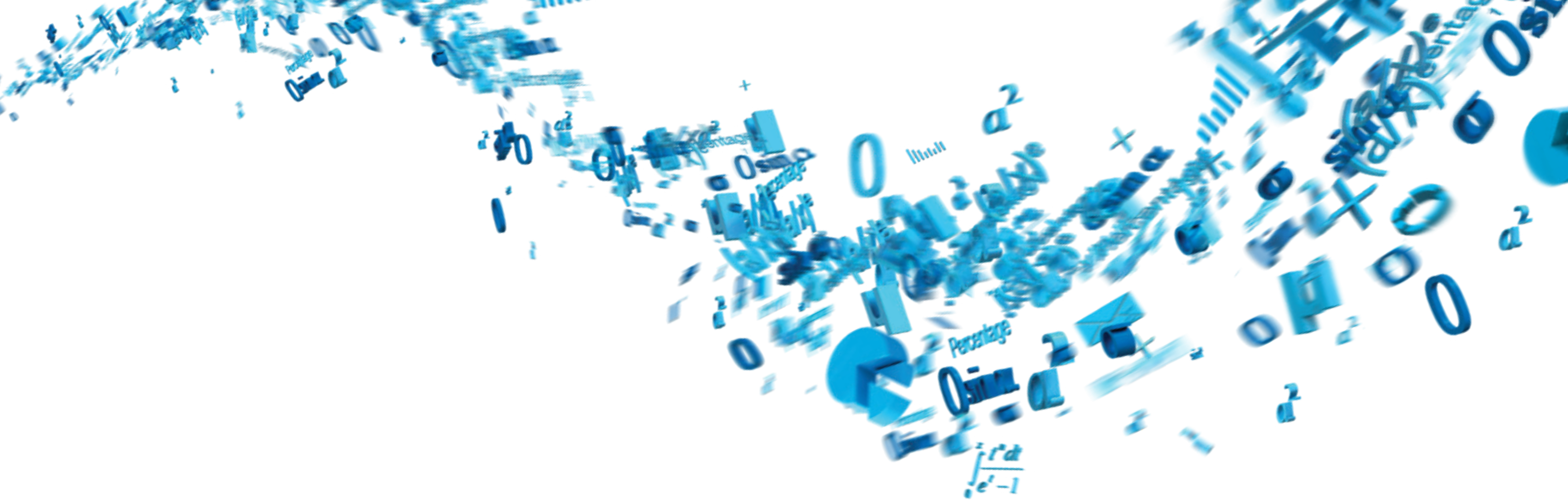


November 2021

In Sight

a quarterly pensions publication

This quarter's round-up

Regular features

Pensions law changes for now and beyond

October was a busy month for pensions, with several key changes to pensions law coming into effect on 1 October 2021.

Many of these were introduced under the Pension Schemes Act 2021:

- New criminal offences, financial penalties and enforcement powers for the Pensions Regulator are in place.
- The first wave of climate risk governance and reporting requirements apply for trustees of larger schemes.

These issues are explored further on the following pages.

Separate regulations introduced changes to DC governance and reporting, including a new prescribed value for money assessment, also on 1 October (see page 7).

As well as ensuring that they meet the new legal and regulatory requirements, schemes should be preparing for further changes that lie ahead. To help with this, *On the horizon* (on page 13) provides a helpful reminder of what's still to come over the year ahead.

Continued on next page

Pension Schemes Act powers in force

New criminal offences, financial penalties and regulatory powers under the Pension Schemes Act 2021 are now in place.

As set out in previous editions of In Sight, the Act expands various powers of the Pensions Regulator. These include the imposition of criminal sanctions, greater financial penalties, additional circumstances in which a contribution notice can be issued, and enhanced inspection and information gathering powers.

Shortly before these powers came into force, the Regulator published its criminal offences policy, setting out its approach to the investigation and prosecution of the new offences, together with its updated approach to contribution notices.

Most of the changes apply from 1 October 2021 - as a reminder, the key measures in force are:

- An unlimited fine and/or imprisonment can be imposed for two **new criminal offences**: avoidance of an employer debt to a pension scheme and conduct risking accrued scheme benefits.

  The Regulator's criminal offences policy confirms that it does not intend to prosecute behaviour that it considers to be ordinary commercial activity. It will investigate and prosecute the most serious examples of intentional or reckless conduct that are already within the scope of its contribution notice powers (or would be in scope if the person was connected with the scheme employer). In deciding on whether conduct risked accrued scheme benefits, the Regulator will take account of the matters set out in code of practice 12 (see below) for contribution notices.

  Although the new powers do not apply to acts that took place before 1 October 2021, the Regulator says that it may take into account facts from before that date, for example, where those facts indicate someone's intention for a later act.

- The circumstances in which the Regulator can issue a **contribution notice** have been expanded to include an *employer insolvency* test and an *employer resources* test, as alternatives to avoidance of a debt and the material detriment test. Failure to comply with a contribution notice, without reasonable excuse, is now a criminal offence punishable by an unlimited fine.

  A finalised code of practice 12 – on the circumstances in which it expects to issue a contribution notice, updated for the new tests – has been laid before Parliament. The Regulator has also published related guidance, providing examples of scenarios that would be likely or unlikely to be considered materially detrimental or to meet one of the new tests.

- The Regulator has an increased ability to **require attendance at interview and to inspect premises** to enforce its new powers; and it can impose fixed and escalating civil penalties for non-compliance with its information-gathering powers. Financial penalties of up to £1 million apply for providing false or misleading information to the Regulator or trustees.

- **Transitional provisions** apply in respect of the Regulator's powers for contribution notices, the related sanctions, and information-gathering powers: where the act, failure to act or course of conduct in question occurred before 1 October 2021 – in these instances, the Act's amendments do not apply.

- The **new sanctions** include a fine of up to £1 million for failing to notify the Regulator of certain events (although the expanded regime for notifiable events is not yet in force – see page 6).

The Regulator is carrying out a further consultation, until 22 December 2021, on draft enforcement policies relating to its new powers. These cover its approach to overlapping powers (i.e. where it could use more than one of its powers in relation to a given issue), its monetary penalty powers; and its information gathering powers.

Action

Employers should consider the potential implications for corporate activity, ensuring they are familiar with the new offences and the Regulator's broader powers.

Climate risk governance and reporting

The largest pension schemes became subject to new obligations for climate risk governance and reporting from 1 October 2021, as reported in the August edition of In Sight. The legal requirements, and the related DWP statutory guidance, will be extended to smaller schemes in stages, with all schemes that have assets of more than £1 billion being in scope from 1 October 2022.

Schemes in scope are required to meet climate governance requirements in line with the recommendations of the Task Force on Climate-related Financial Disclosures (TCFD), and to report on how they have done so.

Trustees will be required to publish their TCFD report on a publicly available website and add references to where this report can be found online within the scheme's annual report, summary funding statements (if required) and benefit statements (for both defined benefit and money purchase members).

Trustees must also comply with expanded Trustee Knowledge and Understanding requirements – these include the identification, assessment and management of climate change risks and opportunities.

In a recent blog on how trustees have influence in the shift to a net zero economy, the Pensions Regulator says that it wants to work with trustees and shape the industry debate, to deliver a landscape of pension schemes that are resilient and protect savers from climate risk. The blog called for action, not just well-meaning intention. It was published during the consultation period for the Regulator's own guidance and monetary penalties policy, which will support the legislation and statutory guidance. The draft guidance states that the Regulator will be looking for clear evidence that trustees:

- Are taking proper account of climate change when making decisions, and that advisers are helping them to do this;
- Have carried out analysis in a way that is consistent with the TCFD recommendations;
- Have seriously considered the risks and opportunities that climate change will bring to the scheme; and
- Have decided what to do as a result of this analysis and have set a target to help achieve that goal.

The guidance is relevant to all schemes, and particularly to those that are required to comply with the new climate change reporting legislation.

The Regulator has also issued a new draft appendix to its monetary penalties policy, covering mandatory and discretionary penalties for breaches of the new requirements.

New consultation on Paris alignment reporting

The DWP has launched a new consultation on climate change and investment reporting. The proposals would require trustees to measure and report on their schemes' alignment to the Paris Agreement goal of limiting the increase in the global average temperature to 1.5 degrees Celsius. This would apply from 1 October 2022 to schemes that are in scope of the TCFD requirements at that time. The consultation includes related draft changes to the DWP's statutory guidance on the TCFD requirements.

The consultation also includes new draft guidance setting out best practice on stewardship and ESG: non-statutory guidance in relation to statements of investment principles (SIPs) and statutory guidance on implementation statements. This seeks to address deficiencies in scheme governance in relation to stewardship and voting.

The consultation closes on 6 January 2022.

Action

Trustees of schemes with relevant assets of more than £1bn should be moving ahead with plans to meet the new and proposed requirements. However, all trustees should consider the impact of climate change risks on the management of their scheme.

Responsible investment

Ahead of November's UN climate conference (COP26) in Glasgow, there have been several developments focussed on responsible investment.

WPC report on pension stewardship and COP26

Ahead of the conference, the Work and Pensions Committee (WPC) issued a report calling on the government to show global leadership on pensions and climate change. The WPC makes recommendations on reporting standards, pension scheme governance, and investment and stewardship. It encourages schemes to consider setting net zero targets and recommends that the Pensions Regulator should provide guidance. It also recommends that the DWP should set out what specific steps it is taking to ensure that its policies do not incentivise divestment over good stewardship – while making clear that schemes could nevertheless consider divestment when there is no other option.

New standards for environmental reporting

HM Treasury has published a report - *Greening Finance: A Roadmap to Sustainable Investing* - that outlines details on new Sustainability Disclosure Requirements. This will mean that certain businesses and pension schemes (both occupational and contract-based), must start disclosing their environmental impact, to ensure investors have the information they need to make informed decisions about where to put their money.

SPP publishes guide to ESG

The Society of Pension Professionals (SPP) has published a short *ESG Guide* that is aimed primarily at the trustees of small to medium sized schemes that are predominantly invested in pooled funds. It seeks to give them high level guidance on their legal obligations, what actions they can practically take depending on their investment structure, and how best to engage with advisers and investment managers.

Responsible Investment Quality Mark

The PLSA has sought views on a new Responsible Investment Quality Mark (RIQM) accreditation. This is intended to recognise pension schemes that meet the highest standards for incorporating environmental, social and governance (ESG) factors across their operations. It will assess standards for scheme actions in seven areas:

- Understanding the needs and interests of their beneficiaries;
- Governance;
- Investment strategy;
- Oversight of stewardship;
- Risk management;
- The use of metrics and targets; and
- Communication and engagement.

The PLSA also proposed an RIQM Plus accreditation for schemes that demonstrate industry-leading practice.

Calls for an investment big bang

Boris Johnson and Rishi Sunak have challenged UK institutional investors to consider investing a greater proportion of their capital in long-term UK assets, enabling pensions savers to access better returns and support an innovative, greener future for the UK. Their open letter to the industry states that over 80% of UK DC pension funds' investments are in mostly listed securities, which represent only 20% of the UK's assets. It notes the actions the government is already taking to remove obstacles to long-term illiquid investment within the UK, for example by introducing flexibilities into the DC charge cap (see page 7).

Recommendations for investment in less liquid assets

The Productive Finance Working Group has published a series of recommendations to facilitate greater investment in longer-term, less liquid assets. The group was convened in November 2020, by HM Treasury, the Bank of England and the FCA. Its report focuses on supporting DC pension schemes to invest and developing the long-term asset fund (LTAF) structure (see page 12).

The Pensions Regulator has responded to the report in its blog *DC: Investing for the future*. While supportive of the recommendations, the Regulator reminds trustees that they have fiduciary duties, and should only invest in any asset if they believe that investment is in the best interests of their members. They should also take appropriate advice. The Regulator plans to produce further guidance for trustees on illiquid investments next year.

Pension Schemes Act – state of play

Some provisions of the Pension Schemes Act 2021 are now in force, with several sets of regulations in place along with Pensions Regulator publications. This is the current state of play:

Topic	Consultation and regulation timing	Measures are (*or expected to be*) in force
Climate change governance and reporting	New requirements in force (see page 3). The Pensions Regulator has published draft supporting guidance.	1 October 2021 for largest schemes
New criminal offences	Two new criminal offences have been introduced. The Regulator has published its policy on investigation and prosecution of these (see page 2).	1 October 2021
New powers for the Pensions Regulator	Revised code of practice 12, reflecting the new tests for issuing a contribution notice, has been laid before Parliament. A related consultation runs until 22 December 2021, containing draft enforcement policies (see page 2).	1 October 2021
Limiting transfer rights to help prevent pension scams	Consultation has taken place (see the August edition of In Sight). Government response awaited.	*Autumn 2021*
CDC scheme framework	Consultation on draft regulations closed 31 August 2021 (see the August edition of In Sight). Government response awaited.	*2022*
Extended notifiable events framework	Consultation closed 27 October 2021 (see page 6).	*April 2022*
Scheme funding – including statement on long term funding and investment strategy	Consultation later this year (on regulations, with a separate consultation to follow on the related details of the code of practice).	*Late 2022 / early 2023*
Pensions dashboard provisions	Consultation expected December 2021; parliamentary debate in 2022 (latest news on dashboards on page 6).	*Delivery for 2023*

Notifiable events regime expanding

The DWP has been consulting on draft regulations that will expand the notifiable events framework. This framework has been in place since 2005 and requires employers and trustees of DB schemes to notify the Regulator if certain events occur, giving an early warning of potential problems. The changes relate to provisions under the Pension Schemes Act 2021, which include fines of up to £1 million for failure to comply.

New and revised notifiable events

The draft regulations will introduce two new notifiable events – these are a *decision in principle* by an employer to:

- sell a material proportion of its business or assets; or
- grant or extend a relevant security over its assets, giving this priority over debt to the pension scheme.

A *decision in principle* means a decision prior to any negotiations or agreements being entered into with another party. This is intended to be the point at which the employer has made a decision to go ahead (for example, to sell the asset) and will then start to negotiate the specific terms. *A material proportion* is one that accounts for more than 25% of the employer's annual revenue (or gross value of assets) – either on its own or considered together with any other business (or asset) sales decided on or completed within the 12 months prior to the notifiable event.

The existing employer notifiable event where a controlling company decides to relinquish control of the employer company will be amended so that it occurs at the point of the decision in principle (or where the controlling company relinquishes control without a decision). The notifiable event concerning wrongful trading by the sponsoring employer is being removed.

Accompanying statement

An accompanying statement will be required for the two new notifiable events and for the existing notifiable event when a controlling company decides to relinquish control of the employer company. The statement will be required following the notifiable event, when the main terms have been proposed. It must describe: the event; the main terms proposed; any adverse effects on the employer's ability to meet its legal obligations to support the scheme; any steps taken to mitigate those adverse effects; and any communication with the trustees about the event.

The notice and accompanying statement would need to be given to the Regulator, and copied to the trustees, as soon as reasonably practicable.

Material changes

The Regulator must also be notified of material changes to a notifiable event or related mitigation. The draft regulations define this as a change in the proposed main terms of the intended sale, intended granting or extension of security or the relinquishing of control, or a change in the steps taken to mitigate any adverse effects of the event.

The consultation closed on 27 October and the new provisions are expected to come into force in April 2022.

Action

Once these regulations are in force, employers will need to be aware that a wider range of events will trigger the statutory notification requirements. In most cases, these events will also trigger the requirement for an accompanying statement and hence the requirement to assess the impact of the event and the need for mitigation – this is likely to require discussion with the trustees. The employer will also in many cases need to ensure that it considers the pension impact much earlier in the process than may currently be the case, because – as currently drafted – the requirement to notify will be triggered as soon as a decision in principle has been made and before any negotiation with third parties.

Dashboards move to develop and test phase

The Pensions Dashboards Programme (PDP) has entered the develop and test phase of its programme timeline for pensions dashboards. The focus now shifts to building the software elements that will make dashboards, while testing the ecosystem with volunteer organisations. To this end it has appointed Capgemini to deliver its central digital architecture – the pensions finder service, consent and authorisation service, and governance register. It has also appointed seven providers who will take part in initial testing later in 2021, with more providers being lined up to take part in subsequent phases.

The PDP has also published a summary of the responses to its call for input on staging (i.e. the proposed timetable for schemes to start connecting to the dashboard ecosystem). It reveals broad support for the proposals (on which we reported in the August edition of In Sight), but there are some concerns over the delivery timeline. The DWP is expected to consult on dashboard staging for occupational schemes by the end of the year, and the FCA consultation on rules for contract-based schemes will follow.

Separately, the Pensions Administration Standards Association (PASA) has announced that it will lead the development of conventions – to be adoptable for the whole pensions sector – for matching pensions dashboards users with their pensions, alongside the Pensions and Lifetime Savings Association (PLSA) and the ABI. The PDP had previously indicated that each scheme would need to determine *matching criteria* (the precise combination of matching personal data items necessary to define a match and so release data). Aon believed the PDP's approach would have been inefficient and expensive for schemes, and we had been advocating for a common industry-wide approach.

New duties for DC trustees

Following several consultations, regulations took effect on 1 October 2021 that aim to improve outcomes for members of defined contribution (DC) pension schemes.

The changes mostly affect *relevant schemes* i.e. those already required to produce a chair's statement each year. (Broadly, this means schemes that provide money purchase benefits other than just AVCs.) The regulations particularly target smaller DC schemes, introducing additional requirements for *specified schemes* i.e. relevant schemes with total assets (including any DB assets) below £100 million that have been operating for at least three years.

Key requirements include:

- **Reporting total assets** – for scheme years ending after 1 October 2021, all schemes – regardless of size – must report the total value of scheme assets to the Pensions Regulator via the annual scheme return.
- **Disclosing net investment returns** – for scheme years ending after 1 October 2021, trustees of all *relevant schemes* – regardless of size – must disclose the net return on investments for each default arrangement and self-select fund. This must be included in the chair's statement and published online. It is intended to encourage trustees to consider overall performance and investment returns when looking at value for members, not just costs.
- **Value for members (VfM) assessment** – for each scheme year ending after 31 December 2021, a prescribed VfM assessment is required from trustees of *specified schemes*. This includes a detailed comparison of the scheme's reported costs, charges and net investment returns with at least three larger schemes; and trustees must have had discussions with at least one of these over a potential transfer should their scheme be wound up. Trustees must also assess how they are meeting certain administration and governance criteria. The results must be explained in the chair's statement and published online. With some exceptions, if the trustees consider that the scheme is not delivering good value, they must consider consolidating it into a larger scheme or winding it up, unless they are confident that they can improve value in a reasonable period. They must report their proposed approach to the Regulator in their annual scheme return.

The existing requirement for a more limited value assessment – looking only at the extent to which costs and charges represent good value – will continue to apply to larger schemes, although trustees may choose to adopt the new prescribed assessment basis.

Trustees must have regard to new statutory guidance on reporting net investment returns and completing the prescribed VfM assessment.

The government has also updated its statutory guidance on reporting costs, charges and other information. This is intended to clarify a few points on the illustrations included in the chair's statement and the way that information can be disclosed online.

Action

Trustees of all relevant schemes should read the new statutory guidance and ensure that net investment return information is available for the chair's statement and is added to the information that already must be published online. They should also familiarise themselves with the changes in the updated guidance on costs and charges.

Trustees of smaller schemes will also need to take advice on the new prescribed VfM assessment.

Changes to the DC charge cap

From 1 October 2021 certain changes were made to the DC charge cap. A 0.75% cap applies to default arrangements in schemes that provide money purchase benefits and are being used as qualifying schemes (to satisfy an employer's auto-enrolment duties).

The new regulations allow schemes to average over five years the performance fee element of charges when testing against the cap for charges years ending after 1 October 2021. Costs solely attributable to holding physical assets are also now excluded.

Separately, the Pension Schemes Act 2021 includes provisions intended to give clarity over the definition of charges covered by the charge cap. The cap applies to all administration charges, including member-borne deductions relating to scheme or investment administration, except for transaction costs and a small number of other specified costs and charges. The definition of 'administration charge' has been slightly altered to make it clearer which charges are in scope.

Action

Trustees of schemes subject to the DC charge cap should ensure that their scheme complies with the updated requirements.

Driving value in DC pensions

The Pensions Regulator and the Financial Conduct Authority have published a joint discussion paper on *Driving Value for Money in DC pensions*. They aim to drive a long-term focus on value for money (VfM) across the sector and to develop a common framework for measuring value in all DC schemes.

The regulators aim to promote consistent assessments of VFM, with a focus on metrics, to enable meaningful comparisons between schemes. They propose that schemes will need to publicly disclose information on:

- investment performance;
- scheme oversight (including data quality and communications); and
- costs and charges.

VfM is taken to mean that savers' contributions are being well invested and their savings are not eroded by high costs and charges. Other factors that contribute to achieving good retirement outcomes should also be included, such as good customer service to help savers make the right decisions at the right time; and good scheme governance.

The framework would apply across all trust-based and contract-based workplace DC schemes. At this stage, the focus is on VfM in accumulation.

These new proposals are intended to build on existing requirements. Trustees of schemes providing money purchase benefits (unless these are AVCs only) must already assess VfM and report on this in their chair's statement. The Pensions Regulator's DC code and associated guidance recommends how this should be done but is not prescriptive and does not include any reporting formats.

Comments on the paper are requested by 10 December; and a feedback statement setting out next steps will be published in 2022. Findings will also feed into broader discussions about the future of DC, including ongoing work on how to tackle small pots.

New rules on VfM for contract-based schemes

The FCA has issued rules that make changes to how VfM must be assessed in contract-based schemes such as personal pensions. The rules took immediate effect on 4 October, but independent governance committees will have until 30 September 2022 (extended from the normal 31 July deadline) to publish their next annual report. Three key elements must be considered when assessing VfM: costs and charges, investment performance and quality of services. The FCA says that the new rules are a step towards a more systematic and transparent framework for assessing VfM in DC pensions.

Simpler annual benefit statements

From 1 October 2022, new regulations require trustees of certain DC pension schemes that are used for auto-enrolment to provide their members with simpler benefit statements that fit on one double-sided sheet of A4 paper.

When preparing the statements, trustees must have regard to statutory guidance, which includes an illustrative template showing that the information should be presented in a five-section format to ensure consistency across a member's pension schemes. This is intended to help members understand how much money they have in the scheme and what has been saved in the statement year; how much money they could have when they retire; and what they could do to give themselves more money at retirement. Schemes may use their own branding or colour scheme but this should not obscure the flow of information, or take the statement over two pages. The language used should be simple, accessible, and avoid use of jargon or complex terminology.

The restriction to two pages will apply whether the statement is in paper or electronic form, unless the member has requested it in an alternative format (e.g. in large print or a different language). Any additional information, such as on charges, must be contained in a separate document(s), with the benefit statement being the first substantive item in any pack of information sent to the member. The guidance contains information on the provision of supplementary information.

These new requirements apply to all statements issued to members (except pensioners) on or after 1 October 2022, rather than 6 April 2022 as had been proposed in the DWP's consultation. The regulations apply where the scheme is a *qualifying scheme* for auto-enrolment purposes and only provides money purchase benefits. Other DC schemes do not need to comply, but the DWP encourages voluntary adoption of the principles in the guidance. The regulations do not apply to defined benefit, hybrid or public service schemes.

Action

Trustees who are affected by these changes should discuss the requirements with their administrators and ensure they are ready to issue benefit statements in the new format.

Benefit statements working group

PASA has published the first analysis from its Benefit Statements Working Group. The group was recently established to evaluate the opportunities and concerns in delivering the government's objectives for benefit statements. In particular, the government has indicated that it would like to introduce a *benefit statement season* i.e. a time-limited window for all auto enrolment schemes to send out their annual benefit statements.

The paper considers two potential approaches:

- a common publication date where all benefit statements are published at the same time, no matter what date the benefits are valued at; or
- a common valuation date where all benefit statements are produced as at the same valuation date.

The analysis suggests that the introduction of a common valuation date will be more complex to implement and would not provide any additional benefit to members. The group says that while it is supportive of the benefit statement season concept, it needs careful consideration alongside other technological enhancements.

Taxation

This edition of In Sight was finalised before the Autumn Budget on 27 October.

Finance Bill 2021-22

The Treasury and HMRC have consulted on draft legislation that will be included in the Finance Bill 2021-22, which should eventually become the Finance Act 2022. Following the Chancellor's Budget statement on 27 October, the Finance Bill is due to be published on 4 November. There are two key pension measures, relating to:

- increasing normal minimum pension age (NMPA)
- scheme pays deadlines

NMPA – in the August edition of In Sight, we reported on HMRC's response to its consultation on implementing the increase in NMPA from 55 to 57, from 6 April 2028. The consultation on draft legislation is aimed at implementing its response. The new protection regime will centre around whether there was an unqualified right to take pension benefits below age 57 under the member's scheme rules on 11 February 2021 (the date the first consultation commenced), but members will be able to join such arrangements by 5 April 2023 and gain a protected NMPA. Although the draft legislation proposes to retain some protection on transfers out of a scheme with a protected NMPA, this does not currently apply to transfers before 6 April 2023 – HMRC's intention on this has been challenged.

Scheme pays deadline changes – HMRC has proposed some changes to the scheme pays system under which a member can require the pension scheme to pay the annual allowance charge on their behalf. The changes have arisen due to public sector pension reforms but will apply to any member who has a retrospective annual allowance tax charge resulting from a change to their pension input amount and meets the conditions for scheme pays. The Finance Bill clauses extend the deadlines for such a member to give notice that it wishes the scheme to pay the charge. HMRC is also changing the deadline for the scheme administrator to report and pay the charge, for all mandatory scheme pays cases. This will take effect from 6 April 2022 (but the policy paper states that the changes will be retrospective from 6 April 2016).

Action

For the NMPA change, trustees should consider amending communications to note the change, so that members have ample warning and are aware of any protected pension age they may have.

For the scheme pays change, trustees should check that their processes reflect the new requirements once the legislation takes effect.

Proposed NICs increase

The government has published proposals for healthcare and social care, to be funded by a new levy.

- For 2022/23 the levy will be imposed by means of a 1.25% increase to both employee and employer National Insurance contributions (NICs) – so a total increase of 2.5% in respect of employed workers and 1.25% for the self-employed.
- From April 2023 onwards, NIC rates will return to their current levels and will be replaced by the new Health and Social Care Levy of 1.25% (for both employees and employers), which will be shown separately on payslips and self-assessment payments. This levy will also apply to individuals working above state pension age (who do not pay NICs).
- The government will also increase dividend tax rates by 1.25% from 2022/23.

Action

The increased NI costs (and the proposed levy) could mean that employers wish to introduce or review their salary sacrifice arrangements. Employers who set any cash alternatives to pensions that reflect the employer NI costs might also wish to review their figures.

Single code of practice delayed

The Pensions Regulator has published a short, interim response to its consultation on a new, consolidated online code of practice. Implementation has been delayed – the Regulator has not said when it will publish the new code or its full response to the consultation. However, it now expects that the code will not be laid in Parliament before spring 2022, and that it is unlikely to come into force before summer 2022.

The new code will initially replace 10 of the Regulator's 15 existing codes of practice, dealing mainly with the governance and administration of pension schemes. It also incorporates changes introduced by the 2018 governance regulations, including the requirement for a new own risk assessment (ORA). It will apply to all trust-based schemes, including DB, DC and public sector.

The Regulator received 103 responses to its consultation, which closed in May. The interim response confirms that a longer period of review and analysis is needed, but provides background on some of the key issues raised including:

- The Regulator will reconsider whether the new ORA needs to be reviewed each year and what is required from smaller schemes.
- Following concerns about the proposal for a 20% limit on unregulated investments, it will not proceed with this as drafted, but will explore other options for achieving its policy objective, which is to protect members of poorly run, usually small, schemes from investments in inappropriate assets.

GMP equalisation – latest guidance

The GMP Equalisation Working Group (GMPEWG), chaired by PASA, has recently published the following new guidance:

- Supplemental guidance on **transfer payments** – this is an update to the group's September 2019 methodology guidance and reflects the 2020 Lloyds judgment on past transfers. For transferring schemes, the guidance shows the key steps trustees should take to correct historic transfers and considers issues such as missing data, deceased or missing former members, and settling top up payments. For receiving schemes, considerations will differ for DB or DC schemes. DB scheme trustees will already, as part of their wider GMP equalisation exercise, be considering how to treat benefits provided as a result of a transfer value, but they will need to decide whether or not to accept a top-up payment. The guidance suggests that DC schemes are not responsible for correcting any past inequalities in an original transfer payment received, and that receiving top-up payments should be easier for such schemes. Where a bulk transfer exercise has taken place, the approach to GMP equalisation will depend on the manner in which this was done; trustees should review any legal agreements relating to the transfer.
- Follow up guidance on **member communication** – building on its August 2020 guidance for schemes in the early planning stages of GMP equalisation, the new guidance focuses on communication during the implementation stage. It aims to support trustees and administrators when they are starting to communicate with members to deliver equalisation, with broad principles for schemes to follow.
- Supplemental guidance on allowing for **anti-franking** when achieving GMP equality – this is a supplement to the September 2019 methodology guidance which included a short section on anti-franking. The new guidance explains why anti-franking is important in the equalisation journey and suggests approaches to deal with the key areas of uncertainty.

Action

These guidance notes provide schemes with further resources to help progress their GMP equalisation exercises.

PPF levies for 2022/23

The Pension Protection Fund (PPF) is consulting on its levy rules for 2022/23. There are very few changes to the levy calculation compared with 2021/22.

The PPF expects to raise £415 million in levy income in 2022/23, which is £105 million lower than the 2021/22 levy estimate. The main reason for the reduction relates to a change in the PPF's section 179 valuation basis driven by improved pricing for buying out pensions with an insurance company.

Around 82% of schemes that pay a risk-based levy are expected to see a levy reduction compared to 2021/22, but the actual impact will vary significantly by scheme.

The PPF notes that many employers have not yet filed annual accounts that cover a period of time where COVID-19 could have materially impacted their finances, and there may be some schemes where the levy will increase due to those accounts resulting in a higher insolvency probability.

The consultation closes on 9 November. The PPF expects to publish the final levy rules towards the end of December 2021, with invoicing due to begin in autumn 2022.

Responding to COVID-19 and future changes

The PPF has considered the impact of the pandemic, noting that insolvency rates have remained low so far. However, there are still challenges ahead and the position may change as more employers file accounts that have been affected by COVID-19. Taking into account its strong funding position, the PPF will continue to monitor the situation rather than increasing the total levy collection pre-emptively.

The PPF is proposing to continue with the levy payment support measures (first introduced in 2020/21) to help schemes where the employers are impacted by the pandemic.

A further review of the levy calculation rules is expected around the same time next year. At that point the impact of COVID-19 should be clearer, which may lead to more substantive changes to the PPF's approach.

Actions and next steps

Schemes can now start to estimate their 2022/23 levies and consider actions available to minimise the amount they pay. These include:

- Check that D&B are using the correct information to calculate the employer's Pension Protection Scores; and consider whether strategies to improve these scores are feasible.
- Consider paying / certifying deficit reduction contributions (DRCs).
- Consider putting in place a new contingent asset or asset-backed contribution arrangement.
- Re-certify an existing contingent asset (including a guarantor strength report if required) or asset-backed contribution arrangement.
- Carry out a bespoke investment stress test and / or consider how the scheme's asset split should be shown on the scheme return.
- Consider whether submitting a new PPF section 179 valuation would be beneficial.

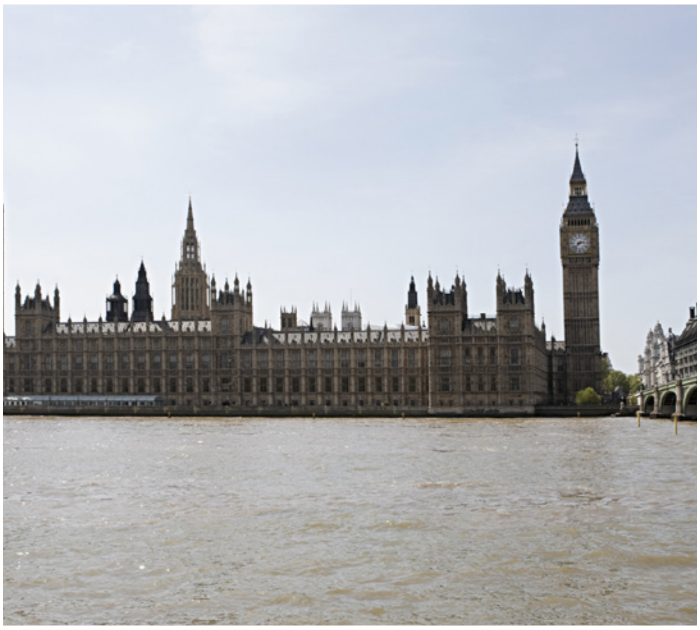
The main deadline for submitting information is midnight at the end of 31 March 2022.

News round-up

Suspension of state pension triple lock

The government has announced that it will suspend the triple lock on increases to state pensions for one year, dropping the earnings element for 2022/23. It considers this necessary following the COVID-19 pandemic, which has resulted in the earnings increase measure for this year being a 'statistical anomaly'.

The triple lock is a government commitment to annually increase the state pension by the greater of average earnings growth, price inflation or 2.5%. This one-year adjustment means that the basic and new state pensions will rise either by 2.5% or in line with inflation in April 2022. The changes will be implemented by the Social Security (Up-rating of Benefits) Bill, which has been introduced to Parliament.



Guidance on starting conversations about pensions

The PLSA has published a new guide to help schemes and employers support their members' financial wellbeing by starting a conversation about their pension. *An Employer's Guide to Talking About Workplace Pensions* is designed to encourage employers to educate their workforce about how their pension scheme works, how they can make the most of their employer's contributions and how they can make good decisions.

The guidance provides examples of conversations that would and would not be classed as regulated advice and dispels some common myths that might have deterred employers and schemes from providing more support for members.

Communicating with members

The Pensions Ombudsman has published a short guide on best practice for *Communicating with members*. This suggests simple steps that can be taken to resolve pension disputes and complaints without the need for the Ombudsman to be involved.

Small pots report

The Small Pots Co-ordination Group has published its initial report on finding practical solutions to the huge number of small, deferred pensions pots. The group was formed following a recommendation in the December 2020 report from the DWP-chaired small pots working group.

The report highlights the many and varied challenges, noting that the issue is complex. Solutions must address the existing stock of small pots but also stem the flow of new small pots. At present, three main models are being considered for tackling the problem: pot follows member, default consolidator(s) and member exchange.

New Long-Term Asset Fund

Following consultation, the FCA has confirmed the creation of a Long-Term Asset Fund (LTAF) regime in order to help support investment in assets like infrastructure and private equity. The LTAF is a new FCA regulated fund aimed in particular at DC pension schemes that may be interested in such investments. The new rules and guidance will come into force on 15 November 2021; and the FCA plans to consult in 2022 on whether to enable a broader range of consumers to invest in LTAFs.

On the horizon

Here are some key future developments likely to affect pensions:

Autumn 2021

New statutory transfer conditions expected

December 2021

Consultation on pensions dashboards framework

Late 2021

DWP consultation on scheme funding

Early 2022

- DWP regulations on trustee oversight of investment consultants and fiduciary managers
- Consultation on Regulator's DB funding code of practice

April 2022

- DC charge cap de minimis threshold for combination charges
- Stronger nudge towards Pension Wise
- Extension of notifiable events framework

2022

First CDC scheme expected to be in place

Summer 2022

Earliest single code of practice expected

October 2022

- Climate-risk changes apply to next wave of schemes; and DWP proposes extending the requirements
- Simpler benefit statements introduced for DC schemes used for auto-enrolment

Late 2022

Earliest new DB funding code expected to come into effect

April 2023

First wave of schemes expected to start connecting to pensions dashboard

Training and events

Dates currently scheduled for our pensions training seminars are set out below.

For 2021 dates, you can find a copy of our training brochure and book online at: www.aon.com/pensionstraining. To register for a 2022 course, or to discuss your training needs, please email pensionstraining.enquiries@aon.com.

Pensions training courses	Dates	
Defined Benefit – part 1	14-15 December 2021 (webinar) 23-24 February 2022 (webinar) 10 May 2022 (London)	12-13 July 2022 (webinar) 9 November 2022 (London)
Defined Benefit – part 2	18–19 January 2022 (webinar) 16 June 2022 (London)	14 December 2022 (London)
Defined Benefit Trustee Essentials (two days)	23-24 March 2022 (Woking, Surrey)	11-12 October 2022 (Woking, Surrey)
Defined Contribution	2 March 2022 (London)	15 September 2022 (London)
Pension Governance Committee (half day)	16 November 2021 (webinar, a.m.) 27 April 2022 (webinar, a.m.)	23 November 2022 (London, a.m.)

Other events

Aon's digital Investment Conference 16-19 November 2021

Investing for growth, change and challenge

Investors understand the power of change to drive growth - and that neither come without challenges.

In this year's conference, Aon's investment teams will be joined by industry experts and partners to consider the rapid pace of change, what the future holds, expectations for investment opportunities and ways in which investors can overcome the many challenges now occupying their agendas.

We will host five short virtual sessions, which will focus on:

- Climate change and the energy transition;
- Future trends and investment opportunities;
- Overcoming investment governance;
- DC pensions—practical steps for investors;
- DB pensions—practical steps for investors.

The majority of sessions run from 10:15-11:00. Please click here to register.

Aon participates in a variety of sector-specific conferences and exhibitions as well as holding regular seminars, webinars, conferences and events focusing on key issues of client interest.

To find out more about our events, go here.

Contacts

If you have any questions on In Sight, please speak to your usual Aon consultant or contact:

Helen-Mary Finney
+44 (0)1252 768 392
helen-mary.finney@aon.com

About Aon

Aon plc (NYSE:AON) is a leading global professional services firm providing a broad range of risk, retirement and healthsolutions. Our 50,000 colleagues in 120 countries empower results for clients by using proprietary data and analytics to deliver insights that reduce volatility and improve performance. For further information on our capabilities and to learn how we empower results for clients, please visit: http://aon.mediaroom.com/

Empower Results®