

Beyond Brexit

UK Pensions Agenda

February 2021



1.

Pensions Regulator – Once the Pension Schemes Bill (soon to become the Pension Schemes Act 2021) comes into force, the Pensions Regulator will have increased powers to intervene where it perceives corporate activities might threaten the security of DB schemes and impose large fines and criminal sanctions. The pensions minister has confirmed that these powers are not intended to be retrospective. Regulations and Regulator guidance will need to provide more detail around the operation of the new powers.

Action – Look out for the Pension Schemes Bill being enacted in the next few weeks and the publication of draft regulations and guidance on the Regulator's new powers. Consider whether any of the new powers are likely to affect the plan or its sponsors.

2.

Climate change – Following DWP's consultation last year, draft regulations have now been issued along with a further consultation paper and draft guidance, putting more detail around the climate change provisions in the Pension Schemes Bill and the disclosures and governance measures that larger plans and master trusts will be required to have in place. The new requirements will be phased in for plans with £1billion plus in assets and master trusts, starting from 1 October 2021.

Action – Consider whether the new requirements are likely to apply and, where relevant, start to put in place appropriate governance processes.

3.

Data protection – The end of 2020 saw a number of high profile cyber breaches and additional guidance for administrators from PASA. In addition, although there has been a temporary extension of existing arrangements for the transfer of data between the UK and the EU (for between four and six months), it is not yet clear whether free flows of data will be able to continue when they expire. Finally, the Information Commissioner has issued its data sharing code of practice for controller to controller sharing.

Action – Data protection and cybersecurity should remain firmly on the agenda and trustees should be reviewing data sharing arrangements to determine if there are any EU data flows and whether the sharing is covered by the code of practice.

4.

GMP equalisation – We now have the final court decision in the Lloyds Bank case on GMP equalisation. It relates to schemes' obligations in relation to past-transfers out and largely concludes that, as they should have been calculated on an equalised basis, plans must now consider the extent to which they can and should make top up payments. We are still waiting to see if 2021 will bring more clarification in relation to GMP conversion although the government has not indicated that anything else will be forthcoming.

Action – Trustees cannot delay taking action on GMPs. Where equalisation plans are already underway, consider how to deal with past transfer payments. Where they are not, action plans should be put in place as a matter of urgency. For more details about Lloyds No. 3, see our speedbrief.

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5.

Pandemic – The furlough scheme is currently due to continue until 30 April 2021. However, the regulatory easements that were put in place during the first lockdown are not generally continuing and the expectation is that plans will operate as normal. In the context of DB schemes, the **Regulator recognises** that the suspension of deficit repair contributions may be required, but expects trustees to carry out due diligence on any such proposals.

Action – Where sponsors are experiencing trading difficulties, consider the likely impact on the plan and what, if any, easements can be granted.

6.

Communications – The data that plans will need to have **available for the dashboards** both to identify members and to provide them with information has now been published and voluntary onboarding is due to start in 2023. In addition, the government is shortly to **begin consultation** on a standardised form of annual benefit statement for DC members.

Action – Consider what information will be required for the dashboards and what needs to be done to make sure it is accessible. DC plans should look out for the consultation on DC benefit statements.

7.

Small pots – A working group set up by the government has **made recommendations** on what should be done to stop the proliferation of small DC pots. The key recommendation is to transfer them to a default vehicle once obstacles to low-cost transfers have been addressed and an appropriate vehicle identified. It is also suggested that more consideration should be given to pots following members to new schemes. In a **separate paper**, the government has said that it proposes to prohibit the use of flat-rate fee structures for micro-pots of £100 or less in auto-enrolment default funds.

Action – Watch out for further recommendations in relation to small pots and, if the plan will be affected by the new proposals on micro-pot fees, consider what action will be needed.

8.

Transfers – The Pension Schemes Bill will require **additional due diligence** around transfers, including looking at whether a member has a genuine employment connection with a receiving scheme. Where certain “red flags” are present, members may lose their statutory right to a transfer. In addition, the Regulator’s **scams pledge** will require signatories to focus on due diligence to ensure that, where possible, members are not transferred to scam vehicles.

Action – Consider whether to sign up to the scams pledge and what additional due diligence and governance processes might be required.

9.

Scheme funding – The Pensions Regulator confirmed in its **interim response to consultation** that it is due to publish its second consultation on scheme funding in the second half of this year which will set out the provisions of a new code of practice. The new code will reflect the Regulator’s **proposed twin-track** funding approach and a greater focus on long term objectives.

Action – If a valuation is coming up, consider how the new provisions in the Bill and draft code could affect it. Consider what appropriate long-term funding objectives for the plan would look like. For more information see our **speedbrief**.

10.

PPF levy – The levy calculation for the 2021/22 levy year is largely the same as last year. There are **some changes**, in particular a reduction in the risk based levy for schemes with less than £50 million of liabilities. The PPF has set out the **key deadlines** for the submission of levy documentation including: scheme returns via Exchange by midnight on 31 March 2021; emailed supporting contingent asset documents, including guarantor strength reports by 5pm on 1 April 2021; and deficit reduction contribution certificates by 5pm on 30 April 2021.

Action – Identify what documents will be needed for the 2021/22 levy submission and what deadlines apply. The deadlines need to be strictly adhered to. More details on the levy changes for 2021/22 will be in a speedbrief to be issued shortly.



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