ALACE
'Stronger Together'

PENSIONS UPDATE: OCTOBER 2015

This update covers 3 topics:-

1. Pension and Financial Planning Seminars to be held in Wales in November 2015
2. The Government's Proposed £95K cap on Exit Payments
3. New Lifetime Allowance (LTA) Protections to be introduced by the Government in April 2016.

1. Pension and Financial Planning Seminars to be held in Wales in November 2015

1.1 Working jointly with SOLACE WALES, ALACE is holding two Pension and Financial Planning Seminars in Wales – in **Cardiff** on the morning of **Friday 6 November** and in **Wrexham** on the morning of **Friday 27 November**.

1.2 These Seminars will cover the same ground as those held earlier this year in Edinburgh in June, and in Manchester and London in July. They will therefore be looking at the Lifetime Allowance (LTA) and the Annual Allowance (AA) and how they work. They will examine the implications of the Government's plans to lower the standard LTA from April 2016 from its current level of £1.25 million to £1 million and the new LTA protections that the Government is planning to introduce for those whose pension pots will be worth more than £1 million at the end of the current financial year (see Section 3 below). There will also be a presentation on Financial and Investment Planning pre-retirement, at retirement, and post-retirement.

1.3 The seminars are primarily intended for ALACE members working in Welsh authorities but we are aware that a number of our members outside Wales would have liked to have attended one of the previous seminars but were unable to do so. **If any current ALACE members outside of Wales would like to attend one of the Welsh seminars could they please contact ALACE's Honorary Secretary, Amar Dave on daveamar@aol.com and he will liaise with Alison Ward, Chief Executive of Torfaen County Borough Council, who is organising the Welsh seminars, to see if places can be made available for them and send them the relevant time and location details.** The seminars will be free to existing ALACE members.

2. The Government's Proposed £95K cap on Exit Payments

2.1 Members will be aware that, in the summer, the Government carried out a hasty, short, consultation concerning its plans to introduce a £95K cap on the "exit payments" of those leaving public sector employment including local government. ALACE, along with many other trade unions and organisations, put in a strong response to the consultation which can be found on the new ALACE website

2.2 Our response objected in principle to the introduction of such a cap, and particularly to any payments other than redundancy payments, (for example, contractual payments such as those for pay-in-lieu of notice or untaken leave etc.), being included within the cap. We were particularly concerned about the Government's intention to include in the cap the cost of payments which have to be made by employers to cover the "strain" on local government pension funds as a result of employees being retired, or retiring, early before their normal pensionable age (now 66 or 67 for most employees). These "pension strain" costs can run into hundreds of thousands of pounds, especially for high-earners, and their inclusion in the cap could have severe repercussions for individual members and could make it very difficult in the future for authorities to manage any downsizing or restructuring in order to save costs or improve efficiency.

2.3 Unfortunately the Government appeared to take little notice of the consultation exercise and, with unprecedented haste, almost immediately published the Enterprise Bill, section 8 of which relates to cap on exit payments. (This section sits very oddly with the rest of the Bill). The only concession the Government made to the objections it had received was to omit the value of untaken leave from the types of exit "payment" within the scope of the proposed legislation. No concession was made over the all-important inclusion of the value of early access to unreduced pensions.

2.4 The Bill has now had its Second Reading in the House of Lords and the Committee Stage, also in the House of Lords, started on 26 October. At the Second Reading stage, a couple of Opposition spokespeople raised queries about the inclusion of these clauses in a bill concerned primarily with small business and enterprise; pointed out the inherent unfairness of introducing legislation to override legal commitments included in statutory pension schemes; and explained that the provision will not only affect high earners but also those on modest salaries with long service. There was, however, very little interest from other peers in those comments; most, understandably, being concerned with the other clauses relating to the main thrust of the Bill.

2.5 Pensions advisors, specialist pension firms, local authority pension funds, and local authorities are struggling to imagine what the regulations (and the resulting administrative arrangements) will look like, given the inevitable complexities. We are attaching a copy of a briefing note circulated by our pension advisers, Hymans Robertson, in August before the Bill was published, which outlines some of those complexities including 5 likely unintended consequences of the proposals.

2.6 At the moment, however, it looks like the Bill will be passed, and the 95K cap will be introduced. Amendments may be made to the relevant clauses as it goes through the Committee Sage but we will not know the detail as to how the Government intends the cap to work until the related regulations are drafted and published. Nor do we yet know when the cap will be introduced but, possibly, from next April (2016).

2.7 We will keep members informed of further developments.

3. New Lifetime Allowance (LTA) Protections to be introduced by the Government in April 2016.

3.1 As explained at the recent Pensions Seminars, the Government will be lowering the standard Lifetime Allowance (LTA) of £1.25 million to £1 million with effect from April 2016.

3.2 The LTA is the maximum amount of pension savings/benefits you can have in your pension pot without incurring an additional income tax charge. Savings and benefits are counted from all sources other than the national state pension (e.g. from the Local Government Pension Scheme (LGPS), returning officer pensions, occupational pensions from previous employments, private pensions, Additional Voluntary Contributions (AVCs), Additional Pension Contributions (APCs), awards of additional pension etc.).

3.3 The "*Pensions:FAQs*" document on the ALACE Website explains how the LTA works, how to calculate the value of your own pension pot for LTA purposes, and the level of additional tax charges that will be applied to any excess amount by which the value of your pension pot exceeds the LTA.

3.4 Most people are subject to the standard LTA but, in the past, when the Government has lowered the value of the standard LTA, those whose pots already exceeded the new lower value (or who believed their pots would exceed this value at the time they retired) have been able to apply for special protections to give them a personal higher LTA that will be applied to them when they retire. The Government has now confirmed that it will be introducing 2 new such protections when it lowers the standard LTA to £1 million in April 2016 – **Fixed Protection 2016** and **Individual Protection 2016**.

3.5 It is understood that **Fixed Protection 2016 (FP16)** will work on a similar basis to Fixed Protection 2012 (FP12) and Fixed Protection (2014). However, whereas FP12 gives those who hold it a personal LTA of £1.8 million, and FP14 gives those who hold that one of £1.5 million, the new FP16 will give individuals a personal LTA of £1.25 million. This is, of course, much better than the new standard LTA of £1 million – and could save someone up to £137,500 in additional tax charges.

3.6 However, as with FP12 and FP14, you will lose FP16 if the percentage growth in your pension pot in any financial year exceeds the percentage growth in the Consumer Prices Index (CPI) in the September of the previous financial year. Given that, in September 2015, the CPI was showing a decrease (- 0.1%) rather than an increase, then it is likely that anyone holding FP16 (and, indeed, FP12 and FP14) will lose it straightaway at the start of the next financial year (2016 -2017).

3.7 There is therefore little point in anyone applying for FP16 and, anyone who wishes to hang on to their FP12 or FP14 may only be able to do so by leaving the LGPS before the end of the current financial year. The latter option might possibly be attractive to anyone who is intending to retire very shortly but otherwise Individual Protection (IP) – see below – may be a better option. **Individuals should take independent Financial Advice before deciding to leave the LGPS.**

3.8 It is also understood that the new **Individual Protection 2016 (IP16)** will work on a similar basis to the IP introduced in April 2014 which will now be known as Individual Protection 2014 or IP14. This will mean that anyone whose pension pot at the end of the current financial year (5 April 2016) is worth more than £1 million will be able to apply for IP16 which will give them a protected LTA equivalent to the value of their pension pot as at 5 April 2016 up to a maximum of £1.25 million.

3.9 The beauty of IP as compared to FP is that you cannot lose IP as a result of continuing growth in the value of your pension pot – so you can stay in the LGPS and continue accruing pension benefits. It will still be necessary to pay additional tax charges on the amount by which your pension pot exceeds your protected LTA but your IP could still save you tens of thousands of pounds.

3.10 In the past people have had to apply for FP before the new lower LTA has been introduced. They have not, however, been able to apply for IP until after it has been introduced. On this occasion legislation for both the reduction in the LTA and the protection regimes (FP16 and IP16)) will be delivered in Finance Bill 2016. **As a result it will not be possible to apply for either protections until after April 2016**. The application process for FP16 and IP16 will be online.

3.11 However, anyone whose pension pot for LTA purposes was worth more than £1.25 million as at 5 April 2014 still has time to apply for the existing IP (IP14) which will give you a protected LTA equivalent to the value of your pot at that time (i.e. as at 5 April 2014) subject to a maximum protection of £1.5 million. (Anyone who holds Primary Protection cannot apply for IP but holders of Enhanced Protection or Fixed Protection can do so.)

3.12 In conclusion therefore, **THERE IS NO NEED FOR ANYONE WHO IS CONSIDERING APPLYING FOR THE NEW FP16 OR IP16 TO DO SO BEFORE THE START OF THE NEXT FINANCIAL YEAR IN APRIL 2016 – INDEED, YOU CANNOT DO SO UNTIL THEN. (Though it might well be worth asking your pension fund for an estimate of the value of your pot by 5 April 2016 to see if you would be eligible to apply for IP16.)**

3.13 **IF THE VALUE OF YOUR POT AS AT 5 APRIL 2014 EXCEEDED £1.25 MILLION, AND YOU HAVE NOT YET APPLIED FOR THE EXISTING IP (IP14), YOU WILL SERIOUSLY WISH TO CONSIDER DOING SO, EVEN IF YOU ALREADY HOLD ENHANCED OR FIXED PROTECTION.**

3.14 Anyone with any queries in relation to the above is advised to look at the “Pensions:FAQs” documents on the ALACE website, speak to their pension fund or to contact ALACE’s Consultant on these matters, Cheryl Miller, at cherylmiller@hotmail.co.uk Cheryl will try to get back to you as quickly as possible, especially if she judges that your query is urgent, but she is inundated with requests for help at the moment, and is having to prioritise requests according to their urgency, so it may be a few weeks before she is able to reply.

Amar Dave
Honorary Secretary