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Please reply to:
Miss K Goldschmidt
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To: pensions.policy@hmrc.gsi.gov.uk

Dear Sir/Madam

Personalised Protection

I am writing on behalf of the Association of Consulting Actuaries (ACA) with reference to your invitation in Newsletter 56 to comment on the Government's proposal to offer, as well as "Fixed Protection 2014", a "Personalised Protection option" in tandem with the drop in Lifetime Allowance from 6 April 2014.

At this stage we are only making high level comments, as follows:

- It **is** appropriate for Government to offer the facility as an option to protect past build-up of benefits that does not force an individual to withdraw from future savings, given that not all employers offer alternatives to their pension offering (a notable example being the public sector). We also note that Fixed Protection is complex and its workings are still on the move; it can be lost – so an option that is "safe" again seems appropriate.

- It is appropriate to allow the facility to those who register for Fixed Protection 2014 (and indeed Fixed Protection 2012).

- It should also be made available to those individuals with Enhanced Protection who have not also registered for Primary Protection - you have indicated that this might be about one-third of those who registered for Enhanced Protection. If such individuals lose Enhanced Protection they would fall back to a Lifetime Allowance base probably much lower than the A-day level of their benefits (and the risk of such loss is exacerbated by "statutory" auto-enrolment and schemes operating "non-statutory" enrolment to simplify satisfying their statutory obligations).

  In this situation logic might suggest that such individuals should be offered a complex level of personal LTA: the accrued benefit value as at 5 April 2014, limited to the maximum level that would not cause EP to be breached if benefits were crystallised at 5 April 2014; and overall capped at £1.5m. However, doing such calculations would substantially fall on the schemes where benefits are held, could be complicated and a substantial drain on scheme resources. There would be a substantial saving in administration burden on pension schemes if such members could simply be granted Personalised Protection LTA of £1.5m (alongside their Enhanced Protection, as the fall back for if that is lost or given up) – with this being granted automatically in law without application by the member. HMRC would save issuing new documentation or storing any new extra information on their system.

- We refer to our separate letter commenting on released clauses for Finance Bill 2013, regarding the appropriate pension commencement lump sum protection for individuals with Enhanced Protection and Primary Protection. So long as the change set out in that letter is made, we see no reason to extend the Personalised Protection option to those with Primary Protection.

- The administration burden for pension schemes to act as collector of LTA charge overall is ever increasing. Schemes typically do filter checks for **all** retirement cases; from 2006 they had to consider Enhanced Protection and Primary Protection (with and without Lump Sum protections); then Fixed Protection 2012 and now Fixed Protection 2014. More and more cases will hit the Lifetime Allowance and hence trigger special considerations - detailed analysis of what LTA the member has left, appropriate adjustment to scheme benefits (involving Trustee decisions). On the whole whenever these issues apply for a retirement case we would expect it to be referred to senior levels of administration. This burden can apply even for a very small benefit coming into payment to someone who left a scheme years ago.

  Adding on Personalised Protection will add burdens – valuations as at 5 April 2014, another element of complexity to test at retirement, potential knocks-on to how information is stored and exchanged – so it is important that HMRC make the structure of and process surrounding Personalised Protection as simple and easy to follow as possible - we look forward to future opportunities to feed in to this. On the other hand if this Protection results in fewer cases triggering LTA charge, that will save some burden.

  We note that as well as the burden on administrators of managing LTA charge, the formulae for calculating allowed PCLS are also becoming extremely complex (as noted above, potentially even where a scheme is managing an old small deferred pension) with increasing likelihood of errors.

- Our understanding is that the valuation as at 5 April 2014 for DB and CB arrangements, to establish the personal LTA, will involve a calculation following the "Finance Act 2004 valuation assumptions" – so for an individual in active service may well not be the same as the benefit had the member simply left service as at that date. This needs to be clearly pointed out in guidance (and further guidance may be needed on some of the mechanics).

- We think there are important timing issues although we are not sure of the appropriate solution acceptable to Government. We understand that in order to allow individuals time to collect valuations you will allow them to register after 6 April 2014 (perhaps a three year window similar to that used for Primary and Enhanced Protection). However, an individual who cannot get a good idea of these figures ahead of 6 April 2014 may feel it necessary to opt out of their employer's scheme in any case (to rely solely on Fixed Protection 2014) because of uncertainty as to whether they will pass the £1.25m level to qualify for Personalised Protection.

Yours faithfully,

Karen Goldschmidt
Chair, ACA Pensions Taxation Committee