



# Taking off in the new year

## UK Pensions Agenda

January 2020

### 1 PPF levy

The PPF has issued the [final levy determination](#) for the 2020/21 levy year, including provisions in relation to the use of contingent assets. It has also issued a [consultation](#) on the methodology for calculating employer insolvency scores following the move back to Dun & Bradstreet. The proposed changes could result in an increased risk of insolvency for the largest employers and a levy increase of more than 50% for some schemes.

**Action** — Be aware of [deadlines](#) for submitting levy documentation and information as the PPF will not generally accept late submissions. Check the impact of proposed changes on employer insolvency scores.

### 2 PPF compensation

The European Court has decided in [Bauer](#) that ensuring members receive at least 50% of their benefits following employer insolvency might not be enough for member states to comply with European law obligations. If a reduction means that an employee's ability to meet their needs is seriously compromised and they are living below European poverty thresholds, higher compensation might be required.

**Action** — The PPF is [considering this decision](#). It could have implications where members with modest benefits are below their scheme's normal pension age and benefits are cut back as a result. Look out for further statements from the PPF and any impact on the PPF levy. For more information, [see our speedbrief](#).

### 3 Pension Schemes Bill

Following the general election, [this Bill](#) has now been represented to Parliament with only minor changes. The Bill covers collective money purchase arrangements, increased powers for the Pensions Regulator (including imposing fines of up to £1 million in some circumstances), new criminal offences in relation to avoiding section 75 debts and conduct risking accrued benefits, the pensions dashboard and scheme funding. Much of the detail is left to regulations.

**Action** — Keep an eye out for more detail about issues such as scheme funding and the dashboard. For more detail on the Bill, [see our speedbrief](#).

### 4 Investment

[The Regulator has issued final guidance](#) on how trustees should conduct a competitive tender for fiduciary managers and considerations when setting objectives for investment consultants. In addition, [a revised version of the stewardship code](#) has been published. [The Regulator says](#) that trustees are encouraged to sign up and adhere to the code with a view to improving long-term returns and reducing the risk of poor outcomes due to poor strategic decisions.

**Action** — Ensure that strategic objectives are in place where required. Consider whether any action needs to be taken in relation to the stewardship code.

## 5 Scheme funding

### [The Regulator plans to revise its code of practice](#)

on funding and introduce a twin track approach to demonstrating compliance with funding requirements. A fast track route will allow schemes to adopt simple rules and methodologies set out by the Regulator (with some flexibility) and a bespoke route will allow more flexibility but require trustees to explain why their approach is compliant and show that any additional risk is managed.

**Action** — Look out for the Regulator's consultation anticipated to begin in March 2020 and consider how the changes might impact on any valuations coming up in the near future.

## 6 Communications with DC members

[The Government has consulted](#) on the content of annual money purchase illustrations and whether it would be appropriate to move to a standard template and standard actuarial assumptions to enable members to better understand and compare their benefits. The consultation also explores options for giving members more information on costs.

**Action** — Watch out for further developments and draft legislation. More detailed information on the proposals is set out in [our speedbrief](#).

## 7 Part-time workers

Legislation provides that a claim for less favourable treatment on the grounds of being a part-time worker must be brought within three months of the discriminatory treatment occurring. [The Supreme Court has decided](#) that discriminatory treatment occurs not only when benefits failed to accrue but also when a member retires and the relevant benefits are not paid.

**Action** — Be aware that the judgment means that time limits may now be very difficult to rely on in the context of discrimination claims more generally. For more discussion on the implications of the decision, [see our speedbrief](#).

## 8 Subject access requests

[The ICO is consulting](#) on guidance in relation to rights to access personal information. The guidance explains in detail the rights that individuals have and the obligations of controllers. As there are no formal requirements for subject access requests, it is important to ensure that staff are able to recognise them.

**Action** — Subject access requests need to be actioned within one month, so make sure relevant staff can recognise them and that everyone knows how to deal with them.

## 9 DB to DC transfers

[The Regulator has updated its guidance](#) on DB to DC transfers. Where independent advice is required, trustees must check that it has been provided by someone with the required authorisation. The FCA has changed its authorisation regime and the new directory for certified individuals will not be available until later in 2020. The guidance sets out how trustees should satisfy their obligations in the meantime. In addition, [there has recently been significant focus](#) by the FCA on members who are incorrectly advised to transfer out of DB schemes.

**Action** — Where transfers covered by the advice requirements are being made, consider how to ensure that the adviser has the appropriate authorisation. For more discussion on facilitating financial advice for members, [see our joint paper with Royal London](#).

## 10 Annual allowance

[The Government has arrived at a temporary solution](#) for NHS staff affected by the annual allowance taper (which involves compensating them outside of the scheme). However, the difficulties caused by the way in which aspects of the annual allowance work may mean that it is looked at in more detail in the Budget and changes may be made.

**Action** — The next Budget is due on 11 March. Watch out for any announcements in it in relation to the annual allowance or other pensions tax issues.

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



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