one of a number of communication methods, such as online or telephone support.
- Standards for the guidance will be set by the FCA and its operation will fall under a new FCA standards regime.
- The on-going costs will be funded by a new FCA-collected levy on regulated financial services firms (the initial preparatory costs of £20m are being met by the Treasury) – it therefore seems that occupational schemes will not have to contribute directly.

**LCP comment**

SSAS trustees will be required to signpost their members towards the guidance. The blanket coverage of the guidance may mean that it is too basic for some, who will still need to take advice.

---

Lane Clark & Peacock LLP | Trustee Consulting | Investment Consulting | Corporate Consulting | Insurance Consulting | Business Analytics | www.lcp.uk.com
LCP FINAL COMMENT

There is still a lot of work to be done, particularly with providing the guidance, to get all this running by April 2015.

The government will take forward two separate pieces of legislation in order to deliver these reforms – the Pension Schemes Bill and the Pensions Tax Bill – for which we expect final legislation by the end of the year. Meanwhile, a lot of important detail remains uncertain.

In addition to the above, the government is still considering its options regarding the tax rate on unused funds on death (although it has reaffirmed its view that the current rate of 55% is too high). A further announcement on this will be in the Autumn Statement.

Changes to the Normal Minimum Pension Age are also being pursued but any consideration to protections for those who have built up savings with a right to take benefits from an earlier age will not be legislated on in this Parliament.

Any questions?

If you would like any assistance or further information on the contents of this SSAS update, please contact Peter Clarke, Patrick Moriarty or the partner who normally advises you at LCP via telephone on +44 (0)20 7439 2266 or by email to enquiries@lcp.uk.com.

Peter Clarke
Senior Consultant
peter.clarke@lcp.uk.com
+44 (0)1962 872703

Patrick Moriarty
Associate Consultant
patrick.moriarty@lcp.uk.com
+44 (0)1962 873339

This note is not, nor is it intended to be, a comprehensive guide to the topics discussed. Lane Clark & Peacock LLP can take no responsibility nor accept any liability for your use of material in this document and no decisions should be taken as a result of this document. It is based on our understanding of material issued by HMRC and HM Treasury up to 11 August 2014.

LCP is a firm of financial, actuarial and business consultants, specialising in the areas of pensions, investment, insurance and business analytics.