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Keep uprating pensions by RPI, says government

In a welcome move, the government has sided with the unions and pensioners against some employers and pension providers and said it would not let companies change the measure of inflation used to uprate pensions.

The government's view, set out in its white paper, *Protecting defined benefit pension schemes*, is that it "cannot accept any reduction in the value of member benefits and are therefore ruling out provision of a power for employers or trustees to change scheme rules so that schemes can apply inflation increases using CPI instead of RPI" as the inflation measure to increase pensions. The CPI has been typically lower than RPI over the past five years.

The white paper estimates that the impact of a switch to CPI on a member's defined benefit (DB) pension over their lifetime could, on average, mean a reduction of broadly £12,000. "This could be a significant proportion of a member's planned retirement income," the white paper says.

On more nuts and bolt issues, the Department of Work and Pension's white paper sets out the government's intentions to give The Pensions Regulator (TPR) stronger powers to take action against

company directors who commit reckless action in relation to a pension scheme.

The white paper says that the government plans to legislate to: introduce a penalty regime to work alongside the existing contribution notice framework; consider whether further legislative changes are required to improve the effectiveness and efficiency of the regulator's current anti-avoidance powers; and to make it a criminal offence to punish reckless behaviour in relation to a pension scheme.

It also plans to legislate to enable TPR to be a more proactive body, by bringing forward measures including the power to require attendance at interview, civil sanctions for non-compliance with section 72 notices (in addition to existing criminal sanctions) and inspection powers, harmonising powers the regulator already has for automatic-enrolment and master trust arrangements that would apply at the discretion of TPR to drive compliance with requests for information.

The white paper also sets out measures to strengthen TPR's powers to enforce DB scheme funding standards through a revised code of practice. Alongside this, DB scheme trustees will be required to appoint a chair who must submit a chair's statement to the regulator with the scheme's triennial valuation.

Later this year, the government will also consult on proposals for a legislative framework within which

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new forms of consolidation vehicles could operate, as well as on a new accreditation regime to build confidence in and encourage existing forms of accreditation.

In addition, it will consider some minor change to guaranteed minimum pensions conversion legislation to support benefit simplification and help reduce complexities in existing benefits structures.

www.gov.uk/government/uploads/system/uploads/attachment_data/file/691305/print-ready-protecting-defined-benefit-pension-schemes.pdf

Police were involved in blacklisting of workers

Scotland Yard has admitted Special Branch officers passed information to a controversial network, including the Consulting Association, that blacklisted construction workers.

The belated admission follows a six-year battle to find out if the Metropolitan Police supplied the intelligence on trade unionists.

Workers who say they were unfairly barred from jobs have already received millions of pounds in compensation.

In a letter to the workers' lawyers, deputy assistant commissioner Richard Martin said the findings of the Metropolitan Police's internal investigation, completed two years ago, were so sensitive that they were sent directly to the then commissioner.

The letter states: "Allegation: Police, including Special Branches, supplied information that appeared on the Blacklist, funded by the country's major construction firms.

"The report concludes that, on the balance of probabilities, the allegation that the police or Special Branches supplied information is 'proven'.

"Material revealed a potentially improper flow of information from Special Branch to external organisations, which ultimately appeared on the blacklist."

Dave Smith of the Blacklist Support Group said: "We were told, things like that don't happen here. With this admission from the Met Police, our quest for the truth has been vindicated."

The Unite general union is considering whether to launch further legal action on behalf of its members

who were blacklisted, following the Metropolitan Police's admission.

Unite assistant general secretary Howard Beckett said: "Unite will be urgently consulting with our legal experts to identify exactly how we can take appropriate legal action on behalf of our members whose lives were ruined due to the activities of the police."

Justin Bowden, national secretary of the GMB general union, said: "The secret blacklisting of 3,213 construction workers and environmentalists was the greatest employment scandal in 50 years.

"Admission by the police that they were directly and deeply involved in denying ordinary working people - who in many cases had done little more than raise health and safety concerns - from work and the chance to support themselves and their families is a constitutional crisis that can only be properly addressed by a full, independent public enquiry as GMB has long maintained."

Unite repeated its long-standing call for a public inquiry. Assistant general secretary Gail Cartmail said: "This admission is yet another reason why we need a full public inquiry into blacklisting."

The union also called for the present inquiry into undercover policing led by judge Mitting is entirely transparent. "That inquiry's primary focus must be about exposing the abuses that undercover police officers were responsible for, rather than protecting the identities of the police officers involved," she said.

www.bbc.co.uk/news/uk-43507728

www.uniteunion.org/news/police-blacklisting-admission-could-lead-to-fresh-legal-action/

www.gmb.org.uk/newsroom/blacklisting-constitutional-crisis

Change culture to tackle sexual harassment

Corrosive working cultures have silenced the voices of victims and normalised sexual harassment, the Equality and Human Rights Commission (EHRC) said, as it published a set of recommendations to better protect people at work.

Focusing on changing culture, greater transparency, and strengthening legal protection, the recommendations call on government to introduce legislation preventing employers from using non-disclosure agreements to sweep sexual harassment under the carpet and protect their

reputation. Instead, they should only be used at a victim's request.

The recommendations also call for the time limit to bring a claim of sexual harassment to tribunal to be extended to six months, reflecting the time taken by many individuals to raise complaints.

Rebecca Hilsenrath, chief executive of the EHRC, said: "There is a lack of consistent, effective action being taken by employers, and people's careers and mental and physical health have been damaged as a result.

"Corrosive cultures have silenced individuals and sexual harassment has been normalised. It cannot be right that millions of people go to work fearing what might have happened by the time they come home. Employers need to stand up and take responsibility for eliminating sexual harassment from every British workplace."

Other recommendations in the EHRC's report, *Turning tables: ending sexual harassment at work*, include asking the government to:

- introduce of a statutory code of practice, with tribunal discretion to increase compensation by up to 25% where the code is not followed;
- legislate to render void contractual clauses prohibiting disclosure of future acts of discrimination, harassment or victimisation;
- shift the burden to the employer to show why time should not be extended for any out of time claim where the claimant establishes the reason for the delay;
- reintroduce an amended statutory questionnaire procedure in employment-related discrimination and harassment claims, following consultation on how best to ensure that the procedure is effective and proportionate;
- provide interim relief protection similar to that for protected disclosure dismissals; and
- reinstate protection from third party harassment though without the requirement to show two previous incidents.

In developing the recommendations, the EHRC asked members of the public to share their experiences of workplace sexual harassment.

In addition, it wrote to leading employers, including the chairs of the FTSE 100 and big law firms, reminding them of their legal responsibility for the safety and dignity of their employees and asking for evidence of their policy and practice.

The EHRC also wants the employment relations service Acas to develop targeted sexual harassment

training for managers, staff and workplace sexual harassment "champions".

As for employers, they should be transparent and publish their separate sexual harassment policy and steps being taken to implement and evaluate it in an easily accessible part of their external website so their current and potential employees are clear about how this important issue is being addressed.

TUC general secretary Frances O'Grady said the report echoes its research, which found that more than half of women had experienced sexual harassment at work, but only one in five reported it.

"The impact of sexual harassment can be devastating and long-lasting," she said. "Employers and government must take the practical steps set out by both the EHRC and the TUC to stamp out sexual harassment."

And she added: "The EHRC also highlight the role union reps have in supporting workers. If you have experienced sexual harassment, join a union today."

www.equalityhumanrights.com/en/publication-download/turning-tables-ending-sexual-harassment-work

www.tuc.org.uk/news/government-and-bosses-must-do-more-%E2%80%99stamp-out-%E2%80%99sexual-harassment

Employment law changes in April

A raft of updates to employment law comes into effect in early April.

Statutory minimum wage rates rise on 1 April. The National Living Wage for workers aged 25 and over increases by 4.4% or 33p to £7.83 an hour.

The National Minimum Wage for workers aged 21 to 24 increases by 4.7% or 33p to £7.38. For 18 to 20-year-olds the new rate is £5.90 after a 5.4% or 30p increase, while the under-18 rate increases by only 3.7% or 15p to £4.20 an hour. The rate for apprentices, aged under 19 or 19 and over in the first year of their apprenticeship, increases by 5.7% or 20p to £3.70.

Workers entitled to these minimum rates include part-timers; casual labourers; agency workers; workers and homeworkers paid by the number of items they make; apprentices; trainees and workers on probation; and disabled workers.

The weekly rate for Statutory Sick Pay rises to £92.06 from 6 April.

Increases to the compensation payable in successful employment tribunal cases come into effect on 6 April.

The award for unlawful inducements under section 145 of the *Trade Union Labour Relations (Consolidation) Act 1992*, relating to the undermining of trade union membership, activities and collective bargaining, will increase from £3,907 to £4,059.

For dismissals on or after 6 April, the minimum basic award in unfair dismissal claims rises from £5,970 to £6,203. The maximum compensatory award for unfair dismissal rises from £80,541 to £83,682, although such a sum is seldom paid out.

The maximum amount for a week's pay for the purpose of calculating a redundancy payment or for various awards, including the basic or additional award of compensation for unfair dismissal, will rise from £489 to £508.

New legislation aims to clarify and tighten rules on the taxation of termination payments. Employees will now be required to pay income tax and Class 1 National Insurance Contributions (NICs) on the contractual payments that they would have received had they been required to work their notice in full even where there was no existing contractual provision allowing their employer to make a payment in lieu.

The distinction for tax purposes between contractual and non-contractual payments is therefore being removed. The first £30,000 of a termination payment will, however, remain exempt from income tax. Although employers' NICs are due to be imposed on termination payments which are in excess of the £30,000 tax-free amount, this will only apply to termination payments made on or after 6 April 2019.

www.gov.uk/government/organisations/low-pay-commission
www.legislation.gov.uk/ukxi/2018/194/pdfs/ukxi_20180194_en.pdf
<https://croner.co.uk/news/big-changes-to-employment-termination-payments-you-need-to-know/>

Rise in trafficking and modern day slavery

The number of potential victims of trafficking and modern slavery reported to the authorities rose by more than a third, according to a new report from the National Crime Agency (NCA).

In 2017, 5,145 potential victims were referred into the system, up from 3804 in 2016, according to agency's end of year summary.

And for the first time, British citizens were the largest nationality recorded in the figures, up from 326 in 2016 to 819 in 2017.

The increase in British numbers is largely down to an increase in minors being referred as suspected victims of labour or sexual exploitation, up 66%. This increase is due in part to a rise in 'County Lines' gang exploitation referrals, where minors had been exploited by criminals involved in drug supply. These are recorded in the labour exploitation category.

NCA director Will Kerr said it was the agency's view that "the figures almost certainly represent an underestimate of the true scale of slavery and trafficking in the UK."

Those referred as victims of modern slavery and human trafficking came from 116 different nationalities, with UK, Albanian and Vietnamese nationals remaining the most commonly reported victims.

Suspected labour exploitation was the most frequently cited category, accounting for 2,352 cases – nearly half of all referrals.

Other reports were linked to suspected sexual exploitation (1,744) and domestic servitude (488).

The majority – 4,715 cases – were referred to English police forces for crime recording purposes, with 207 referred in Scotland, 193 in Wales and 31 in Northern Ireland.

The NCA were at pains to point out that the report did not provide an analysis of modern slavery in the UK.

www.nationalcrimeagency.gov.uk/publications/national-referral-mechanism-statistics/2017-nrm-statistics/884-nrm-annual-report-2017/file

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