COVID-19

and Potential Immediate Employment and Pension Related Considerations

COVID-19 is clearly having a major impact on businesses and employees with knock-on implications for pensions and other related benefits.

The steps taken by employers to deal with the immediate effects of the crisis include reductions to employees' salaries, temporary lay-offs and reductions in working hours.

These actions are occurring against the backdrop of significant supports from the State, including the Government's Temporary COVID-19 Wage Subsidy Scheme, which can involve the State paying a temporary supplement of 70% of take home pay up to a maximum of €410 per week and other special unemployment payments for employees who have lost their jobs.

On **Tuesday, 31st March 2020**, Willis Towers Watson held a webinar on the overall pension implications of COVID-19. This covered a variety of topics including investment considerations, funding implications for DB schemes and the impact on and related communications to DC members. To seek a recording of this webinar please contact your usual Willis Towers Watson consultant or email us at ireland@willistowerswatson.com

The purpose of this Q&A document is to address the main pension and benefit questions that arise in situations where salaries are reduced or employees are laid-off and to outline the priority actions you should take.

Q. Do pension and benefit issues vary according to whether lay-offs or reductions in salaries are involved?

A. At this stage, it appears the issues to be considered are broadly similar, whether salary reductions are involved or employees are being laid-off. In both cases, the employment relationship is being maintained and the key issues centre around what happens during the period of subsidised or reduced salary or the temporary lay-off.

Q. What are the priority areas to be considered?

A. One immediate area of focus should be on the implications for death in service and other risk cover. Here, it is important to ensure, having regard to the circumstances of your own scheme, that there are no unintended reductions in cover. Most employers will want to maintain death cover throughout any salary reduction or lay-off period, but steps may need to be taken to ensure this is the case.

Another area for immediate focus is on payment of contributions. It is important that employers continue to remit contributions that are legally due to employees' pension arrangements. Determining the correct adjustments to be made to contributions due involves reviewing a pension scheme's rules and also consideration as to whether any payments made under the Government's Temporary COVID-19 Wage Subsidy Scheme are pensionable. Failure to remit the correct level of contributions or to remit and invest pension contributions in accordance with statutory deadlines can result in on the spot fines for both the employer and trustees of pension schemes.

Q. What's involved if a company wants to maintain unreduced life cover?

A. It will be important to consider the specific provisions of your pension scheme as well as the terms of any insurance policy you have in place. These should be discussed with your Willis Towers Watson consultant. For example, in a lay-off situation, most rules have temporary absence provisions which allow benefits to be maintained, but these provisions would need to be triggered properly. Without proactive action, there is a risk in some schemes that the benefit could inadvertently default to a lower level, depending on how the benefits are defined under the scheme rules. Engagement with the insurer to confirm cover will be maintained will also be essential.

Q. What is the attitude of insurers to maintaining cover during any lay-off or salary reduction period?

A. Willis Towers Watson has been in contact with the leading insurers writing business in Ireland and most have signalled they will take a pragmatic approach to maintaining cover levels, even if there is a temporary drop in earnings, assuming premiums are up to date. This is not certain in all cases, however, and it is essential that companies and trustees, through their advisors, liaise with insurers straightaway to confirm that cover levels will be maintained, particularly for death benefits.

Q. Are there implications if the company also has an income continuance/disability policy in place?

A. Such policies typically have a deferment period (e.g. of 6 months) before the benefit becomes payable, so hopefully in most cases, the commencement of payments in respect of any new claims will come after the main COVID-19 period has ended. That is not to say that there aren't things to be checked with your disability insurer. In particular, the main aim should be to avoid a situation where someone, who becomes disabled or experiences long term sickness during a period of lay-off or reduced salary, does not inadvertently experience a large reduction in disability benefit when it does commence at the end of the deferment period. There may also be a potential increase in the incidence of claims under these policies resulting from employees being unable to work through stress related illnesses.

Q. What happens to pension contributions under a DC Scheme?

A. Firstly, it is important to check the provisions in the scheme rules. In a temporary lay-off situation, employer and employee contributions would normally cease for the duration of the lay-off.

If employees are continuing to be paid using the Temporary Wage Subsidy, either with or without top up salary payments from the employer, employers will need to consider what pension contributions should apply. Given the rushed nature of the new subsidy, it is not yet fully clear what the status of the Temporary Wage Subsidy is in this context - does it count as salary for pension purposes, should pension contributions be deducted from it and how will tax relief work if they are? We expect some clarity will emerge on these issues in due course. Employers should also liaise with employees regarding possible adjustments to AVC contributions if payments are continuing through payroll.

Q. What if an employer wants to reduce or suspend DC contributions for a period?

A. Some employers may be in a position where they are unable to pay contributions for a period in view of cashflow difficulties arising from the crisis. Any such requests will need to be considered by the trustees having regard to the provisions of their own scheme.

If contributions have already been deducted from employees' pay, these must be remitted to the scheme within 21 days of the month end and The Pensions Authority has reiterated in the past few days that will actively pursue any cases of non-remittance of contributions.

The Pensions Authority has also indicated it has received several queries in relation to the reduction or suspension of contributions and has stated it is examining this matter in detail and will issue an announcement in the coming days (late March/early April).

The contribution rules in a scheme may incorporate flexibility for the employer to vary contributions, possibly requiring consent of, or consultation with, the trustees. In such situations, the documentation requirements to reduce or suspend contributions may be limited, possibly only requiring notice to the trustees and communications to members.

If on the other hand, there is no flexibility in the rules to suspend or alter contributions, the documentation requirements will be more onerous with a rule amendment being needed.

Advice should be taken if any action is being considered. It will also be important to ensure that any cessation doesn't inadvertently trigger a wind up of the scheme.

One point worth noting is that DC schemes often have surplus employer units built up over time (arising from employer contributions not vesting for short service leavers) and if so, consideration could also be given to using these as a means of maintaining employer contributions in the coming weeks.

The above are some of the pension implications of making changes to contribution payments. There may also be significant employment law implications, depending on the contractual terms of the employees affected, if unilateral changes are to be made, and these will need to be considered.

Q. What if an employee wants to reduce or suspend DC contributions for a period?

A. Many DC pension schemes operate whereby pension deductions are expressed as percentage rates applying to pensionable pay. Therefore, to the extent that pay is reduced or ceases following a temporary lay-off, then employee pension contributions will automatically adjust/cease.

If employers are looking to suspend their own pension contributions for a period (where employees are remaining on payroll) then it is likely that any rule change or announcement would also involve the cessation of employee contributions.

Employees should also be given the opportunity to alter or cease making Additional Voluntary Contributions.

Many pension schemes will also have the flexibility for employees to opt-out of membership. It will be important to check that death in service benefit cover is maintained in such circumstances.

Q. What are the potential implications for DB pension provision?

A. This needs to be looked at in each situation as it will depend on the circumstances of the salary reduction and the provisions of each scheme. From a pension perspective, many schemes fix the salary at the scheme renewal date, although some use a "live" salary which varies throughout the year.

In a DB scheme context, a key question will be whether service during the lay-off/salary reduction period will count fully as pensionable service for DB pension calculation purposes. If contributions are reduced for a period, the service may also be disregarded or scaled back for pension purposes, although some employers may continue with unchanged terms and conditions overall, with the support of the Temporary Wage Subsidy. In this case, full employer and member contributions will most likely be required during this period if service is to fully count for pension purposes.

Given the speed with which measures have been introduced by Government, there are several areas of uncertainty and it is hoped that clarity on these will emerge in the coming weeks.

Certain matters are in the control of companies and trustees now, however, and we recommend the immediate focus should be on the steps needed to ensure unintended consequences are avoided in relation to risk benefits and to confirm the basis of contribution payments in the current period. These will depend on the circumstances of each scheme and you should discuss the issues involved and actions required with your usual Willis Towers Watson consultant. For more information on anything contained in this FAQ please contact your consultant or by email directly at **ireland@willistowerswatson.com**

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