



OCTOBER 2021

Pensions Round-Up

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Introduction

Welcome to the latest edition of DLA Piper's Pensions Round-Up newsletter in which we provide an overview of developments in pensions legislation and regulatory guidance.

In this edition we look at key developments from October 2021 including the following.

- **The Pensions Regulator:** the response to the Regulator's and the PPF's joint consultation on proposed changes to the asset class information collected from DB schemes in the scheme return; and the publication of the Regulator's climate adaptation report.
- **Department for Work and Pensions:** the government response to the DWP's consultation on simpler annual benefit statements for DC schemes used for automatic enrolment; and a consultation on proposals to amend the regulations on climate change governance and reporting to add a new requirement in relation to metrics, and on draft guidance explaining the DWP's expectations on implementation statement reporting and the Statement of Investment Principles.
- **HM Treasury:** the government response to the 2020 call for evidence about pensions tax relief administration.
- **Pensions dashboards:** an overview of the key themes in responses to the Pensions Dashboards Programme's call for input on staging; and the publication of its fourth Progress Update Report.

- **The Pensions Ombudsman:** the publication of a guidance note about communicating with members.
- **HMRC:** the publication of a countdown bulletin in relation to the end of contracting-out; and a pension schemes newsletter.
- **On the horizon:** a timeline of some of the key future developments in pensions to help employers and trustees plan ahead.

If you would like further information about any of the issues raised in this edition of Pensions Round-Up, please get in touch with Cathryn Everest or your usual DLA Piper pensions contact. Contact details are at the end of this newsletter.



The Pensions Regulator

DB schemes – asset information

On 21 October the Regulator published its and the Pension Protection Fund's joint response to their April 2021 consultation on proposals to update the asset information collected from DB schemes.

CONSULTATION

The consultation sought views on suggested adjustments to the asset information collected from DB schemes, which aim better to capture data on investment risk without resulting in an excessive administrative burden on schemes. The proposals involved categorising schemes into a tiered structure based on section 179 liabilities, and included that: (1) for Tier 1 schemes, information will be requested at the current level of detail, with only minor refinements; (2) the boundary between Tier 1 and Tier 2 schemes will be set at GBP20 million; (3) Tier 2 schemes will be asked to provide more granular information; (4) the boundary between Tier 2 and Tier 3 will be set at GBP1.5 billion; and (5) schemes in Tier 3 will provide information on the sensitivity of portfolios to investment stresses.

RESPONSE TO CONSULTATION

The response confirms that the Regulator and the PPF intend to: (1) implement the introduction of the new asset class categories proposed in the consultation, with the information to be requested in scheme returns from 2023; (2) use a tiered approach, based on scheme size using section 179 liabilities, although with a change to the boundary between Tier 1 and Tier 2 so that it will initially be GBP30 million; and (3) due to wide

support for the proposal, allow voluntary submission by schemes of the information for a higher tier. The response to consultation includes a table which summarises the asset class information that will be relevant for each tier.

In relation to the change to the boundary between Tier 1 and Tier 2, the response reports that, overall, a majority of respondents (56%) agreed that the proposed boundary should be set at GBP20 million, but "a sizeable minority preferred the boundary to be moved". The consultation also asked whether a higher initial threshold is needed while provision of more granular information becomes routine, and the response reports that six out of ten respondents to this question considered there was merit in doing so. The response states that the Regulator and the PPF have reservations about the strength of the arguments for a higher threshold, but based on feedback and to give time for industry to build the necessary reporting requirements, they will set the boundary at GBP30 million initially, with the aim of lowering it to GBP20 million (or less) at a later date. The response states that this is "expected to mean that initially only a minority of schemes will need to provide more information, but in time most will". The Regulator and the PPF are planning to keep this under review.

The consultation also set out the PPF's proposals for keeping a simplified approach for the roll-forward methodology used in PPF levy calculations. The response confirms that the PPF will continue

to use the simplified roll-forward system for the new asset categories, with a plan to review the granularity of the representative indices in future.

In terms of next steps, the response includes that: (1) the Regulator is developing the necessary changes to its scheme portal to enable implementation of the new scheme return, with the intention of implementing the collection of the new asset information in 2023; and (2) the PPF will consult on the rule changes necessary to facilitate the use of the new asset information in the levy, and it is expected that this will form part of the 2023/24 levy consultation process. The response also notes that the Pension Schemes Act 2021 includes provisions (which are not yet in force and in respect of which further detail will be provided in regulations) introducing new requirements for trustees in respect of their long-term investment plans. The response states that the changes "herald a greater focus for trustees and TPR on investment risk and planning", and the new scheme information will facilitate a more accurate assessment of schemes' investment risk, which will support the Regulator's ability to use its resources appropriately.

Climate adaptation report

On 28 October the Regulator published its *Climate adaptation report* which sets out the risks from climate change that are most relevant to occupational pension schemes and the approaches that it is taking to tackle them, both as a regulator and an organisation. The introduction to the report

includes that: (1) the report is the contribution of the Regulator towards the drive to assess the resilience of the UK to climate change; and (2) that work is part of the National Adaptation Programme, which harnesses a wide range of evidence and analysis to propose actions for the UK government and others to adapt to the challenges of climate change in the UK. The Regulator's report was published alongside the reports from the Prudential Regulation Authority and the Financial Conduct Authority.

The report includes a section which looks at the results of DC and DB surveys conducted on behalf of the Regulator in 2020. The DC survey took place before, and the DB survey took place after, the DWP consulted on proposals that resulted in the regulations in relation to climate change governance and reporting made under the Pension Schemes Act 2021 (Act). In the report's conclusion, the Regulator states that it is concerned that industry surveys indicate that too few DB and DC schemes are giving enough consideration to climate-related risks and opportunities and that ownership of stewardship policies is too limited. It states that its job is to help schemes recognise the importance of climate change and help them adapt to changing requirements. It states that it will do that by providing guidance, best practices, supervision and, where necessary, enforcement, and as part of that process, will "continue to refine our approach as we learn and develop our own understanding".

The report notes that the Regulator's regulatory approach focuses on four areas: setting clear expectations; identifying risk early; driving compliance through supervision and enforcement; and

working with others. The report refers to a number of future actions (some of which are also set out in the Regulator's *Climate change strategy* which was published in April 2021) including that:

(1) the Regulator will outline its approach to the climate change regulations made under the Act by publishing guidance that clarifies what it will be looking for from schemes as they assess, manage and prepare to report (a consultation on this guidance was published in July and the final version is expected to be published in November); (2) once schemes start reporting as required by the regulations, it will carry out a thematic review on scheme resilience to climate-related scenarios; (3) when the regulations are reviewed in 2023, it will work with the DWP to share best practice examples from TCFD reports; and (4) the Regulator will publish further guidance on how to consider climate-related risks and opportunities as part of the covenant assessment.

DC guidance

On 4 October the Regulator updated the volume of its DC guidance on *Investment governance* to add information about the temporary closure of funds leading to the creation of a default arrangement. The introduction to this section explains that: (1) certain funds with more illiquid assets, such as those invested in property, may temporarily close when there is uncertainty in the market; (2) this is also known as gating; and (3) if members of DC schemes have chosen to invest in these funds, gating may result in the creation of a default arrangement. The guidance includes that some trustees, having taken investment advice, redirect scheme contributions into alternative funds until the gated

funds reopen, and this could result in the alternative funds becoming default arrangements and therefore subject to legal requirements such as the requirement to have a statement of investment principles for that arrangement. The guidance provides further information on the issue of redirecting contributions into an alternative fund and also looks at: points to consider in relation to redirecting contributions back into the original fund when the gated funds reopen; the implications of creating a default arrangement; and dealing with transfer requests where all or part of the investment is gated.

Aside from some drafting amendments, including updates to the introductory wording which reflect that the information is now in the Regulator's DC investment governance guidance, this guidance was previously part of the Regulator's *DC scheme management and investment: COVID-19 guidance for trustees*. Most of the pages relating to pensions and COVID-19 have now been removed from the Regulator's website (although the guidance can still be viewed on the National Archives website). The page of the Regulator's website on *COVID-19 (coronavirus): what you need to consider* now includes: (1) information about employers' automatic enrolment duties; (2) that trustees should continue to meet legal duties and the standards that the Regulator expects, with links provided to other information on its website including in relation to DB funding, protecting DB schemes from sponsoring employer distress, pension scams and maintaining contributions; and (3) that the Regulator continues to focus on its supervisory regime, will engage with schemes that it currently supervises individually to determine next steps, and will also continue to carry out enforcement activity.

Department for Work and Pensions and HM Treasury

Annual benefit statements

On 19 October the DWP published the government response to its May 2021 consultation on draft regulations to introduce a mandatory approach to simpler annual benefit statements for DC schemes used for automatic enrolment and accompanying draft statutory guidance. The relevant regulations were also laid before Parliament on 19 October and the final version of the statutory guidance was published. Points to note about the final version of the new requirements include the following.

- The consultation proposed that the new requirements would come into force on 6 April 2022, subject to a transitional provision so that, where trustees have already given a statement to a member prior to that date based on the legislation in place at that time, it would not need to be re-issued. In light of responses to the consultation expressing concern about ensuring that trustees have sufficient time to adopt the new requirements, the coming into force date has been amended to 1 October 2022 and the transitional provision has been removed.
- The schemes in scope of the new requirements will be automatic enrolment schemes under which all the benefits which may be payable are money purchase benefits. The wording of this provision has been updated since the consultation draft, which referred to qualifying schemes.
- The new requirements will not apply to members who are in receipt of benefits under the scheme.
- The information that the legislation currently states must be included in the annual benefit statement (and any other information which is included as part of the statement) must be provided to the member in the form of a statement which must not exceed one double-sided sheet of A4-sized paper when printed. Trustees may provide the information in a format that does not meet this requirement where a member requests an alternative format and the trustees are reasonably satisfied that it is necessary to do so to comply with their duties under the Equality Act 2010.
- In order to reduce risks arising from a lack of awareness of the statutory guidance, a provision has been added to the regulations since the consultation draft stating that trustees must have regard to the statutory guidance.

The purpose of the statutory guidance is to help trustees understand how to meet the legal requirements and it has sections on issues including: format and structure; design and language; layering; online and digital formats; and alternative formats and accessibility. The response states that the guidance (including the illustrative template) provides a clear structure and guidelines so that a consistent narrative of information will be provided between statements on: (1) how much money the member has in their pension plan and what has been saved in the statement year; (2) how much money they could have when they

retire; and (3) what the member could do to give themselves more money at retirement. The guidance notes that the template illustrates how the information provided in statements covered by the regulations should be ordered and presented in five sections to ensure that there is consistency across schemes. The guidance also notes that trustees may opt to include information in their annual benefit statements in addition to that required by the legislation, as this may be helpful to members. It therefore looks at where such information may be included in the simpler statement. It also provides guidance (in the section on layering) on instances where trustees decide to provide other documents in addition to the simpler annual benefit statement itself.

The response states that the government “strongly encourages” trustees of schemes not already in scope of the new regulations to use the discretion that they already have when designing their statements to apply the same principles of brevity and simplicity set out in the statutory guidance. The regulations provide that the Secretary of State must carry out a review of the new requirements and publish the first review report before 1 October 2027 (and subsequent reports at intervals not exceeding five years). The response states that the government will consider the lessons learnt from the review to inform its decision making as regards, amongst other things, an extension of the approach to simpler annual benefit statements to schemes not currently in scope of the requirements.

Climate and investment reporting

On 21 October the DWP published a consultation entitled *Climate and investment reporting: setting expectations and empowering savers* which relates to: (1) proposals to amend the recently introduced regulations on climate change governance and reporting; and (2) new guidance on reporting on stewardship and other topics in the Statement of Investment Principles (SIP) and the implementation statement. The consultation closes on 6 January 2022.

PORTFOLIO ALIGNMENT METRIC

In the [June 2021 edition of Pensions Round-Up](#) (pages 6 to 7), we reported on the Occupational Pension Schemes (Climate Change Governance and Reporting) Regulations 2021 which introduce new governance and reporting requirements in relation to climate change for trustees of certain occupational pension schemes. The new requirements are being introduced in stages, in summary, applying to trustees of schemes with relevant assets of GBP5 billion or more and authorised master trusts (irrespective of scheme size) from 1 October 2021, and to trustees of schemes with relevant assets of GBP1 billion or more from 1 October 2022.

The requirements in the regulations relate to governance, strategy, scenario analysis, risk management, metrics and targets. In relation to metrics, they include requirements for trustees to select a minimum of one absolute emissions metric, one emissions intensity metric and one additional climate change metric to calculate in relation to the scheme's assets, and in each scheme year, as far as they are able, obtain relevant

data and calculate the selected metrics. Trustees have to include information in relation to their metrics in their annual TCFD report.

Following the publication of updated TCFD guidance, the consultation proposes to amend the regulations to add a fourth metric – one portfolio alignment metric – to the list of metrics in the regulations that trustees must select and calculate. A portfolio alignment metric is defined in the draft amending regulations as “a metric which gives the alignment of the scheme's assets with the climate change goal of limiting the increase in the global average temperature to 1.5 degrees Celsius above pre-industrial levels”.

It is proposed that the statutory guidance relating to the regulations will be updated to state that trustees should calculate, as far as they are able, and report one of three listed types of portfolio alignment metric. The consultation states that the DWP is “keen to provide trustees with complete methodological flexibility in our proposed measures given that the market has not yet coalesced around a single approach, and methodological standardisation is yet to emerge”, and that it does not seek to encourage the use of one portfolio alignment measure over another. The statutory guidance currently states that the trustee's additional climate change metric could be a portfolio alignment metric. In light of the proposal to amend the regulations so that trustees will have to calculate a portfolio alignment metric, it is also proposed that the statutory guidance will be updated to remove portfolio alignment from the list of additional metrics and to add some other metrics to that list.

In terms of scope and timing, it is proposed that: (1) the new requirement will come into force on 1 October 2022 and will apply to all trustees of schemes in scope of the regulations; (2) the requirement will apply to the part scheme year that runs from 1 October 2022; and (3) this means that trustees will have to report against the new metric within seven months of the end of the scheme year which is underway on 1 October 2022.

GUIDANCE ON THE SIP AND IMPLEMENTATION STATEMENT

This section of the consultation relates to the statutory requirements on trustees to: (1) include in their SIP their policy on the exercise of the rights attaching to their scheme's investments and on undertaking engagement activities in respect of those investments; and (2) publish annual implementation statements reporting on how, and the extent to which, they have followed this policy during the year and on voting behaviour, including the most significant votes cast, during the year (with relevant schemes required to publish a wider implementation statement covering how, and the extent to which, the SIP has been followed during the year).

The consultation states that stakeholders have told the DWP that a lack of clarity about expectations for inclusion or for target readership means that sometimes it has been difficult to avoid the implementation statement becoming a tick-box exercise, rather than a positive tool for verifying and demonstrating trustees' actions. The DWP is therefore consulting on guidance on *Reporting on Stewardship and Other Topics through the Statement*

of Investment Principles and the Implementation Statement.

The guidance relating to the SIP is intended as best practice, rather than as statutory guidance, and the guidance in relation to the implementation statement is proposed to be statutory guidance to which trustees must have regard. The consultation explains that the draft guidance aims to meet the following four objectives.

- Improve the quality of SIP policies. The consultation includes that the guidance aims to: (1) clarify the DWP's intention that boilerplate statements in the SIP (for example, stating that the trustees delegate ESG/voting/engagement to their asset managers) are insufficient, and trustees need to explain what consideration they give to these matters; and (2) encourage trustees to explain how the policies in the SIP are in savers' interests.
- Develop best practice for implementation statement reporting, with the draft guidance aiming to help trustees understand what good practice looks like in relation to reporting engagement activities, voting behaviour and most significant votes.
- Clarify how schemes may use disclosures from other frameworks, for example, UK Stewardship Code reporting, with the consultation noting that this will make the implementation statement process more efficient for schemes to complete.
- Improve consistency across schemes' reporting and practice. The consultation states that this objective is addressed, for example, by clarifying what is meant by key terms such as "most significant vote" and clarifying the target audience for the implementation statement.

In the [September 2021 edition of Pensions Round-Up](#) (page 9), we provided information about the report of the Taskforce on Pension Scheme Voting Implementation which sets out a number of recommendations addressed to the DWP. The consultation notes that the draft guidance addresses a number of these recommendations as it: (1) encourages trustees to take ownership of voting policies, take account of voting and engagement policies in their appointment and ongoing monitoring of investment managers, and report more effectively on how votes relating to their investments were cast; and (2) provides examples of "good" voting policies. In relation to the Taskforce's recommendation that the DWP should publish guidance on the ability of trustees to set an expression of wish over their own voting policy in pooled funds, the consultation includes that the DWP: (1) is broadly supportive of this recommendation; and (2) sees no problem with trustees setting an expression of wish over their own voting policy in pooled funds, if they wish to do so, provided that in doing so "they adhere to their fiduciary duty to act in the best interests of their members and subject to any relevant contractual arrangements with their fund manager".

Sustainability Disclosure Requirements

On 18 October HM Treasury, the DWP and the Department for Business, Energy and Industrial Strategy published *Greening Finance: A Roadmap to Sustainable Investing*. The Roadmap states that greening the financial system can be seen in three phases: (1) informing investors and consumers; (2) acting on the information; and (3) shifting financial flows.

The Roadmap represents the government's strategy to deliver Phase 1, informing investors and consumers, which relates to addressing the information gap for market participants, ensuring a flow of decision-useful information on environmental sustainability from corporates to financial market participants. The Roadmap states that central to this are new economy-wide Sustainability Disclosure Requirements (SDR) which will: (1) bring together existing sustainability-related disclosure requirements under one integrated framework and go further with new requirements; (2) build on the UK's TCFD implementation and cover three types of disclosure – corporate disclosure, asset manager and asset owner disclosure, and investment product disclosure; and (3) use the same framework and metrics across the economy.

In terms of delivering SDR, the Roadmap includes that relevant regulators and government departments will determine the precise scope and timing of requirements, and the reporting detail, subject to relevant consultation processes and other statutory requirements. The section of the report on sectoral implementation for asset manager and asset owner disclosure includes, in relation to occupational pension schemes, that: (1) certain UK pension schemes will disclose their sustainability-related risks, opportunities and impacts in a way that enables clear communication with savers; (2) subject to consultation, information will be combined with TCFD reporting on climate-related risks and opportunities, and will stand separate from, but linked to, the annual report and accounts; and (3) the scope and timing of requirements for pension schemes, and the reporting detail, will be determined following consultation.

Pensions tax relief administration

On 27 October the Chancellor delivered the Autumn Budget and Spending Review 2021. The Budget document reports on the outcome of the July 2020 call for evidence on pensions tax relief administration, and the response to the call for evidence was also published. The call for evidence looked at concerns about the potential for the take-home pay of certain members to be affected by the method of pensions tax relief operated by their pension scheme. In summary, the issue is that, for those with incomes below the personal allowance, if the scheme uses relief at source (RAS), the member still receives a top-up payment into their pension, equivalent to tax relief at the basic rate, even though they do not pay tax on their take-home pay, but this top-up is not received by those in schemes using net pay arrangements.

The call for evidence looked at four stakeholder suggestions to address this issue, one of which involved HMRC paying a bonus to lower earning pension contributors whose employers use net pay arrangements. The response document reports that the government intends to proceed with a variation of this suggestion, whereby top-up payments will be made, but a different method will be used to identify low earning savers in schemes using net pay arrangements and their pension contributions. In relation to timing, the response includes that: (1) the government will introduce a

system to make top-up payments directly to low-earning individuals saving in schemes using net pay arrangements in respect of pension contributions made from 2024-25 onwards; (2) the top-ups will be paid after the end of the relevant tax year, which means that the first payments will be made in 2025-26; and (3) the time lag between announcement and implementation of this system "is due to the complex nature of the IT systems changes required, as well as other ongoing HMRC delivery programmes". The response states that the top-ups "will help to better align outcomes with equivalent savers saving into pension schemes using RAS".

The response sets out the process for claiming and paying the top-ups which includes that: (1) there will be no changes to how individuals save into pension schemes using net pay arrangements in 2024-25, with no change to take-home pay or pension contributions; (2) HMRC will make the necessary systems changes to enable identification of the relevant individuals from April 2025 (in respect of the 2024-25 tax year); (3) HMRC will calculate the amount of top-up an individual is entitled to; and (4) HMRC will notify individuals that they are eligible for a top-up and invite them to provide the necessary details for HMRC to be able to make the payment to them. The government intends to publish draft legislation in 2022 to be included in a subsequent Finance Bill.

The call for evidence also asked whether there were operational changes that could be made to improve the administration of the RAS system and improve member outcomes. The response reports that: the government will invest GBP71 million in modernising the administration of pensions tax relief, including RAS claims, and to address the McCloud remedy; and this is in addition to the work to address the anomaly reported above. The response states that the key aims of the modernisation will be "to explore modern solutions to support the provision of information and declarations, provide faster in year payments to RAS schemes and the reduction of errors". The government will legislate in a future Finance Bill to provide the framework for the changes.

Charge cap

The Autumn Budget 2021 document also reports that the government will consult before the end of the year on further changes to the charge cap for DC schemes "to enable pension savers to benefit from better growth in their long-term investments". It states that the consultation "will specifically consider amendments to the scope of the cap to better accommodate well-designed performance fees and enable investments into the UK's most productive assets, while continuing to protect savers". The Budget document also states that the government "will continue wider policy work to understand and remove various barriers to illiquid investment".

Pensions dashboards

Staging call for input

On 27 May 2021 the Pensions Dashboards Programme (PDP) published a call for input on proposals for the staged compulsory connection of pension providers to the dashboards ecosystem. The call for input noted that it is ultimately for the DWP and the FCA, respectively, to determine the sequencing by which occupational pension schemes and providers of personal pensions will come under legal obligations. However, it stated that the feedback to the call for input will feed into the development of the DWP's and the FCA's consultation on draft regulations and rules. The recommendations in the call for input include that staging should comprise of three waves: (1) wave one: largest schemes (1,000 or more memberships); (2) wave two: medium schemes (100 to 999 memberships); and (3) wave three: small and micro schemes (99 or fewer memberships). The call for input also recommends that: wave one would start in April 2023, run for up to two years and include three distinct cohorts; wave two would not commence until the bulk of large schemes have successfully connected (which would be unlikely to be before 2024); and timing for wave three should be determined in line with the integrated service provider market forming. Further information on the call for input is included on page 13 of the [May 2021 edition of Pensions Round-Up](#).

In October the PDP published *Staging call for input summary* which provides an overview of the key themes in the responses to the call for input. In relation to sequencing and policy objectives, the summary includes that: (1) a small number of respondents indicated that a 'find-first' dashboard that prioritised reconnection and

omitted values to begin with might better achieve the policy objectives; and (2) a small number of respondents highlighted estimated retirement income (ERI) projections as an issue that could impact policy objectives and staging principles, with some views that if ERI projections continue to be inconsistent, this may undermine consumer understanding and the objective of more informed user choices. Points in the summary in relation to the timeline include that many pension providers were unable to estimate the lead time they need to connect to the dashboard infrastructure until they had further clarification of the data and technical requirements.

In terms of next steps, the summary includes that: (1) the staging proposition will be set out in the DWP's consultation on draft regulations for occupational pension schemes, which is expected at the end of 2021, and in the FCA's consultation on draft rules for providers of personal and stakeholder pensions, which will follow; (2) the PDP will publish technical standards and operational standards for data providers in winter 2021/22; and (3) in light of the concerns expressed in responses to the call for input in relation to ERI, and to build the evidence base to aid the DWP's and the FCA's decision-making, the PDP is undertaking further research and user testing in relation to what data should be displayed to users.

Progress Update Report

On 26 October the Pensions Dashboards Programme (PDP) published its fourth *Progress Update Report* which provides a summary of what it has achieved since April 2021 and looks at upcoming activity. In terms of upcoming activity, the report includes that: (1) the develop

and test phase started in September and runs through to summer 2022; and (2) the alpha testing phase of the programme will start in December 2021 for a six month period. Other activity includes that the PDP will continue to work with the DWP, the FCA and the Pensions Regulator to progress and support the consultations on secondary legislation and corresponding rules. The report notes that the DWP plans to consult on its proposals for secondary legislation this winter (focusing on data requirements, staged onboarding, the compliance regime and consumer protection), and aims to lay draft regulations before Parliament for debate in 2022, to remain on schedule to support the delivery plan set out by the PDP. In the foreword to the report, the PDP encourages all parts of the industry to start taking steps to prepare now.

A section of the report on partner organisation activity includes that the Pensions Regulator: (1) recognises that preparing for dashboards is a significant enterprise for the thousands of pension schemes that it regulates and their advisors/service providers; (2) is "gearing up to provide clear, targeted and timely education to trustees and managers on their new duties from 2022"; (3) will also be engaging with the advisors and service providers, which trustees depend upon, to ensure trustees receive the support they need; and (4) in addition to planning education and engagement, is working to define and deliver the operational processes it will need to monitor, and if necessary enforce, compliance with the duties from 2023.

TPO, HMRC and the PPF

The Pensions Ombudsman

On 14 October The Pensions Ombudsman (TPO) published a guidance note on *Communicating with members* which outlines its views on best practice for communicating with pension scheme members. TPO notes that it has been dealing with pension complaints for 30 years, and states that it wants to share the experience and expertise that it has “to help the pensions industry drive up standards in informal dispute resolution and reduce the number of disputes and complaints”. TPO states that many of the enquiries and complaints that it receives are not resolved through formal investigation and a Determination, but through engagement, education and informal resolution. The note sets out some statistics from 2020/21 on enquiries, early resolution and outcomes of Determinations, and states that TPO believes there is an opportunity for it to work proactively with businesses and organisations across the pensions industry “to help them reduce the number of disputes and complaints arising and resolve more complaints early and informally themselves”.

The guidance includes a section on “Top tips on how to avoid the Ombudsman” which include to: (1) put yourself in the place of the member; the ability to be empathetic and listen can prevent an issue becoming a dispute or complaint; (2) use plain English, make sure all communication channels are accessible and communicate in a way that is person-centred and non-confrontational; and (3) make sure you and the member have a shared understanding of the complaint, as it may avoid the complaint changing or confusion arising at a later stage.

The guidance also reports that: feedback to TPO’s November 2020 stakeholder survey indicated that stakeholders wanted it to provide more guidance materials on its website; and it has now added a new section on *How to avoid the Ombudsman*, which contains links to key guidance, related Determinations and case studies. This section of the website, which TPO states it will continue to update, is divided into sections relating to: communicating with customers; distress and inconvenience awards; how TPO’s Early Resolution Service can help; ill health pensions; unpaid pension contributions; and death benefits.

Countdown bulletin

On 11 October HMRC published *Countdown Bulletin 56* in relation to the end of contracting-out. Countdown Bulletin 55 reported that, from 1 September 2021, it will start to close the Scheme Cessation and Scheme Reconciliation eRooms on the Shared Workspace Service which were created to help administrators reconcile their scheme memberships, but that these closures will not affect the rooms set up for raising GMP checker queries. Countdown Bulletin 56 reports that: (1) after the previous bulletin was published, HMRC received feedback from some scheme administrators expressing concern that they would not be able to extract the information they need from the eRooms within this timeframe; and (2) HMRC will therefore delay the start of the closure of the eRooms until the end of November 2021.

Pension schemes newsletter

On 29 October HMRC published pension schemes newsletter 134 which reports that it is extending certain temporary changes to pension processes introduced as a result of COVID-19. In June 2021, HMRC announced an extension, until 31 October 2021, of the temporary changes relating to submitting scanned versions of certain relief at source forms and submitting the registered pension schemes annual statistical return without a signature. Pension schemes newsletter 134 reports that HMRC is extending these changes until 31 March 2022, and will keep scheme administrators updated on any further changes in future pension schemes newsletters.

PPF Annual Report

On 18 October the Pension Protection Fund (PPF) published its Annual Report 2020/21 which includes that: (1) it paid GBP1 billion in compensation to its members over the last financial year; (2) its assets under management grew from GBP36 billion to GBP38 billion; (3) its funding ratio increased from 113.4% to 127.3%; and (4) its reserves rose from GBP5.1 billion to GBP9 billion. The PPF’s accompanying press release also states that it reported “solid progress on its objectives as set out in its 2019-22 strategic plan and that it has continued to deliver consistently high levels of customer service to its members and levy payers”.

Other news

PLSA case studies

On 14 October the Pensions and Lifetime Savings Association (PLSA) published *Towards a Greener Future: Case Studies from the Pension Sector*. The PLSA's accompanying press release includes that: the case studies (which are presented as a series of essays) demonstrate how workplace pension providers are putting their climate policies into action; and the publication is aimed at helping pension funds learn from others' experiences. It goes on to state that: "From setting climate goals, to gathering data, from reporting against standards set by the Taskforce for Climate-Related Financial Disclosures (TCFD), to implementing an investment strategy that aligns with the Paris Agreement; the essays should offer meaningful insight to pension trustees, no matter what stage of the climate journey they are on".

Public service pension schemes

COST CONTROL MECHANISM

On 4 October HM Treasury published the government response to its June 2021 consultation on changes to the cost control mechanism. HM Treasury reports that the government will proceed with the three proposed reforms, which will mean that: (1) the cost control mechanism will move to a 'reformed scheme only' design, so that the mechanism only considers past and future service in the reformed schemes, and costs related to legacy schemes are excluded; (2) the cost corridor will be widened from 2% to 3% of pensionable pay; and (3) an economic check will be introduced. The government will implement the reforms when parliamentary time allows and is aiming to implement all three proposals in time for the 2020 valuations.

2016 VALUATIONS

On 7 October HM Treasury published Amending Directions and correspondence with the Government Actuary in relation to the completion of the 2016 public service pension scheme valuations. HM Treasury explains that: (1) in February 2019, it published Directions to pause the cost control element of the valuations due to uncertainty regarding the cost of schemes following the *McCloud* and *Sargeant* litigation relating to the 2015 transitional provisions; and (2) as there is now sufficient certainty, the Amending Directions allow schemes to conclude their valuations by setting out how schemes must carry out the cost control element of those valuations.

NHS PENSION SCHEME

On 15 October the Department of Health and Social Care published a consultation seeking views on proposals for a new member contribution structure in the NHS Pension Scheme which makes changes to recognise that all members of the scheme will be building up career average benefits from 1 April 2022. The proposals include that: (1) members' contribution rates would change to be based on actual pensionable pay instead of notional whole-time equivalent pay; (2) the structure for member contributions would change, including a reduction in the number of tiers to 'flatten' the contribution model; (3) the thresholds for the member contribution tiers would be increased in line with annual Agenda for Change pay awards; and (4) the changes would be phased in over two years starting on 1 April 2022, with the final changes made from 1 April 2023.

Financial Conduct Authority

In June 2020 the FCA published a consultation on proposals that aim to make it easier for Independent Governance Committees (IGCs) to compare the value for money (VFM) of pension products and services. On 4 October 2021 the FCA published a policy statement summarising the feedback received and setting out the final version of the rules. The final rules and guidance include requirements on IGCs to: (1) take into account three key elements of VFM - costs and charges, investment performance, and services provided (including member communications); and (2) assess and report on VFM, particularly through comparison with other options on the market. The rules came into force on 4 October 2021, and firms and IGCs will have until the end of September 2022 to publish their next report.

The FCA states that, while the new rules will provide greater consistency and clarity, it thinks that further work is required to improve the comparability of VFM across the market and notes the joint discussion paper that it published with the Pensions Regulator in September 2021. Further information on the discussion paper is included on page 10 of the [September 2021 edition of Pensions Round-Up](#).

On the horizon

DATE	DEVELOPMENT
2021	In July 2021 it was announced that the GMP Equalisation Working Group has set up an administration sub-group. The sub-group plans to publish a Q&A document.
Scheme year ending after 1 October 2021 or 31 December 2021	Following a 2020 consultation on DC schemes, regulations came into force on 1 October 2021 introducing a new requirement for trustees of all relevant schemes to report in the chair's annual statement on net investment returns for their default and self-selected funds. This requirement applies for the statement for the first scheme year which ends after 1 October 2021. The regulations also contain a new requirement for certain relevant schemes to carry out a more detailed value for members assessment , with this requirement applying from the first scheme year ending after 31 December 2021.
30 November 2021	Following a May 2021 consultation, the Occupational and Personal Pension Schemes (Conditions for Transfers) Regulations 2021 were laid before Parliament on 8 November and come into force on 30 November 2021. The regulations prescribe additional conditions that must be met in order for a member to have a statutory right to transfer . Further information about the regulations is included in our Pensions Alert .
2021 2023	Provisions in relation to pensions dashboards are included in the Pension Schemes Act 2021. In May 2021 the Pensions Dashboards Programme (PDP) published a call for input on proposals for the staged compulsory connection of pension providers to the dashboards ecosystem. The PDP's recommendations include that staging should comprise of three waves, with wave one starting in April 2023. The DWP plans to consult on its proposals for secondary legislation this winter, focusing on data requirements, staged onboarding, the compliance regime and consumer protection. The DWP's aim is to lay draft regulations before Parliament for debate in 2022, to remain on schedule to support the delivery plan set out by the PDP.
Early 2022	The Pension Schemes Act 2021 includes provisions in relation to the Regulator's powers , most of which came into force on 1 October 2021. On 29 September 2021 the Regulator published a consultation on three new policies – overlapping powers policy, monetary penalty powers policy, and information gathering powers policy. The consultation closes on 22 December 2021 and the Regulator plans to finalise the policies early in 2022.
First quarter of 2022	An updated version of the Regulatory Initiatives Grid published on 1 November 2021 includes that the full response to the Regulator's first consultation on its updated DB funding code and the launch of the second consultation (which will focus on the draft code itself) are planned for the first quarter of 2022.
6 April 2022	Following the publication of its October 2020 Statement of Policy Intent entitled Stronger Nudge to Pensions Guidance , on 9 July 2021 the DWP published a consultation on draft regulations to implement its proposals. The draft regulations include a provisional coming into force date of 6 April 2022.
2022	In March 2021 the Regulator published a consultation on the first phase of its work to combine its current codes to form a single code of practice which includes information about a new requirement for trustees to carry out an own risk assessment of the system of governance. In August the Regulator published an interim response to the consultation which states that it does not expect to lay the new code in Parliament before spring 2022 and it is therefore unlikely that it will become effective before summer 2022.
2022	A consultation on changes to the notifiable events regime was published on 8 September 2021. The consultation closed on 27 October 2021. The Regulator's Corporate Plan 2021-24 refers to changes to the notifiable events regime being introduced in 2022.
1 October 2022	Regulations came into force on 1 October 2021, introducing new governance and reporting requirements in relation to climate change for trustees of certain occupational pension schemes. The new requirements are being introduced in stages: they have applied to certain schemes since 1 October 2021 and will apply to further schemes from 1 October 2022. The DWP is also consulting on proposals to add to the requirements in the regulations in relation to metrics from 1 October 2022.
1 October 2022	Regulations introducing simpler annual benefit statements for DC schemes used for automatic enrolment will come into force on 1 October 2022.

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