Pension Plans - DB & DC

Current Challenges
facing Trustees

Alan Broxson

Apart from:

- The usual regulatory requirements.

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- The usual regulatory requirements.
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- Being Solomon in Death Claims.
- Negotiating Funding Proposals.
- Trying to understand the Pensions Authority love of Bonds.

Section 50

- In what circumstances can Trustees agree to reduce benefits?
- What powers exist in the Trust Deed?

Employer Powers

- None other than veto over changes.
- To cause wind-up without notice.
- To cause wind up with notice.
- Contributions payable?
- Minimum Funding Requirement?

Other considerations

- Are employer powers compromised by an existing funding proposal?
- Affordability ?
- Are future service benefits to be funded as DB or DC?
- If DC - are proposed contribution rates reasonable?

Trustee Powers

- Power to demand outstanding contributions?
- Power to demand cost of meeting any deficit?

Lessons from Element Six case

- Edge vs Pensions Ombudsman

“the trustees must be careful not to impose burdens which imperil the continuity and proper development of the employers business or the employment of the members who work in that business.”

Lessons from Element Six case

- Take Legal Advice -

BUT

It is for the Trustees themselves, having considered all advice, to make their own decisions.

ie Trustees cannot hide behind the legal advice.

Lessons from Element Six case

- Any decision must be within the range of actions which a body of trustees, acting reasonably, could make.

Case History 1

- Scheme in deficit.

- Employer wished to remove pension increases but otherwise prepared to fund the remaining deficit.

- Deed gave him the right to cause wind-up without notice.

Case History 2

- Scheme in deficit.

- Employer wished to reduce benefits but otherwise prepared to fund the remaining deficit.

- Deed gave him the right to cause wind-up with notice.
- Rate of contribution required employers agreement.

Case History 3

- Scheme in deficit.

- Employer wished to wind-up and transfer to DC.

- Deed gave him the right to cause wind-up with notice.
- Deed specified that the contribution required was whatever the Trustees decided was required to fund the benefits.

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Case History 4

- Scheme in deficit.
- Employer wanted wind-up and transfer to DC.
- Deed required Employer to meet MFS on wind-up.
- However, pleaded inability to meet shortfall .
- Tried to negotiate changes with Unions.
- Eventually Trustees involved.

Case History 4

- Trustees needed assurance that Employer claims on affordability were justified.
- Independent Accountants report commissioned.
- Employer agreed to facilitate provided results confidential.
- Report, whilst supportive of Employer, was not conclusive.

Case History 4

- Long negotiations ensued
- Eventually agreement reached - (*with employer*)

  Some benefit reductions

  Pensions bought out on Sovereign Annuities

  Legal agreement on funding for 10 years

  DC for future service.

Lifestyle and DC Plans

- Background:

Options at NPD Cash plus pension.

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Pensions Authority view, adopted by many, the switch to be spread over a long period.

Typical Default - 20 year spread.

Then along came ARFs

What we know already:

Few adopting annuity approach unless max cash advantage .

Few have the knowledge to make a sensible decision regarding investment pre retirement.

Transition to cash plus bonds looking daft!

Then along came ARFs

What we don’t know:

How will retirees decide to invest?

What is the perfect default approach to investing Scheme assets?

Then along came ARFs

Only future actual experience will help us to understand what is optimum approach.

Meanwhile - what should a reasonable and explainable default approach be?

An approach

- Assume all will take 25% cash (unless other obvious).
- Assume ARF will be 50% cautious (eg Bonds) and 50% equities.
- Transition over 5 years.
- Meanwhile - a mixed managed fund approach.
- Explain to members why.
- Ensure every member gets one-to- one advice 5 years prior to retirement.

Meanwhile!

- Shouldn't Pension Authority try to publish a sensible view?

- How can we educate the members at large?

And Finally

- Can we press for the draw-down facility recently introduced in UK?