



FEBRUARY 2022

# Pensions Round-Up

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# Introduction

Welcome to the latest edition of DLA Piper's Pensions Round-Up newsletter in which we provide an overview of developments in pensions legislation, case law and regulatory guidance.

In this edition we look at key developments from February 2022 including the following.

- **Department for Work and Pensions:** the latest review of the automatic enrolment earnings thresholds.
- **Legislation:** regulations in relation to fixed rate revaluation of Guaranteed Minimum Pensions; the Finance Act 2022 receiving Royal Assent; and the response to a 2020 consultation about corporate directors.
- **Case law:** a High Court judgment concerning the payment of death benefits which includes consideration of the definition of a dependant.
- **The Pensions Regulator:** an illustrative example which has been added to the Regulator's guidance on climate change governance and reporting.
- **HMRC:** the publication of HMRC's latest pension schemes newsletter.

- **Pensions dashboards:** a Financial Conduct Authority consultation on proposed new rules for pension providers in relation to dashboards; and a Financial Reporting Council consultation on updates to Actuarial Standard Technical Memorandum 1.

- **On the horizon:** a timeline of some of the key future developments in pensions to help employers and trustees plan ahead.

If you would like further information about any of the issues raised in this edition of Pensions Round-Up, please get in touch with Cathryn Everest or your usual DLA Piper pensions contact. Contact details are at the end of this newsletter.



# DWP, legislation and consultations

## Automatic enrolment

### EARNINGS THRESHOLDS 2022/23

On 8 February the DWP published a report setting out the methodology, analysis and outcome of the latest review of the automatic enrolment earnings thresholds which concluded that the thresholds for 2022/23 will remain at the 2021/22 levels. This means that the following thresholds will apply for 2022/23.

- The automatic enrolment earnings trigger, which eligible jobholders have to exceed in order to qualify for automatic enrolment and automatic re-enrolment, will remain at GBP10,000.
- The lower limit of the qualifying earnings band on which the minimum contribution requirements are measured will remain at GBP6,240. This is also the earnings threshold which workers who are eligible to opt in, rather than be automatically enrolled, must exceed if they are to be entitled to an employer contribution under the legislation.
- The upper limit of the qualifying earnings band on which the minimum contribution requirements are measured will remain at GBP50,270.

### 2017 REVIEW

In December 2017 the DWP published *Automatic Enrolment Review 2017: Maintaining the Momentum* which included proposals to: (1) reduce the lower age limit for automatic enrolment from 22 to 18; and (2) make amendments so that pension contributions are calculated from the first pound earned, rather than from the lower limit of the qualifying earnings band. The review stated that the government aims to implement these changes in the

mid-2020s, subject to discussions with stakeholders on the implementation approach, finding ways to make the changes affordable and evidence of the impact of the increases in statutory minimum contribution rates in April 2018 and April 2019.

On 23 February the draft Pensions (Extension of Automatic Enrolment) Bill was published. This is a Private Members' Bill (rather than one introduced by a government minister) which includes amendments to extend automatic enrolment to jobholders who are aged at least 18 and to remove the lower limit of the qualifying earnings band. The first reading of the Bill took place on 5 January but a date has not yet been allocated for its second reading. During a debate on a different Bill on 25 February, the Minister for Pensions and Financial Inclusion stated that "there is no real way" for the Extension of Automatic Enrolment Bill to get through the House of Commons and the House of Lords in the time allowed before the Queen's Speech (which is usually in May). However, the Minister also confirmed that the government remains committed to the 2017 automatic enrolment review and stated that it remains the case that "we will, in the fullness of time, bring forward or support legislation to take the matter forward".

## State Pension age review

In December 2021 the DWP launched the second review of State Pension age which, under the Pensions Act 2014, is required to be published by 7 May 2023. The Secretary of State is commissioning two independent reports to contribute to the evidence base that will inform the review:

a report from the Government Actuary analysing the latest life expectancy projections; and a report considering the metrics used for analysis when setting State Pension age. On 9 February a call for evidence was published in relation to the second of these reports, seeking views on what metrics should be considered when setting the State Pension age. The call for evidence (which closes on 25 April 2022) includes questions in relation to intergenerational fairness, changes in the nature of work, sustainability and affordability, and metrics for setting State Pension age.

## Conditions for Transfers – JCSI report

The Occupational and Personal Pension Schemes (Conditions for Transfers) Regulations 2021 came into force on 30 November 2021, prescribing additional conditions to be met in order for a member to have a statutory right to transfer. The regulations set out two conditions. The First Condition provides a list of types of receiving scheme (public service pension schemes, authorised master trusts and authorised collective money purchase schemes) to which transfers can proceed without the trustees completing further checks. The Second Condition applies to all transfers to which the First Condition does not apply and, in summary, relates to consideration of a number of red and amber flags. Further information about the regulations is included in our [November 2021 Pensions Alert](#).

On 28 January the Joint Committee on Statutory Instruments (a parliamentary committee which considers statutory instruments

made in exercise of powers granted by Act of Parliament) published its *Twenty-Second Report of 2021-22* which includes a section on the Conditions for Transfers Regulations. The report raises two issues:

(1) the time period between the regulations being made and being laid before Parliament; and  
(2) the amber flag that the trustees of the transferring scheme decide that there are any overseas investments included in the receiving scheme. An appendix to the report contains the DWP's memorandum on the issues raised by the Committee.

In relation to the amber flag on overseas investments, the report includes that: (1) given that most schemes include overseas investments, it appeared to the Committee that this may result in a very large number of pension savers being required to take scams specific guidance from the Money and Pensions Service before the transfer proceeds; (2) the Committee asked the DWP to explain whether the intention is that an amber flag is present even if the scheme contains overseas investments that are only conventional low risk overseas investments; (3) in its memorandum, the DWP confirms that it is not the intention behind the relevant paragraph to capture, as a scam risk indicator within the amber flag, circumstances where there is in fact low risk of a scam; (4) however, the DWP has been made aware of a potential issue of too many pension transfers being caught by this amber flag and it is actively engaging with industry representatives to reach an understanding of the potential issue and the distinction between those overseas investments that present scam risk and those that do not; and

(5) if there is an issue, the DWP "will consider amending the Regulations to avoid the amber flag capturing more pension transfers than is intended, whilst maintaining the policy intent of safeguarding against potential scams facilitated through certain schemes that include overseas investments".

As we noted in our [Pensions Alert](#), the apparent disconnect between the policy intent (stated, at that stage, in the DWP's consultation response and the Pensions Regulator's guidance, but now also set out in this Committee report) and the actual wording of the regulations in relation to the overseas investments amber flag is a complex issue to be considered when trustees are updating their transfer processes to implement the regulations. Trustees should therefore consider taking legal advice when deciding how to deal with this amber flag, including in the context of any considerations about incorporating the use of green lists into their transfer processes.

### Conversion of GMPs

In the [November 2021 edition of Pensions Round-Up](#) (page 10), we reported on the Pension Schemes (Conversion of Guaranteed Minimum Pensions) Bill. This is a Private Members' Bill which proposes amendments to the legislation that allows occupational pension schemes to convert GMP benefits into other scheme benefits in order to simplify and clarify how those provisions operate. The Bill continued its journey through Parliament in February, with Committee stage in the House of Commons taking

place on 2 February. During the debate, the Minister for Pensions and Financial Inclusion stated (as he did at Second Reading) that the government supports the Bill.

The proposed amendments in the Bill include measures to:

(1) clarify that the legislation applies to survivors as well as earners;  
(2) remove the detailed requirements regarding survivors' benefits that must be provided by a converted scheme and instead provide a power to prescribe in regulations the conditions which must be met in relation to survivors' benefits;  
(3) replace the provision that requires employer consent to be obtained to GMP conversion with a power to prescribe in regulations who must consent before conversion can take place; and  
(4) remove the requirement to notify HMRC. In relation to the powers to make regulations, during the Committee stage debate, the Minister stated that "these matters will all be consulted on in the appropriate way" and "there will be regulations that will be debated by the House in the usual way".

The third reading of the Bill in the House of Commons took place on 25 February and the Bill has now moved to the House of Lords. No amendments were made to the Bill during its consideration in the House of Commons.

## GMP fixed rate revaluation

In September 2021 the DWP published a consultation on fixed rate revaluation of Guaranteed Minimum Pensions (GMPs).

The consultation explained that: (1) the revaluation rate to be used by schemes that have chosen to revalue the GMPs of early leavers using the ‘fixed rate method’ is set out in legislation; (2) the revaluation rate is reviewed every five years; (3) the current fixed rate is 3.5% per annum; and (4) the DWP proposes changing the fixed rate to 3.25% per annum for members who leave pensionable service in the period 6 April 2022 to 5 April 2027. (Further information on the consultation is included on page 9 of the [September 2021 edition of Pensions Round-Up](#).)

On 21 February the DWP published the government response to its consultation confirming that the fixed rate will be changed to 3.25% per annum for members who leave pensionable service on or after 6 April 2022. The DWP reports that two responses were received to the consultation and states that the small number of responses suggests that the pensions industry is largely content with the proposed rate of 3.25%. The regulations to implement the change were laid before Parliament on 21 February and come into force on 6 April 2022.

## Finance Act 2022

The Finance Act 2022 (Act) received Royal Assent on 24 February.

In relation to pensions, the Act includes provisions concerning the ‘scheme pays’ legislation, normal minimum pension age and public service pension schemes. In this

article, we provide a brief overview of the provisions and report on a consultation on draft regulations in relation to ‘scheme pays’.

### SCHEME PAYS

If specified conditions are met, the ‘scheme pays’ legislation enables individuals to elect for their pension scheme administrator to be jointly liable for their annual allowance tax charge in return for an actuarial reduction in their pension benefits. The Act includes changes which, in certain circumstances where there has been a retrospective change to an individual’s pension input amount, amend the deadlines: (1) for individuals to provide notice to a scheme that they want to use scheme pays; and (2) for scheme administrators to report and pay the annual allowance charge.

On 18 February HMRC published a technical consultation (which closed on 15 March) seeking views on draft regulations which will support these provisions of the Act. The draft regulations are proposed to take effect from 6 April 2022.

### NORMAL MINIMUM PENSION AGE

The Act provides for the increase in the normal minimum pension age (NMPA) from age 55 to age 57 on 6 April 2028 and the introduction of a new protection regime in relation to that increase. (This does not change the protection for those who already have a protected pension age relating to the 2010 increase in the NMPA from age 50 to 55.)

The Act provides that the “entitlement condition” for the new protection regime to apply is met if: (1) immediately before 4 November 2021 the member

had an actual or prospective right under the pension scheme to any benefit from an age of less than 57; (2) the rules of the pension scheme on 11 February 2021 included provision conferring such a right on some or all of the persons who were then members of the pension scheme; and (3) the member either had such a right under the scheme on 11 February 2021 or would have had such a right had they been a member of the scheme on 11 February 2021. The Act also provides for the protection to apply in certain circumstances where, on or after 4 November 2021, a member transfers to a scheme that has a protected pension age of 55 or 56 “in execution of a request made before that date”. As we reported in the [January 2022 edition of Pensions Round-Up](#) (page 11), HMRC’s pension schemes newsletter 136 includes some provisional information on what is meant by an unqualified right to benefits and a substantive transfer request for the purpose of these provisions.

Other points to note in relation to the increase of the NMPA to age 57 include that: (1) the increase will not apply to members of a “uniformed services pension scheme”; (2) the Act makes provision for members to retain their protection where they become a member of another pension scheme and the criteria of the “block transfer condition” are met; and (3) under the Act, provided relevant conditions are met, members can retain their protected pension age following an individual transfer, although that protected pension age will not apply to the member’s other rights in the receiving scheme.

Although HMRC's guidance is provisional and further information is expected in relation to transitional arrangements, it would be useful for trustees to start to consider the implications of the increase in NMPA for their scheme. Issues for trustees to consider include: (1) reviewing their scheme rules as at 11 February 2021 to see whether a protected pension age applies to any members of the scheme; (2) considering whether a protected pension age applies to any transfers in that were made on or after 4 November 2021 in execution of requests made before that date; (3) considering whether any updates are needed to administration processes to identify transfers in that include a protected pension age, including how any such benefits in relation to an individual transfer will be ring-fenced in the scheme; and (4) when to communicate the change to members.

#### PUBLIC SERVICE PENSION SCHEMES

In December 2018 the Court of Appeal issued a judgment concluding that transitional provisions in relation to the 2015 reform of the firefighters' pension scheme and the judicial pension scheme constituted unlawful age discrimination. A 2019 written statement made by the Chief Secretary to the Treasury stated that, as transitional protection was offered to members of all the main public service pension schemes, the government believes that the difference in treatment will need to be remedied across all those schemes. The Public Service Pensions and Judicial Offices Act 2022 (which received Royal Assent on 10 March) includes provision to rectify the unlawful discrimination.

The Finance Act 2022 provides the Treasury with the power to make regulations to address the tax implications that arise in consequence of, or in connection with, the rectification of unlawful discrimination as set out in the Public Service Pensions and Judicial Offices Act 2022. The Explanatory Notes to the Finance Bill set out some examples of provisions that may be made under this measure which include: providing an exemption to a tax charge on the compensation an individual may receive if, following the remedy, they are owed money; and ensuring that payments of pensions and lump sums that would have been authorised payments had they been made at the relevant time, are treated as meeting the conditions to be authorised.

#### Dormant Assets Act 2022

The Dormant Assets Act 2022 (Act) received Royal Assent on 24 February. By way of background, the Explanatory Notes to the Act include that: (1) the Dormant Assets Scheme (Scheme) is led by industry and backed by the government with the aim of reuniting people with their assets; (2) where this is not possible, "the Scheme enables this money to support social and environmental purposes across the United Kingdom"; and (3) the principles underpinning the Scheme include that industry participation is voluntary.

The Act makes provision to expand the Scheme to cover a wider range of dormant assets. This includes that a "pension institution" can transfer dormant eligible pension benefits to the Scheme with the consent of the reclaim fund which administers the Scheme. The Act defines the "eligible pension benefits" which are brought in to the scope of the Scheme (all of which relate to personal pension schemes) and makes

provision as to when eligible pension benefits can be classed as dormant for these purposes. Another principle underpinning the Scheme is that owners of dormant assets are able, at any point, to reclaim the amount that would have been due to them had a transfer into the Scheme not occurred. The Act provides that, on the transfer of eligible pension benefits to the Scheme, the owner no longer has the right to payment of the benefits against the pension institution, but rather has that right against the reclaim fund. These provisions have not yet come into force, with the Act stating that they will come into force on such day as the Secretary of State may appoint by regulations.

#### Corporate directors

The Small Business, Enterprise and Employment Act 2015 makes provision to prohibit the use of corporate directors but the provisions have not yet been commenced. These provisions are potentially relevant to pension schemes which have a corporate trustee in place, where that corporate trustee has another company or legal entity in place as a director. In December 2020 the Department for Business, Energy and Industrial Strategy published a consultation which considered the question of how to define exceptions to the prohibition, proposing a 'principles based' exception.

On 28 February the Department for Business, Energy and Industrial Strategy published *Corporate Transparency and Register Reform White Paper* which sets out the government's position on reforming Companies House ahead of introducing legislation into Parliament; and contains responses to several consultations including the December 2020 consultation on corporate directors.

The White Paper confirms that the principles based exception will be adopted which, as set out in the consultation, is based on two conditions that must be satisfied: (1) that all directors of the company seeking the appointment are themselves natural persons; and (2) those natural person directors are, prior to the corporate director appointment, subject to an appropriate identity verification process. It states that any company failing to satisfy these grounds of exception will not be permitted to act as corporate director. The White Paper also states that: it will be made clear in law that corporate

directors may only be appointed if they have legal personality; and the government intends that corporate directorships be restricted to entities registered in the UK.

In relation to views received, the response to the December 2020 consultation reports that there was some concern amongst pension specialists that the principles might challenge established corporate trustee models involving professional trustee service providers.

The government response states that it has considered specifically how the principles will apply in

the pension sector given the widespread use of the corporate trustee model in that context. It goes on to state that: "Given that a corporate trustee is no different from any other limited company, it will continue to be permissible for specialist trustee providers to furnish schemes with professional board members in so far as that provider, as the corporate director appointee, maintains all-natural person directors on its own board".



# Case law

## Payment of death benefits

On 1 February the High Court issued its judgment in a case (*Punter Southall Governance Services Limited v Bengé and Another*) concerning a decision in relation to the payment of a death benefit.

### BACKGROUND

The definition of a dependant of a member in the relevant scheme's (Scheme) rules included: "such other person who in the opinion of the Trustees is (or was at the date of his death) dependent or interdependent on him for all or any of the necessities of life".

The Second Defendant in this case stated that she was a dependant of the relevant member (Member), with the information she provided including that: (1) they had been living together for approximately 18 months at the date of his death, and had been in a relationship for around 10 years before they started to live together; (2) they owned their main residence and another property equally, with the Member having contributed 100% of the purchase price for both properties; and (3) the Member paid for the majority of the couples' day-to-day living expenses, including food and clothing. The Claimant (the independent trustee of the Scheme) was satisfied that the Second Defendant was a dependant of the Member and made a decision to pay the death benefit to her. The Claimant sought the court's approval for its decision. The First Defendant, who is the Member's son, opposed the claim.

### THE COURT'S CONCLUSIONS

The judgment notes that approval will be given by the court where, having considered the evidence,

it is satisfied that: (1) the trustees have in fact formed the opinion that they should act in the way for which they seek approval; (2) the opinion of the trustees was one which a reasonable body of trustees, correctly instructed as to the meaning of the relevant provision, could properly have arrived at; and (3) the opinion was not vitiated by a conflict of interest under which any of the trustees had been labouring.

The judgment includes consideration of the definition of dependant, with points of note including the following.

- As noted above, the Scheme rules use the term "necessaries of life". The High Court stated that "necessaries of life" are those things that a person needs to maintain their life, and quoted from a judgment concerning the Workmen's Compensation Act 1897 in which the court referred to a person being dependent "for the ordinary necessities of life, having regard to his class and position in life". The High Court stated that the necessities of life will therefore be fact sensitive.
- The High Court considered that being dependant on someone for the necessities of life is materially the same as the definition of dependant under the Finance Act 2004.
- The High Court accepted the First Defendant's proposition that mere cohabitation and the payment of expenses from a joint account are not sufficient to demonstrate dependency. However, it stated that the Second Defendant had adduced evidence going beyond that, noting that she stated that she could not

have afforded to purchase either of the properties, or maintain them, without the Member's support. The judgment also notes that the Second Defendant had stated that she could not afford to maintain her lifestyle without the Member's support.

- The High Court also stated that the fact that both properties were owned by the Member and the Second Defendant as co-owners is material and "a paradigm case of interdependency".

The High Court was satisfied that the Claimant applied the correct test to the evidence that it was presented with, and that the evidence was sufficient to justify a reasonable trustee reaching the view that the Second Defendant was a dependant of the Member for the purposes of the Scheme rules and therefore making the decision.

The Second Defendant was a trustee of the Scheme and it was recognised that there was a conflict of interest between her position as trustee and her claim to be a dependant. The Claimant's predecessor as independent trustee therefore sought independent advice on whether the Second Defendant was the Member's dependant, and the Second Defendant did not take part in the decision about the payment of the death benefit. The High Court concluded that reasonable steps had been taken to manage the conflict of interest and the Claimant's decision was not vitiated by any conflict of interest.

# The Pensions Regulator

## Climate change governance and reporting

In December 2021 the Pensions Regulator published guidance – *Governance and reporting of climate-related risks and opportunities* – which it states does not impose any additional requirements on trustees, but provides examples of how to apply the occupational pension scheme climate change governance and reporting regulations and the DWP's statutory guidance. The Regulator states that this will help to inform trustees of the types of approaches that it considers to be appropriate.

On 23 February the Regulator published a step-by-step example (which has been added as an appendix to the guidance that it published in December 2021) which illustrates the types of steps that trustees could consider taking as they work through the requirements of the regulations. The illustrative example is intended to help develop understanding of how trustees and advisers might approach implementing the requirements

at a practical level. It charts how the trustees of the fictitious "XYZ pension scheme" might approach meeting the requirements and seeks to address specific requests for more information and examples that the Regulator received during the consultation on its guidance.

The fictitious XYZ pension scheme has three separate sections: a very mature DB section which is closed to accrual; an immature DB section which is open to accrual but closed to new entrants; and an open DC section which is growing rapidly.

As well as a section providing further information about the XYZ pension scheme, the illustrative example includes sections on the trustees' first steps, developing the base case and the impact of scheme data. This is then followed by five separate sections about meeting the requirements, which look at the requirements on governance, strategy and scenario analysis, risk management, metrics and targets. The example also looks at documenting the trustees' approach, and completing and publishing their report.

The Regulator states that:

(1) the example is not intended to be used as a checklist; (2) the governance structures of schemes, the skillsets of their trustees and their investment implementation arrangements vary significantly; (3) the processes that trustees put in place and the actions that they take to understand and address the risks and opportunities that climate change poses to their scheme should reflect their individual scheme arrangements; and (4) it expects trustees to take appropriate advice and ensure that the approach they adopt to meeting the requirements of the regulations is suitable for their scheme.

The Regulator also states that trustees who are not currently required to comply with the regulations, but who want to do more to manage their scheme's climate-related risks and opportunities may also find its guidance and illustrative example helpful.

# TPO and HMRC

## The Pensions Ombudsman

On 24 February, The Pensions Ombudsman (TPO) published a factsheet in relation to pension scams which outlines what individuals should do if they think they have been scammed, as well as what TPO can do if someone thinks they have a complaint about a scam. A section in relation to complaints about a transfer of the member's pension notes that TPO can investigate whether the request to transfer met all the legal requirements, including whether the trustees of the original pension scheme carried out sufficient checks before transferring the pension benefits. This section also includes that: "The level of checks expected of trustees has increased over the years. The expectations that we will apply in a particular case will depend upon common law and current legislation, together with any regulatory guidance and industry standards in place at the time of the transfer".

Also on 24 February, TPO published a factsheet on ill health pensions and a factsheet on death benefits, each of which look at issues including what individuals should do if they have a complaint about this type of benefit, what TPO can investigate and what TPO can decide.

## HMRC pension schemes newsletter

On 28 February HMRC published pension schemes newsletter 137 which looks at issues including the following.

### MANAGING PENSION SCHEMES SERVICE

HMRC provides a number of updates in relation to the Managing Pension Schemes service including in relation to the migration of schemes to the service from the Pension Schemes Online service. In November 2021 HMRC updated the Managing Pension Schemes service so that scheme administrators can view a 'read only' list of pension schemes that they will need to migrate to the service. In a newsletter published in January HMRC stated that it is currently planning to release the feature for migrating pension schemes in early April 2022. Pension schemes newsletter 137 states that this feature will be released on 11 April 2022 and provides a reminder about steps that scheme administrators will need to take to prepare to migrate their schemes.

The newsletter also reports that, from 14 March 2022, administrators will no longer be able to compile and submit any new Accounting for Tax returns for any quarter from 1 April 2020 on the Pension Schemes Online service. HMRC states that this means that if administrators need to submit a return for the first quarter of 2022, they must migrate the scheme in time to compile and submit the return by the filing deadline of 15 May 2022.

Other updates in the newsletter in relation to the Managing Pension Schemes service relate to: bulk reporting for Accounting for Tax returns; filing Accounting for Tax returns using third party software; pension scheme practitioners; making payments relating to

Accounting for Tax returns; and schemes without a Pension Scheme Tax Reference.

### PUBLIC SERVICE PENSION SCHEMES

The newsletter notes that, as part of the remedy for the unlawful age discrimination in relation to the 2015 reform of public service pension schemes, the government will return individuals to their legacy scheme for the period 1 April 2015 to 31 March 2022. HMRC states that this will mean that individuals who originally lost their enhanced or fixed protection solely due to joining the reformed scheme (and not due to a subsequent action, such as benefit accrual) will not have lost their protection. However, HMRC goes on to state that they will lose their protection if they accrue benefits under the reformed scheme from 1 April 2022. HMRC states that to keep fixed or enhanced protection: (1) individuals who have not yet joined the reformed scheme will need to opt out of joining that scheme by 1 April 2022; and (2) individuals already in the reformed scheme will need to stop accruing benefits from 1 April 2022.

### LIFETIME ALLOWANCE PROTECTION

HMRC reminds scheme administrators to encourage their members to make sure they tell HMRC as soon as possible if they have lost their lifetime allowance protection. The newsletter also looks at when lifetime allowance protection can be lost and the information that members must provide to HMRC if they think they have lost their protection.

# Pensions dashboards

## FCA consultation

In the [January 2022 edition of Pensions Round-Up](#) (pages 8 to 9), we reported on the DWP's consultation on pensions dashboards which looks at the requirements that will have to be met by the trustees of occupational pension schemes. The DWP published an indicative draft of the Pensions Dashboards Regulations alongside the consultation to show how it envisages that the policy would be turned into law.

On 11 February the Financial Conduct Authority (FCA) published a consultation on its proposals for rules requiring FCA-regulated pension providers to connect and supply information about personal and stakeholder pensions to pensions dashboards. The FCA notes that the Pension Schemes Act 2021 requires it to have regard to the DWP's pensions dashboards regulations and the requirements that they impose on trustees of occupational pension schemes; and states that, as far as appropriate, its consultation proposals align with the proposals for occupational pension scheme trustees.

The proposals in the FCA's consultation require that, by the relevant implementation deadline, pension providers must: (1) complete connection of their personal and stakeholder pension schemes to the Money and Pensions Service's (MaPS) digital architecture in line with MaPS connection, security and technical standards and having regard to MaPS guidance on connection; (2) be ready to receive requests to find pensions, and search records for data matches; and (3) be ready to return view

data to pensions dashboards. The consultation provides further information on these requirements, with separate chapters on connection, find requests and data matching, and returning view data.

The FCA proposes an implementation deadline of 30 June 2023 for providers of personal and stakeholder pension schemes. However, the consultation also proposes a transitional provision that would offer certain smaller providers a later implementation deadline of 31 October 2024, with a requirement for firms that intend to rely on this transitional provision to notify the FCA by 30 April 2023.

The closing date for responses to the FCA's consultation is 8 April 2022. The FCA states that it aims to publish its Policy Statement and finalised Handbook rules "in Autumn 2022, alongside or shortly after Parliament approves the Government's regulations for trustees and managers of occupational pension schemes and pensions dashboard services".

The DWP's consultation also looks at the requirements to be satisfied in order for a pensions dashboard service to be a qualifying pensions dashboard service (QPDS). The FCA's consultation notes that it will regulate firms operating a QPDS, and states that it plans to consult on the regulatory framework for QPDS operators in mid-2022.

## FRC CONSULTATION

The DWP's and the FCA's consultations on pensions dashboards set out the proposed view data to be provided in

response to an individual's request. One of the categories of view data is value data, and both consultations refer to certain value data for money purchase benefits being calculated using the methodology in Actuarial Standard Technical Memorandum 1 (AS TM1). AS TM1 specifies the assumptions and methods to be used in the calculation of statutory illustrations of money purchase pensions.

On 14 February the Financial Reporting Council (FRC) published a consultation on *Proposed revision to AS TM1: Statutory Money Purchase Illustrations*. The FRC explains that the majority of the proposed amendments are the result of the intention for the provision of Estimated Retirement Income (ERI) provided on pensions dashboards to follow the methods and assumptions specified in AS TM1. The consultation notes that AS TM1 currently allows some flexibility in determining the accumulation rate used for projecting fund values and in the form of annuitisation chosen. In order to improve consistency across projections from different providers, the consultation proposes amendments to AS TM1 to standardise the accumulation rate assumptions and the form of annuitisation at retirement. The consultation closes on 6 May 2022. Subject to consultation responses, it is intended that the revised version of AS TM1 will be effective for statutory illustrations issued on or after 1 October 2023.

## On the horizon

DATE	DEVELOPMENT
Not known	In July 2021 it was announced that the <b>GMP Equalisation</b> Working Group has set up an administration sub-group. The sub-group plans to publish a Q&A document.
Scheme year ending after 1 October 2021 or 31 December 2021	Following a 2020 consultation on DC schemes, regulations came into force on 1 October 2021 introducing a new requirement for trustees of all relevant schemes to <b>report in the chair's annual statement on net investment returns</b> for their default and self-selected funds. This requirement applies for the statement for the first scheme year which ends after 1 October 2021. The regulations also contain a new requirement for certain relevant schemes to carry out a <b>more detailed value for members assessment</b> , with this requirement applying from the first scheme year ending after 31 December 2021.
2022 2023	On 31 January 2022 the DWP published a consultation seeking views on policy questions in relation to <b>pensions dashboards</b> . The consultation looks at proposed requirements to be met by trustees of relevant occupational pension schemes and includes sections on data, how dashboards will operate, connection, staging and compliance and enforcement. In relation to staging, the consultation proposes that: the first staging period will relate to large schemes and run from April 2023 to September 2024; and the second staging period will relate to medium schemes and run from October 2024 to October 2025. The consultation closes on 13 March 2022.
Early 2022	The Pension Schemes Act 2021 includes provisions in relation to the <b>Regulator's powers</b> , most of which came into force on 1 October 2021. On 29 September 2021 the Regulator published a consultation on three new policies – overlapping powers policy, monetary penalty powers policy, and information gathering powers policy. The consultation closed on 22 December 2021 and the Regulator plans to finalise the policies early in 2022.
6 April 2022	Regulations in relation to <b>DC charges</b> will come into force on 6 April 2022, introducing a de minimis pot size below which flat fees cannot be charged in default arrangements of qualifying DC schemes used for automatic enrolment.
2022	A consultation on changes to the <b>notifiable events</b> regime was published on 8 September 2021. The consultation closed on 27 October 2021. The Regulator's Corporate Plan 2021-24 refers to changes to the notifiable events regime being introduced in 2022.
Spring/ summer 2022	A blog post published by the Regulator on 15 December 2021 in relation to its updated <b>DB funding code</b> states that it expects the DWP's consultation on draft funding and investment regulations to be published in spring 2022, and that the Regulator's second consultation on its DB funding code will be launched in the late summer of 2022.
Summer 2022	In March 2021 the Regulator published a consultation on the first phase of its work to combine its current codes to form a <b>single code of practice</b> which includes information about a new requirement for trustees to carry out an own risk assessment of the system of governance. A blog post published by the Regulator in January 2022 states that it is expected that the new code will be laid before Parliament in summer 2022.
1 June 2022	Regulations were made in January 2022 which introduce new requirements for trustees of occupational pension schemes to deliver a <b>stronger nudge to pensions guidance</b> to members who are seeking to access, or transfer for the purposes of accessing, their flexible benefits. The regulations will come into force on 1 June 2022.
1 October 2022	Regulations came into force on 1 October 2021, introducing new governance and reporting requirements in relation to <b>climate change</b> for trustees of certain occupational pension schemes. The new requirements are being introduced in stages: they have applied to certain schemes since 1 October 2021 and will apply to further schemes from 1 October 2022. The DWP is also consulting on proposals to add to the requirements in the regulations in relation to metrics from 1 October 2022.
1 October 2022	Regulations introducing simpler <b>annual benefit statements</b> for DC schemes used for automatic enrolment will come into force on 1 October 2022.
6 April 2028	The Finance Act 2022 makes provision to increase the <b>normal minimum pension age</b> from age 55 to age 57 on 6 April 2028 and introduce a new protection regime in relation to that increase.

## Contact details

### **Cathryn Everest**

**Senior Professional  
Support Lawyer, London**  
+44 (0)20 7153 7116  
cathryn.everest@dlapiper.com

### **Megan Sumpster**

**Professional  
Support Lawyer, London**  
+44 (0)20 7153 7973  
megan.sumpster@dlapiper.com

### **Ben Miller**

**Head of Pensions**  
+44 (0)151 237 4749  
ben.miller@dlapiper.com

### **Tamara Calvert**

**Partner, London**  
+44 (0)20 7796 6702  
tamara.calvert@dlapiper.com

### **Joel Eytte**

**Partner, London**  
+44 (0)20 7796 6673  
joel.eytte@dlapiper.com

### **Andrew McIlhinney**

**Partner, Leeds**  
+44 (0)113 369 2141  
andrew.mcilhinney@dlapiper.com

### **Matthew Swynnerton**

**Partner, London**  
+44 (0)20 7796 6143  
matthew.swynnerton@dlapiper.com

### **Amrit Mclean**

**Head of Pensions De-risking**  
+44 (0)20 7796 6613  
amrit.mclean@dlapiper.com

