August 2022

In Sight

This Quarter's Round-up

Regular Features

Pensions Dashboards Update

Regulator Calls for Action

The Pensions Regulator has warned trustees that they should be taking action to prepare for pensions dashboards, regardless of their connection deadline, and that it will take a dim view of those who fail to prioritise their dashboard responsibilities.

As well as launching a campaign to make schemes aware of the looming deadlines, the Regulator has published initial guidance on pensions dashboards, to help trustees prepare. The technical details are based on the indicative draft regulations that were published in January (on which we reported in the May edition of In Sight) and will be updated to reflect the final regulations and the technical standards being developed by the Money and Pensions Service (MaPS).

Key steps for trustees to take include:

- Checking their connection deadline (see below). This is the date by which they will be legally required to be connected to pensions dashboards.
- Having pensions dashboards firmly on their board agendas.
- Deciding how they will connect to the dashboard digital architecture; whether they will develop a solution in house, or use a pensions administrator or integrated service provider.
- Taking stock of and digitising their data. This is crucial so that savers are successfully matched to their pensions.

The Regulator advises trustees to start preparing as soon as possible, noting that there will be significant work involved and they will typically need to work with several organisations to get connected. Trustees will ultimately remain accountable for ensuring connection and compliance and will need to be available to make any decisions required for their suppliers to progress the work needed. They should put in place robust monitoring of progress.

The guidance highlights the need for trustee decisions, such as setting the criteria for matching and taking any steps necessary to ensure they have sufficient confidence in the accuracy of their data. It includes a checklist to help trustees ensure they are on track to meet their duties. The Regulator will contact all pension schemes at least 12 months before their relevant connection deadline.

The Pensions Administration Standards Association (PASA) has published a short guide on dashboards data accuracy. The guidance is intended to help schemes take the necessary action to ensure that key matching data isn't only present but accurate. It provides a list of various data sources available to validate data, including public records.

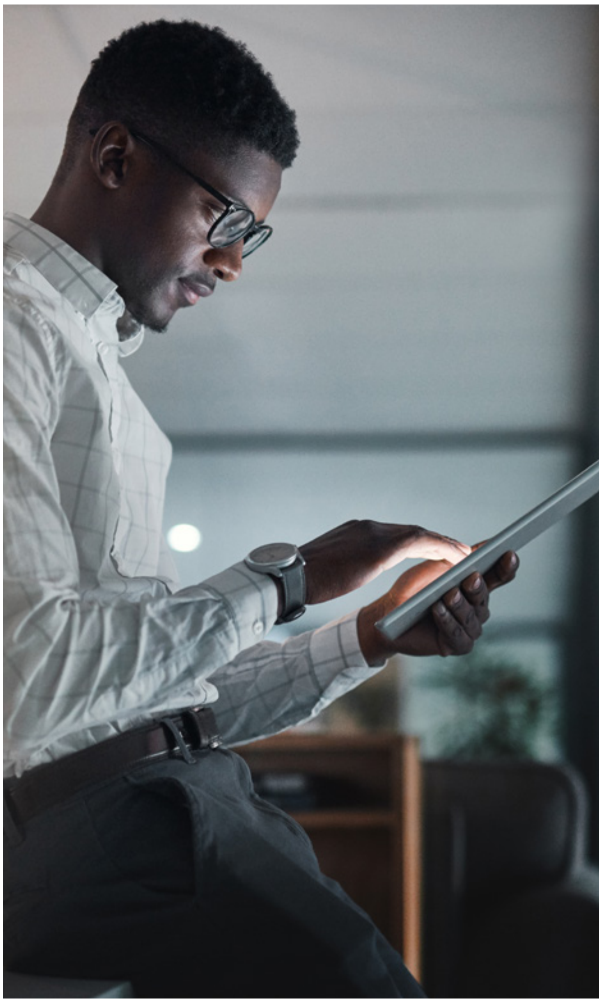
DWP Issues Response and Further Consultation

The Department for Work and Pensions (DWP) has published a response to its January consultation on the draft pensions dashboards regulations, confirming that staging dates for most schemes remain the same, but with staging deadlines for the first two cohorts deferred by two months. Also, a new approach is being adopted for hybrid schemes providing both defined benefits (DB) and defined contribution (DC) benefits other than AVCs – the whole scheme will stage on the date that applies for a DB scheme based on the total (DB and DC) membership (rather than on the earlier of the two dates that would apply if these were separate schemes as had been previously proposed).

The updated staging deadlines for schemes of different types and sizes is shown in the table below.

Staging Deadline timeline (end of month shown) for large private sector occupational schemes:

Relevant members (excludes pensioners)	Master trusts	Money purchase Used for auto-enrolment	Other money purchase	Defined benefit
20,000+	Aug 2023	Sep 2023	Nov 2023	Nov 2023
10,000-19,999	Sep 2023	Sep 2023	Mar 2024	Mar 2024
5,000-9,999	Oct 2023	Oct 2023	Jun 2024	Jun 2024
2,500-4,999	Jan 2024	Jan 2024	Jul 2024	Jul 2024
1,500-2,499	Feb 2024	Feb 2024	Aug 2024	Aug 2024
1,000-1,499	Feb 2024	Feb 2024	Sep 2024	Sep 2024



There will be some other technical changes to the draft regulations, including amendments to the requirements to provide value data for some members and introducing some flexibility when returning values for non-money purchase benefits. The response also provides more detail on the treatment of AVCs.

A further consultation (that closed on 19 July) sought views on two specific issues that were not previously included. One of these is the dashboards available point (DAP) at which pensions dashboard services will be made available for use by the public - the DWP proposes that schemes will be given three months' notice of this date.

Final regulations are expected to be published later this year. The Regulator will consult on the compliance regime once draft regulations have been laid before parliament.

MaPS Standards

The Pensions Dashboards Programme (PDP) team in MaPS is consulting on updated dashboards standards that set out the technical and operational detail underpinning the legislation and outline the requirements for all schemes and dashboards connecting to the ecosystem.

The final standards documents will be published as soon as the regulations come into force, which is expected to be later this year.

The PDP is also running a call for input on the design standards, setting out requirements for presentation of the pensions data and the design of dashboards, including messaging, signposting and onward customer journeys.

Action

Schemes can now work out when their staging date is likely to be and should ensure that pensions dashboards is a standing item on board agendas. They can also consider what criteria to use for matching find requests (in the February edition of In Sight, we noted that PASA has issued guidance on the matching criteria that schemes might adopt).

Trustees should also discuss with administrators how compliance with the new requirements will be achieved. Progressing data quality and dashboard readiness (including how to provide the relevant information) should be a priority for all schemes, but particularly those with 1,000 or more relevant members who will need to connect by the above deadlines.

Pension Schemes Act — State of Play

Many of the provisions of the Pension Schemes Act 2021 are now in force, with several sets of regulations in place along with supporting 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 7. The Pensions Regulator has published supporting guidance (see the February edition of In Sight).	1 October 2021 for schemes with assets over £5 billion 1 October 2022 for schemes with assets over £1 billion
New Criminal Offences	Two new criminal offences have been introduced. The Regulator has published its policy on investigation and prosecution of these (see the November edition of In Sight). There has also been a consultation on enforcement and prosecution policies — see page 13.	1 October 2021
New Powers For The Pensions Regulator	The Regulator's powers are in force (see the November edition of In Sight), other than for notifiable events — see below.	1 October 2021 (Code of practice 12 came into effect 25 November 2021)
Limiting Transfer Rights to Help Prevent Pension Scams	Regulations are in force (see the February edition of In Sight).	30 November 2021
CDC Scheme Framework	The legislative framework is in place. The Regulator has published a code of practice — see page 5.	1 August 2022
Extended Notifiable Events Framework	Consultation on draft regulations closed 27 October 2021 (see the November edition of In Sight). The final regulations are still awaited — see page 5.	*Had been expected in April 2022*
Scheme Funding — Including Statement on Long Term Funding and Investment Strategy	Consultation due shortly (on regulations, with a separate consultation to follow in the autumn on the related details of the code of practice).	*The code is expected to be operational from September 2023*
Pensions Dashboards	DWP consultations have taken place; and PDP consultation on supplementary standards is ongoing — see page 1. A final version of the regulations is expected to be laid before Parliament later this year.	*Largest schemes expected to start connecting with deadlines from August 2023*

CDC Schemes Now an Option

As reported in the May edition of In Sight, the legislation enabling collective defined contribution (CDC) schemes comes into force on 1 August.

In preparation for this significant new option for pension provision becoming available, the Regulator laid its code of practice on the authorisation and supervision of such schemes before Parliament in June.

Action

Whether you currently operate a DC scheme, a DB scheme or both, if you would like to get a feel for whether a CDC pension scheme — or decumulation options for your members more generally — could be the right solution for future provision of benefits for your workforce you can access our CDC Quiz here. If you're interested in exploring CDC provision further, or in joining our CDC Interest Group, you can speak to your usual consultant or contact us at CDC.UK@aon.com.

Notifiable Events Regulations Still Delayed

It had been widely expected that the new notifiable events regime would come into force in April 2022, but the effective date of these changes is still unknown. Further details on the government's proposals are in the November edition of In Sight.

Investment Consultancy and Fiduciary Management

Since 2019, trustees have been required to set objectives for their investment consultants and carry out a competitive tender process when appointing fiduciary managers in certain circumstances, under an Order issued by the Competition and Markets Authority (CMA). The CMA required compliance statements to be sent to them each year.

Also in 2019, the DWP consulted on regulations that would broadly transpose these CMA requirements into pensions legislation and allow the Pensions Regulator to act as the regulator in relation to these duties. The response to this consultation was published in June of this year, and the regulations come into force on 1 October 2022. From this point, trustees will declare compliance through the pension scheme return, rather than to the CMA.

The DWP regulations require trustees to set objectives for their investment consultant that have regard to the statement of investment principles, review performance against these objectives at least every 12 months, and review and if appropriate revise the objectives at least every three years and without delay after any significant change in investment policy. Where trustees have existing arrangements for which they have set objectives under the CMA provisions, these can be treated as if set under the DWP provisions. Where an investment consultant is appointed following the commencement of the DWP regulations, their objectives must be set by the end of the day on which the appointment takes effect.

Actions

Trustees should ensure they have appropriate objectives for their investment consultants and carry out annual performance reviews against these objectives going forward. Objectives set when the CMA Order came into force may shortly be coming up for the 3-year deadline for review. The requirements of the new legislation should also be considered when appointing a fiduciary manager or increasing an existing mandate for a fiduciary manager.

Responsible Investment

Governance and Stewardship Reporting

From 1 October 2022, a second wave of schemes — those with relevant assets between £1 billion and £5 billion — will be required to meet climate risk 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. These schemes must publish their TCFD report on a publicly available website, with the first report being published within seven months of the end of the first scheme year ending after 1 October 2022. The first wave of schemes — those with assets of more than £5 billion — have had to comply with these requirements since 1 October 2021.

Following consultation, the DWP has confirmed that it is going ahead with the addition of a portfolio alignment metric to the TCFD requirements from 1 October 2022. This will require trustees to measure and report on their schemes' alignment to the Paris goal of limiting the global average temperature increase to 1.5°C. The DWP has updated its statutory guidance on TCFD reports to address this new requirement.

The same consultation also covered new guidance setting out best practice on stewardship and environmental, social and governance (ESG) reporting. Final guidance has now been published, including non-statutory guidance in relation to statements of investment principles and statutory guidance on implementation statements. This guidance seeks to address deficiencies in scheme governance in relation to stewardship and voting.

Actions

Trustees of schemes with relevant assets of between £1 billion and £5 billion (determined at their first scheme year end on or after 1 March 2021) should have plans in place to meet the TCFD requirements, including the new portfolio alignment metric. Schemes with assets of more than £5 billion will need to include the new portfolio alignment metric in their second (and subsequent) TCFD reports. All trustees should consider the impact of climate change risks on the management of their scheme.

Regulator Comments on TCFD Reporting

The Pensions Regulator published a blog in June explaining how it will review published TCFD reports. In the coming months, the Regulator expects to see reports from around 100 schemes in the first wave of reporting. It recognises that for many trustees there will be "a steep learning curve in terms of knowledge, regulatory requirements and emerging and evolving market practices". The Regulator will review the reports and provide high-level observations and feedback to in-scope schemes with which it has an existing supervisory relationship. For the second wave, the Regulator says that it will take a collaborative approach, having refined its expectations of trustees based on its review of the first wave of reports and on market and regulatory developments. The Regulator's review will also inform the DWP's review in late 2023, which will consider the effectiveness of the regulations and whether the requirements should be extended to smaller schemes.

Guide on Natural Capital

The Pensions and Lifetime Savings Association has published a new document in its series of Made Simple guides. The *Natural Capital Investing* guide explores the investment characteristics and opportunities of natural capital — defined as the earth's air, lands, waters and biodiversity — and some of the risks that need to be considered.

Considering ESG in the Covenant Process

Accounting for Sustainability (A4S) and the Employer Covenant Practitioners Association (ECPA) have produced a guide on considering ESG risks and opportunities in the employer covenant process. It includes top tips for trustees of DB schemes and their advisers.

In a similar vein, the Society of Pension Professionals has published a guide in collaboration with ECPA, on how trustees and practitioners should evaluate the potential impact of ESG risks on the employer covenant.

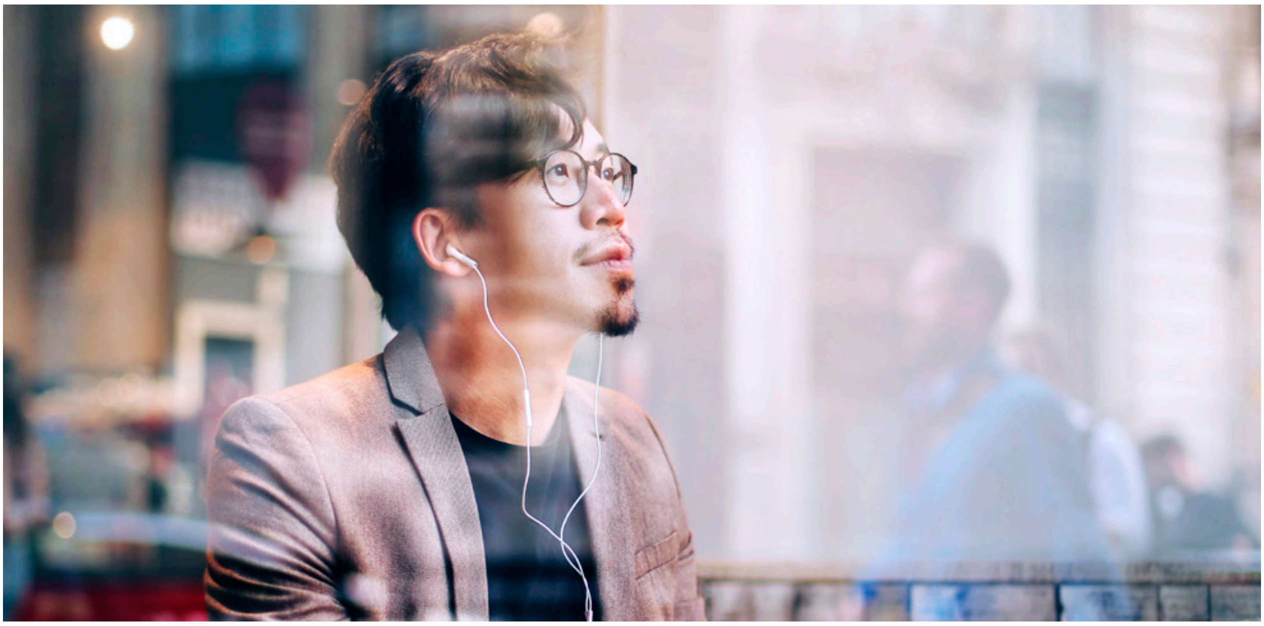
Taskforce on the social element of ESG

A new taskforce, led by the Pensions Minister, has been launched to support trustees with some of the challenges around managing the social element in their ESG investing. Last year the DWP called for evidence on how pension scheme trustees understand and deal with social factors in their ESG policies. It found that there are some strong examples of stewardship on social factors, but there is more to do. To help drive improvement in this area, the taskforce has been set up to identify reliable data and metrics and ensure that focus on social factors continues to grow throughout the investment chain.

Green Nudge Trial

The government has carried out a three-week trial to encourage pension scheme members to learn more about making greener pension choices. This so-called green nudge, part of the government's COP26 agenda, tested the impact of behavioural nudges and messages on increasing saver engagement and how this could translate into greener pension decision-making. The results of the project will be published later this year.

Helping Members Understand Their DC Pension Choices



The DWP has carried out a brief consultation to explore what support members of trust-based DC schemes need to make informed decisions about how to use their savings. The DWP said that it wants to understand what support and decumulation products (used to convert pension savings into a retirement income) are currently available and what may be offered in the future.

This follows measures introduced for contract-based schemes following the FCA's retirement outcomes review in 2018. The FCA's research found that when accessing their savings many members choose the path of least resistance, often taking an income from their current provider without shopping around for the best product and without being aware of how their savings are being invested. Based on this, the FCA introduced changes including simplified wake-up packs and investment pathways. This has created a disparity between contract-based and trust-based schemes in terms of member communication and engagement, and the DWP wants to assess whether similar initiatives might also help members of trust-based schemes. However, it recognises that there are fundamental differences between trust-based and contract-based schemes, which should be reflected in its policy development.

The DWP has asked for evidence from members on what information and support they need in the run-up to retirement, at the point of accessing benefits and afterwards. It has also asked occupational schemes about the decumulation products and ongoing support currently offered to members and what schemes might consider offering in future.

The DWP has also asked whether the National Employment Savings Trust (NEST) should further develop what it offers to its members; and what role CDC schemes could play in DC decumulation.

The deadline for feedback was 25 July 2022. Having gathered this evidence, the government will consider whether regulatory changes are necessary.

DC News

Feedback on DC Value For Money

The Pensions Regulator and the Financial Conduct Authority (FCA) have confirmed their intention to develop a common framework and related metrics for measuring value in all DC schemes (both workplace and non-workplace). The regulators aim to consult on proposals towards the end of this year.

In May the regulators issued a feedback statement on their discussion paper — *Driving value for money in DC pensions* — issued last year. To enable meaningful comparisons across all DC schemes, they had proposed that schemes should have to publicly disclose information on three key elements:

- Investment performance
- Scheme oversight (including data quality and communications)
- Costs and charges.

The feedback indicated that there is agreement that a holistic approach to assessing value for money is needed and that these three elements are the right ones. But there is less agreement on the correct approach — for example on whether to disclose investment performance net or gross of costs, on reporting periods, and on the use of benchmarking.

The Pensions Consumer Journey

The Regulator and the FCA have also issued a feedback statement on their 2021 call for input on improving the consumer pensions journey. The regulators had sought views on how best to help members make informed decisions that lead to better outcomes. They focused on the first two stages of the journey — starting up a pension and accumulating — because the decisions made here fundamentally affect the choices available to savers at later stages.

Feedback suggests that while the stages identified provide a broad basis for engaging savers, the journey is highly personalised — shaped by life events such as changing jobs or buying a house — and tailored support is needed. Also, because of low levels of consumer financial literacy, there remains real difficulty in communicating about pensions.

The statement includes some future initiatives, including a review of the *Communicating and reporting* section of the Regulator's DC guidance, to provide more information on inclusivity, use of behavioural insights, and timing of communication.

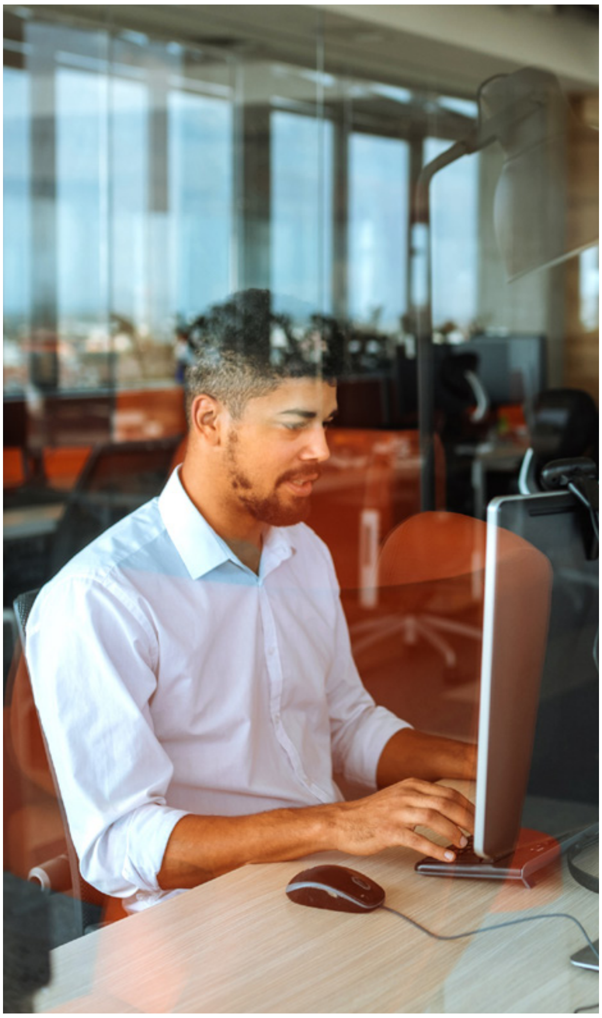
Small Pots Group Update

The Small Pots Cross-Industry Co-ordination Group has identified three potential solutions to tackle the number of small, deferred DC pots. In its spring update report, the group recommends:

- **Pot follows member** — when a member changes jobs, their pot would automatically be transferred to the new employer's scheme.
- **Default consolidators** — certain pots would automatically be transferred to a small pot consolidator.
- **Member exchange** — this would identify a small, deferred pot in one master trust and an active pot in another and merge the two into the active pot.

The group suggests that the best approach may be a combination of these three models, but further legislation would be necessary for the models to work.

Further analysis on the three models is now needed to understand which offers the best outcome for savers, while also considering the impact on the structure and sustainability of the pensions market.



2021 DC Scheme Survey

The Pensions Regulator has published the findings of its annual survey of trust-based DC pension schemes. The press release highlights particular concerns about smaller schemes' compliance in three areas:

- Value for members (VfM) — two-thirds of schemes with assets of less than £100m were unaware of the new requirement for them to carry out an annual prescribed VfM assessment.
- Governance and reporting of climate-related risks and opportunities — only a few smaller schemes are devoting time or resources to climate-related issues.
- Compliance with codes of practice — 43% of micro and 31% of small schemes admitted they were unaware of the Regulator's codes of practice or had never used them.

The Regulator also says that DC trustees are at risk of not being sufficiently prepared for their pensions dashboards deadline. According to the survey, 51% of DC schemes continued to hold at least some member records non-electronically. And only 37% of DC schemes with 100 or more members had discussed pensions dashboards at their scheme's trustee board meeting, with only a similar proportion (44%) of such schemes having engaged with their administrator about their scheme's data.

DC trustees can find guidance on these topics on the Regulator's website.

Inquiry Into Pension Freedoms

In the May edition of In Sight, we reported that the Work and Pensions Committee (WPC) had released its recommendations on accessing pension savings, the second part of its inquiry into the impact of the pension freedoms.

In its response to the WPC's report, the government rejected the WPC's recommendations that it should set targets for take-up of Pension Wise and should trial compulsory appointments. In its wider response, the government said that it would issue a call for evidence on decumulation within occupational pension schemes, to better understand what issues exist in relation to how members access their pensions. This is now underway – see page 9.

Pensions Regulator

Annual Funding Statement

In its *Annual Funding Statement 2022*, the Pensions Regulator says that trustees should be alert to the possibility of their scheme's funding position, investments and covenant being more volatile and potentially changing quickly. Valuations are being carried out during a period of significant economic uncertainty, which could have an impact on the employer covenant and scheme investments. The impacts of high inflation, higher global energy prices and potential further increases in interest rates can manifest in a range of ways. Some schemes will also be directly impacted by the Ukraine conflict, remaining COVID-19 disruptions, and Brexit.

The statement is aimed mainly at defined benefit (DB) schemes with valuation dates between 22 September 2021 and 21 September 2022 but includes wider guidance that is relevant to all DB schemes. Key points for trustees include:

- Many schemes are expected to show a better funding position now compared to three years ago. This is likely to increase the focus on long-term funding targets and journey plans, and prompt more schemes to start considering buy-out and other endgame options.
- A reminder to ensure that the pension scheme is treated fairly compared to other stakeholders.
- The Regulator recognises uncertainty in future mortality improvements and warns against making big changes to mortality assumptions but seems to accept that allowing for a small reduction in liabilities may be appropriate.
- The Regulator continues to stress the importance of trustees being prepared to act quickly in the event of corporate activity.

For scheme sponsors, the statement provides insight into how the Regulator expects trustees to act, and so is helpful for employers planning their approach to actuarial valuations.

Key considerations for employers include:

- Employers are expected to provide trustees with detailed financial projections and business plans updated for any impact due to the conflict in Ukraine. They should be prepared for the possibility of more extensive discussions around employer covenant than at previous valuations.
- The Regulator recognises that contingent contributions can be used to help manage the risk of trapped surplus.
- For schemes already in surplus on a technical provisions basis, employers should expect to continue engaging with trustees on matters such as long-term funding targets and a journey plan to get there.
- The Regulator continues to warn trustees to be vigilant for covenant leakage, including in relation to dividend payments and corporate transactions.

Action

Trustees and scheme sponsors should take the latest statement into account when making decisions on DB scheme funding.

Revised DB Funding Code

The Regulator expects to publish its second consultation on its revised DB funding code of practice this autumn, with it being operational from September 2023. This timing was based on the DWP consulting on its draft funding regulations in the spring, giving the Regulator time to learn from that consultation, but the DWP's consultation is still awaited.

Changes to the code will be forward-looking, so only schemes with valuation effective dates on or after its commencement date will be affected.

Enforcement and Prosecution Policies

The Pension Schemes Act 2021 expanded the powers of the Pensions Regulator. It introduced new criminal offences and greater financial penalties, additional circumstances in which a contribution notice can be issued, and enhanced inspection and information gathering powers.

The Regulator consulted until June on a new, consolidated and simpler draft enforcement policy, and on a draft updated prosecution policy. Both policies have been updated to include the new powers and to reflect its experience from using existing enforcement powers. The draft enforcement policy sets out its approach to the investigation of cases and any subsequent enforcement action. This would replace the existing separate policies for DB, DC and public service schemes. The draft prosecution policy explains how it will approach the prosecution of workplace pension criminal offences, to help those facing or affected by enforcement action understand the Regulator's approach.

The Regulator will publish the final policies later in 2022.

The Regulator also published two final policies on its monetary penalties (or high fines). These explain its approach to the new provisions allowing it to impose a financial penalty of up to £1 million — for example, in cases of avoidance of an employer debt or conduct risking accrued scheme benefits, for provision of false or misleading information, or for failing to comply with the notifiable events framework.

Corporate Plan 2022 to 2024

The Regulator's latest corporate plan sets out its direction for the next two years, building on the five strategic priorities within its 15-year corporate strategy. Its activities will include maintaining the fight against pension scams, measuring value for money for savers, and helping schemes become 'dashboard ready'.

Transfers and Pension Scam Protection

Protecting Against Scams

A new **guide to reporting pension scams** has been produced by the Pensions Regulator, the Financial Conduct Authority and Action Fraud. In a blog released at the same time, the Regulator says that it needs trustees to make use of the new powers to block statutory transfers they suspect are scams and to report to the appropriate authorities. As a reminder, changes to the transfer regime came into force on 30 November 2021, introducing new red and amber flags for statutory transfers (see the February edition of In Sight).

The guide sets out what to report, when to do this, who to report to, and what happens once a report has been submitted. A recap of the red and amber transfer flags is given, and schemes are urged to report if:

- they believe a scam has already happened,
- a red flag is raised when making a transfer, or
- it is suspected that a pension scam could be taking place (for example due to an amber flag in a transfer request).

In an attempt to address concerns about applying the regulations where overseas investments (amber flags) or small-scale incentives (potentially red flags) feature in the transfer, the Regulator and the DWP have published a **joint statement on the transfer regulations**. To reflect this, the Regulator has made some changes to its guidance on dealing with transfer requests, but the regulations themselves have not been amended; the DWP will consider the matter as part of its scheduled review of the regulations (due by 30 May 2023). The statement also reminds trustees that a transfer could still proceed on a non-statutory basis, subject to the scheme rules, where a transfer is considered to be a low risk of being a scam.

Action

Trustees should review the joint statement and updated scams guidance and consider their own policies.

Separately, the Regulator and the National Fraud Intelligence Bureau (NFIB) released a summary of their **pension scams threat assessment**, following a joint review. Various sources were used for the review, including Action Fraud victim reports, law enforcement partners, and industry experience based on questionnaires completed before the new transfer rules came into force. The summary sets out current themes in recent scams, for example high or unsubstantiated fees, and unsuitable advice. Pension liberation scams are seen to be in decline, but there is an increased threat relating to transfer requests to international self-invested personal pensions (SIPPs). Members seeking transfers to international SIPPS often live overseas — this presents a unique regulatory challenge, complicated by the involvement of overseas advisers who are not subject to UK regulation or legislation such as the cold calling ban.

DB Transfers – Good Practice Guidance

The Pensions Administration Standards Association (PASA) has published principles-based good practice guidance for individual DB transfers. The guidance includes suggested approaches for making the transfer process faster, safer and more efficient. PASA expects the principles to be followed at all times, but administrators can adapt the processes to fit their own circumstances.

The objectives of the guidance are to:

1. Improve the overall member experience through faster, safer transfers — it promotes the practice of administrators taking a lead on the end-to-end member experience and recommends setting realistic response times for third parties.
2. Improve communications and transparency — PASA recommends use of the transfer template published by the FCA. This sets out the common scheme and member data items required to advise on DB transfers.
3. Improve efficiency for administrators — using standard forms and templates (including the FCA's transfer template) will improve efficiency, saving time and resources.

The guidance is aimed at administrators of DB schemes, although it encourages the same principles to be applied to DC-to-DC transfers wherever possible.

In 2019 PASA issued guidance on standard transfers, intending to cover non-standard transfers later, but then consulted on a code of practice for both types of transfers. The new consolidated guidance has been issued instead of a code.

The guidance is voluntary, but PASA anticipates that the Pensions Ombudsman will refer to it as a source of what good industry practice looks like.

News Round-Up

GMP Equalisation Latest

The Pension Schemes (*Conversion of Guaranteed Minimum Pensions*) Act 2022 obtained Royal Assent on 28 April. The Act is intended to clarify certain technical aspects of the existing GMP conversion legislation, which many schemes plan to use as part of their GMP equalisation projects. Regulations will be required to bring the provisions of the Act into force and to add further details; these are expected to be consulted on in due course. Until then, the existing legislation on GMP conversion remains in force.

Separately, the GMP Equalisation Working Group (GMPEWG) has published guidance on the administration implications of past transfers out. This includes a checklist detailing issues that require trustee consideration and the administrative implications of their decisions. The intention is that the checklist will be used to inform discussions, capture the decisions made and provide an audit trail for trustees.

RPI Challenge Proceeding

In June the High Court held a judicial review hearing on the government's decision to reform the Retail Prices Index (RPI) methodology.

As a reminder, HM Treasury and the UK Statistics Authority announced at the end of 2020 that the calculation of RPI is expected to change from February 2030. From then on, it will be calculated in line with the Consumer Prices Index including owner occupiers' housing costs (CPIH). CPIH inflation is expected to be materially lower than RPI inflation over the long term (and similar to CPI inflation).

The trustees of the BT, Ford and Marks and Spencer pension schemes applied for a judicial review on various grounds, including that the implications have not been fully considered. The judgment is expected to be published within two to three months of the hearing.

Cybercrime Guides

The PLSA has released one of its Made Simple guides covering cyber risk, which Aon co-authored with Crowe. The guide aims to help trustees and pensions professionals understand cyber risk and the skills and processes needed to deal with it.

Separately, PASA has issued a cybercrime protection checklist for scheme administrators that provides examples of ways administrators can assess their defences against cybercrime. It builds on the cybercrime guidance that PASA issued in November 2020.

Recovering Withholding Tax

In the case of *HMRC v Coal Staff Superannuation Scheme Trustees* the Supreme Court has ruled in favour of HMRC, meaning that the scheme cannot recover withholding taxes on manufactured overseas dividends (MODs).

The scheme took part in stock lending for many years. Dividends were payable to the borrower, as owner of the shares at the time. The agreements provided for the lender (the scheme) to be paid equivalent amounts by the borrower, in the form of 'manufactured dividends' on UK shares and MODs on overseas shares. Under tax rules in place until 1 January 2014, HMRC imposed withholding taxes totalling £8.8m on the MODs received by the scheme between 2002 and 2008. No tax was charged, however, on manufactured dividends on UK shares.

In 2019 the Court of Appeal found that these MOD tax rules were a restriction on the free movement of capital and were not justified. This implied that the trustees were entitled to recover the tax paid. However, the Supreme Court has accepted HMRC's appeal, meaning that the trustees are not entitled to recover the tax paid. It found that a breach of the rules requiring free movement of capital had not been established.

This case closes a route of potential tax recovery for other pension schemes that engaged in stock lending before 1 January 2014.

Returning Surplus to Employer

In April, the Work and Pensions Committee (WPC) wrote to the trustee of the Water Companies' Pension Scheme over its decision to transfer an estimated £12.1m surplus in the Bristol Water Section to the sponsoring employer. Scheme members had informed the WPC that, in their view, this was done without adequate consultation. The letter quoted the rules of that section, stating that the trustee "may, in consultation with Bristol Water PLC, use any surplus to augment members' benefits if and to the extent that it considers it just and equitable to do so". The trustee chair was asked to explain a number of issues, including the powers in the rules and the process followed.

The WPC subsequently published the trustee's response which states that, "In exercising its power to distribute surplus (and, in particular, in determining not to exercise its discretion to augment members' benefits) the trustee has followed the correct process, taken account of all relevant factors and has considered the matter very carefully. It remains of the view that it is appropriate for the surplus to be returned to Bristol Water plc. The trustee believes it has provided adequate notification and extensive explanations to members as part of the consultation exercise and otherwise".

PASA Guidance on Pre-Employment Vetting

PASA's Cybercrime & Fraud Working Group has published guidance focused on vetting new employees in the pensions administration industry. PASA has recently been made aware of fraud undertaken or assisted by employees of administrators, with one such example including people who deliberately gained employment with the specific intention of committing fraud. The guidance indicates the types of checks that can be carried out and the information that can be verified, rather than what should be done in every case. Any checks must be proportionate to the level of risk, and carried out in accordance with applicable law.

On the Horizon

Here are some key future developments affecting pensions:

August 2022

- The legislative framework for CDC schemes will come into force

Summer 2022

- PDP consulting on standards to support the pensions dashboards regulations
- Extension of notifiable events framework (had been expected in April)
- DWP consultation on scheme funding regulations
- Regulator's new single code expected to be laid before Parliament

October 2022

- Climate-risk changes apply to next wave of schemes; and new Paris alignment metric
- Simpler benefit statements introduced for DC schemes used for auto-enrolment
- Regulations to implement the CMA Order in pensions legislation
- Regulator's single code expected to come into force.

Autumn 2022

- Regulator consultation on scheme funding code of practice
- Pensions dashboard regulations expected to be laid before Parliament
- Campaign to boost pensions engagement

Late 2022

- Consultation on design principles to accommodate new types of CDC schemes.

April 2023

- First wave of schemes expected to start connecting to pensions dashboards

Autumn 2023

- Revised funding code of practice expected to be operational

April 2024

- Low earners in net pay schemes to receive top-up payments (payable from 2026/27)

Training and Events

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

Please contact us to discuss your training needs: pensionstraining.enquiries@aon.com

You can find a copy of our training brochure and book online at: www.aon.com/pensionstraining

Pensions Training Courses	Dates
Defined Benefit — Part 1	9 November (London)
Defined Benefit — Part 2	14 December (London)
Defined Benefit Trustee Essentials (two days)	11–12 October (Woking, Surrey)
Defined Contribution	15 September (London)
Pension Governance Committee (half day)	23 November (London, a.m.)

Other Events

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.

Contact Us

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

Helen-Mary Finney

+44 1252 768 392
helen-mary.finney@aon.com

About

Aon plc (NYSE: AON) exists to shape decisions for the better—to protect and enrich the lives of people around the world. Our colleagues provide our clients in over 120 countries with advice and solutions that give them the clarity and confidence to make better decisions to protect and grow their business.