



# New term, new issues

## UK Pensions Agenda

October 2019

### 1 Pension Schemes Bill

The **Bill** sets out additional powers for the Pensions Regulator, including imposing fines of up to £1 million for preventing the recovery of a section 75 debt or risking accrued benefits and additional information gathering powers. It also sets out a framework for requiring schemes to provide information to the dashboards and for the authorisation of collective defined contribution schemes. There are new requirements for DB schemes to have a long term investment and funding strategy and restrictions on the right to a statutory transfer value.

**Action** — Keep an eye on the passage of the Bill through Parliament and watch out for any new requirements that will need to be complied with. For more detail on the content of the Bill, see our [\*\*speedbrief\*\*](#).

### 2 GMP equalisation and conversion

The industry group led by PASA have issued their first set of **guidance** on the methodology schemes should use for equalisation. It covers a wide range of issues including dealing with past underpayments, choosing comparators and considerations on conversion. Further guidance is due later this year.

**Action** — Be aware of the guidance and consider it when making equalisation decisions. Look out for further guidance from the industry group and also from HMRC.

### Investment guidance

The Pensions Regulator has updated its **DB investment guidance** to reflect the new requirements on the content of the SIP (both from October 2019 and October 2020) and to help trustees determine what might be a financially material consideration for their scheme.

**Action** — Consider this guidance when formulating policies on ESG/climate change and stewardship. There is similar **guidance** for DC schemes. More detail on the new SIP requirements is set out in our [\*\*speedbrief\*\*](#).

### 4 Fiduciary managers and investment consultants

The Pensions Regulator has issued **draft guidance** on how trustees should conduct a competitive tender for fiduciary managers and considerations when setting objectives for investment consultants. Trustees will need to do both from 10 December 2019 (although there are some exceptions and transitional provisions in relation to fiduciary management agreements). These requirements stem from the **CMA Order** which is due to be replaced by **regulations** by April 2020.

**Action** — Consider how far the new obligations apply to your scheme and take into account the guidance when taking appropriate steps. More details about the new requirements are set out in our [\*\*speedbrief\*\*](#).

## 5 Civil partners

The Government has **announced** that it does not intend to legislate any further to ensure that the rights of same sex partners are equivalent to those of opposite sex spouses. In addition, **legislation** is due to come into force by the end of this year to introduce civil partnerships for opposite sex couples.

**Action** — Be aware of the change coming in relation to civil partnerships as schemes will need to check that they provide the appropriate benefits for opposite sex civil partners.

## 6 Dispute resolution

The Government intends to go ahead with **proposals** to give the Ombudsman additional powers to facilitate early resolution of disputes through a conciliation process. It is anticipated that the early resolution process will be available at any stage of a dispute and there will be no requirement for the scheme's internal dispute resolution process to have been completed first.

**Action** — Watch out for the proposed legislation and be aware that this could give members a choice of whether to use the scheme's internal dispute resolution process or the new reconciliation process.

## 7 RPI consultation

The Chancellor has **responded** to recommendations that RPI should cease to be published and, in the shorter term, aligned with CPIH. He acknowledges that there are flaws with RPI but as it is used widely across the economy, ceasing to publish it could be highly disruptive and damaging. Therefore, no change will be made before 2025 and a consultation is proposed on the potential effects of aligning RPI with CPIH to determine if this should be done sometime between 2025 and 2030.

**Action** — Consider whether this might have an impact on the long term value of benefits and what this might mean for the scheme's transfer value factors and funding position.

## 8 Cyber security

Cyber breaches represent a significant risk to schemes. A 2018 cyber security **survey** showed that 4 out of 10 businesses had experienced a cyber security breach or attack in the previous 12 months. The Pensions Regulator's 2018 **guidance** on cyber security highlights the need for trustees to identify, mitigate and manage the cyber risk to their scheme and additional **guidance** from PASA suggests practical steps to take.

**Action** — Consider what action is needed to ensure that the scheme has adequate business continuity processes in place, it can call on the PPF or FSCS as required, the trustees are protected and they are ready to report to the ICO where necessary.

## 9 Equalising retirement ages

The European Court has **confirmed** that it is not generally possible to retrospectively equalise retirement ages by reference to the date of an earlier announcement – even if there is a power in the rules permitting this. However, backdating might be possible where there was a public interest reason to allow it, such as seriously undermining the “financial balance of the scheme”.

**Action** — If the effective date of equalisation remains an issue in your scheme and the rules allow equalisation by reference to an earlier announcement, consider whether the “financial balance of the scheme” might be affected.

## 10 Single code of practice

The Pensions Regulator has **announced** that it intends to review all of its codes of practice to reflect its new obligations to implement the governance requirements of the second European Pensions Directive. The Regulator anticipates combining its 15 existing codes of practice into a single, easier to use code and will begin consultation later this year.

**Action** – Look out for the promised consultations as there will undoubtedly be a raft of new governance requirements to comply with in any new super code.

**For more detail on these or any other issues, speak to your usual Eversheds Sutherland adviser or contact:**



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