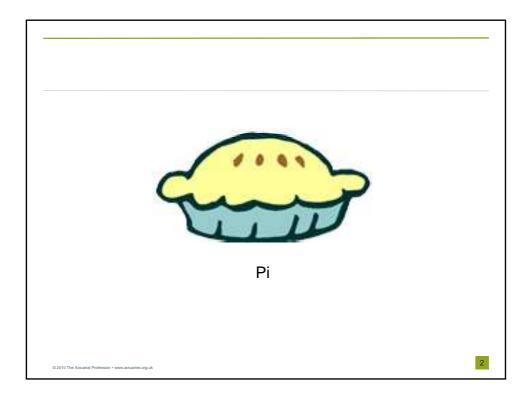


- New Government: new pensions?
- Some Recent Interesting Cases
 - (and their impact on trustees)
- Where do we go from here? GMP Equalisation

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Recent developments in law

- CPI / RPI
- High Earners
- Equality Act 2010
- Bribery Act 2010
- Section 251 (surplus)
 Auto enrolment and NEST

Regulatory Developments

- Regulator's use of powers
- Trustees
- Data

CPI/RPI

- What?
 - Intense lobbying on both sides
 - Consultation is expected what form of statutory override?
 - Will there be a CPI underpin where RPI is used?
- Timing

Section 251 (surplus)

- Recap:
 - Old limits on ongoing surplus abolished
 - Section 251: Trustees' ability to retain powers 6 April 2011
 - Badly drafted
- Development from DWP
 - Open letter advising intention to legislate
 - Not intended to apply to schemes winding up or administrative payments
 - Schemes likely to have 5 more years to act
- · Until legislation changed, current deadline continues to apply
- Should schemes act now?

High Earners

- Government aim to save £4bn in pensions tax relief
- Measures announced 14 October 2010, replacing previous Government's plans, with same total saving
- 100,000 pension savers to be affected
- Annual allowance restricted to £50,000 April 2011
- Lifetime allowance restricted to £1.5m April 2012
- Separately, income tax rises and national insurance rises

Equality Act 2010

- Non-discrimination rule implied into all Schemes:
 - Gender reassignment
 - Marriage and civil partnership
 - Race and sex
- Power for Trustees to make "non-discrimination alterations" to the rules of their scheme by resolution
- Otherwise, equality law now is essentially the same for pension schemes as non-discrimination laws were before

Bribery Act 2010

- Penalties are steep (unlimited fines and 10 years in prison) but Trustees are generally low risk
- Main potential problem: hospitality and promotional activity:
 - Bribing includes giving or offering a person an advantage either with the intention that they (or someone else) should perform their duties improperly, or as a reward for doing so. The advantage need not be financial
 - Being bribed asking for, or receiving, an advantage for performing your duties improperly
- Guidance to be published early 2011. Act in force April 2011
- · Steps to take: risk assessment

NEST and new employer obligations

- New Government set up a review of the plans
- Reported on 27 October and DWP indicated will accept
- Reforms to proceed from 2012
 - Obligation to auto-enrol into NEST or a qualifying scheme
 - Obligation to contribute
- Effect on future trends in pension provision?

Some Interesting Cases

- Nortel FSD
- Bonas CN
- Lehman Brothers FSD
- Pilots
- Bridge v Yates
- ITS v Knell
- ITS v Hope
- · Catchpole v Alitalia
- Kenny
- IMG







Nortel challenge tPR FSD

- FSD:
 - 'service company' (Sea Containers 2007)
 - 'insufficiently resourced'
 - Test for FSD here:
 - Occupational scheme within Act?
 - Targets connected/associated?
 - Insufficiently resourced?
 - Reasonable?

tPR makes 'no BONAS' about CN

- Employers considering walking away from DB liabilities should think again
- Belgian Co. sold UK subsidiary under a prepack insolvency in 2006 (dumped scheme in PPF)
- Now ordered to pay £5m, despite having never been a participating employer
- · Liability:
 - Act/failure to act
 - Main purpose?
 - Prevention of recovery
 - Reasonable?

Lehman challenge tPR FSD

- FSD issued to 6 companies in Lehman Group
- Reasonable as benefit received from LBL (employees, services)
- No fair hearing application:
 - Lack of time
 - Lack of disclosure of relevant documents
 - Content of FSD

Pilots

• So what did it really decide?

Bridge v Yates

• The definitive word on the meaning of Money Purchase benefits?

ITS v Knell

• Some good news on errors

ITS v Hope

No gaming the PPF

Catchpole v Alitalia

• Estoppel is alive and well

Kenny

• Making sense of overpayments

IMG

- The pitfalls of changing benefit structures
- Clarification of s91 PA 1995

Any questions?

