



# In Sight

a quarterly pensions publication

August 2020

## This quarter's round-up

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## Pension schemes and COVID-19

The COVID-19 pandemic has had an inevitable impact on pension schemes and there continue to be developments in response.

### Regulator updates its Covid-19 guidance

The Pensions Regulator has progressively expanded its suite of guidance on how to manage issues arising from the COVID-19 situation. We outlined the initial regulatory guidance in the [May edition](#) of In Sight and now summarise some of the most significant changes since then.

**DB trustee guidance** – this was re-written in June, setting out the practical challenges faced by trustees and employers. The Regulator acknowledges that it cannot reflect all issues but highlights some good practice:

- **Requests to suspend or reduce contributions** – the suspension or reduction of deficit repair contributions (DRCs) may remain appropriate. However, trustees are expected to undertake due diligence on the employer's financial position, which should now be more visible, before agreeing a new suspension or reduction. They need to decide whether there is genuine and possibly temporary uncertainty, or if there has been a material deterioration in the employer covenant. Where a suspension or reduction in contributions is necessary and appropriate, trustees should seek protections and other mitigations.

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- **Valuations due to be finalised** – the Regulator recognises that trustees may need more time. Its preference is for the best outcome to be reached for the scheme, rather than one agreed under pressure simply to meet the deadline.
- **Decision-making** – trustees are reminded of the need to manage conflicts. They may need to seek specialist advice, for example to understand the scheme's position in refinancing, restructuring and insolvency scenarios.
- **DB transfers** – from 1 July 2020, trustees are expected to report any breaches of their transfer obligations, but the Regulator will continue to take a pragmatic approach. Trustees are also expected to send a letter – using a template prepared jointly by the Regulator, the Financial Conduct Authority (FCA), and the Pensions Advisory Service – to all members requesting a transfer quote, warning them of the risks of doing so during the pandemic, and urging them to consider the decision carefully and to get guidance or advice first. Trustees are asked to actively monitor the number of requests for transfer quotes and which advisers are supporting those requests – any unusual or concerning patterns should be reported to the FCA.

**DC trustee guidance** – two new sections were added to this guidance in May:

- **Member transfers** – transfers of DC benefits are considered core financial transactions and should be prioritised during the crisis – the Regulator expects them to be processed within a reasonable timeframe. This also applies to the DC benefits in hybrid schemes – trustees need to consider how members with both DB and DC benefits will be affected if transfers of DB benefits are temporarily suspended. Members should be told if this is happening.
- **Temporary closure of funds** – the guidance warns that where self-selected investment funds (e.g. property funds) have been temporarily closed (or 'gated') until the market normalises, redirecting scheme contributions could result in the alternative funds becoming default arrangements (and therefore subject to legal requirements such as the charge cap and the requirement to have a statement of investment principles). Moving those monies back into the gated fund when it re-opens might, depending on the circumstances, also be regarded as creating a default fund.

**Reporting duties** – certain temporary easements applied until 30 June. However, most reporting requirements resumed from 1 July 2020, including for suspended DRCs (trustees need to submit a revised recovery plan or report of missed contributions); late valuations and recovery plans not agreed; delays in transfer value quotations and payments; and failures to prepare audited accounts. The Regulator will continue to assess breaches on a case-by-case basis and respond pragmatically to COVID-related breaches.

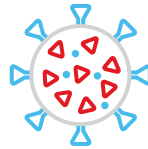
**Late payment reporting** – there is one exception to the return to normal: providers continue to have 150 days (rather than the usual 90 days) to report late payments of contributions other than DRCs. This easement will be reviewed again at the end of September.

**Chair's statements and failure to prepare audited accounts** – until 30 September, the Regulator will continue its practice of not reviewing any chair's statements and will take a pragmatic approach to late preparation of audited accounts. However, the Regulator does not have any discretion to waive fines where a chair's statement is either not produced on time or is non-compliant. If necessary such statements can be prepared separately from the annual report and accounts, in order to meet the legislative deadlines.

**Scheme administration** – as well as updating its guidance, the Regulator has published a blog highlighting that good administration is pivotal to ensuring that benefits get paid in a crisis. It encourages trustees to continue being pragmatic and supportive, with realistic expectations, to ensure administrators can keep delivering priority activities without 'burning out'.

## Actions

Trustees and employers should familiarise themselves with the guidance, which is available on the Regulator's [Covid-19 page](#). The guidance does not replace scheme rules or legal obligations.



[Visit Aon's UK R&I COVID-19 response site here.](#)

## Guidance on scheme accounts

The main accounting bodies have jointly published a guide on pension scheme reports and financial statements, in the context of the COVID-19 pandemic. The guide is primarily aimed at auditors who face the challenges of producing financial statements at this time but may also be useful for trustees and those preparing scheme accounts. It should be read in conjunction with the latest available guidance from the Pensions Regulator and the Financial Reporting Council. Existing standards and guidance continue to apply, including the Pensions Research Accountants Group's Statement of Recommended Practice (SORP) on *Financial Reports of Pension Schemes*.

## Lifetime ISA COVID-19 changes

In response to the current crisis, the government has announced that people who want early access to their Lifetime ISAs (LISAs) will pay a reduced withdrawal charge. The charge is reduced from 25% to 20% for withdrawals, other than for property purchase or on terminal illness, made between 6 March 2020 and 5 April 2021.

## PPF to waive interest on late levy payments

The PPF has announced that it will waive interest charges on late levy payments due to the economic impact of COVID-19, for schemes or sponsors that can explain how they have been negatively affected by COVID-19 and will have difficulty paying their levy on time. Applications to delay payment can be made via a form on the PPF website once a levy invoice has been received. If the PPF accepts the application, it will allow 90 days to pay the invoice before interest is charged, rather than the standard 28 days.



## Extension of job retention scheme

The Coronavirus Job Retention Scheme (CJRS) has closed to new entrants and will end completely on 31 October 2020. Until then, the proportion of the cost being met by employers is increasing in stages.

As reported in the [May edition](#) of In Sight, the CJRS allows employers to claim back part of the employment costs of furloughed employees (i.e. those who have been kept on payroll but put on a temporary leave of absence due to coronavirus, and who would otherwise have been laid off because the employer is unable to operate or has no work for them to do).

**From 1 July** employers have been able to bring furloughed employees back to work on a part-time basis. Employers are responsible for paying wages while the employee is in work (including employer NICs and pension contributions on those amounts) but can still claim under the CJRS for any of the employee's usual hours that are not worked.

The government is then tapering down the level of the CJRS grant as follows:

**From 1 August** employers must cover the cost of pension scheme contributions and NICs on furlough pay but are still able to claim up to 80% of their usual wages (capped at £2,500 a month).

**From 1 September** in addition to the above payments for employers NICs and pension contributions, employers are required to contribute 10% towards the furloughed employees' wages. Therefore, the proportion of wage costs met by the government will reduce to 70% (with a monthly cap of £2,187.50).

**From 1 October** employers will cover 20% of wages, with the government meeting the remaining 60% (with a cap of £1,875).

When the CJRS grant is reduced, employees will continue to receive 80% (capped) of their normal wages for the time they spend furloughed until the CJRS ends. As now, employers can choose to top-up salary above that level.

Pension contributions in relation to the pay received by members will depend on contractual requirements or the pension scheme rules, as well as automatic enrolment requirements.

## Kickstart scheme includes pension contributions

The government's new Kickstart Scheme will create six-month work placements for those aged 16-24 who are on Universal Credit. The scheme will cover 100% of the relevant minimum wage for 25 hours a week, plus the associated employer NICs and employer minimum auto-enrolment contributions.

## Help for members

The Regulator has joined forces with the other pension bodies to publish *COVID-19 and your pension – where to get help*. This guide for members sets out the role of each organisation – the FCA, Financial Services Compensation Scheme, Money and Pensions Service, Pensions Ombudsman, Pensions Regulator and Pension Protection Fund (PPF) – and provides key information, including how pension savings are protected, pension contributions for furloughed members and avoiding pension scams.



# New rules for distressed employers



The Corporate Insolvency and Governance Act 2020 received Royal Assent on 25 June after a swift passage through Parliament. It introduces a series of measures to amend insolvency and company law to help businesses address the challenges resulting from the impact of COVID-19.

The insolvency measures are intended to "provide vital support to businesses to help them through this period of instability" and the corporate governance measures introduce temporary easements and flexibility to businesses coping with reduced resources and restrictions.

Amongst the provisions potentially affecting pension schemes – particularly DB (and the PPF) are:

- the introduction of a new company moratorium to give companies breathing space from their creditors whilst they seek a rescue.
- certain pension contributions – potentially including deficit contributions – may not be payable during a moratorium.
- a prohibition on creditors issuing statutory demands and winding-up petitions, and from enforcing floating charges during a moratorium.
- the introduction of a new restructuring plan, which could bind dissenting creditors more easily.

Lawyers have highlighted uncertainty over the correct interpretation of several aspects of the Act, so legal advice is likely to be necessary if a scheme sponsor is likely to become subject to the new provisions.

The proposed measures are intended to be temporary although it is possible that they could be extended if economic conditions do not improve (or deteriorate further).

## Action

**Employers currently at risk of, or in, financial distress, and the trustees of pension schemes with such sponsors, are likely to require legal advice on the impact of these changes. Trustees of DB schemes should also consider obtaining covenant advice in these circumstances.**

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## Other news from the Regulator

### New powers to help investigate scams

The Regulator is to be given new powers to obtain communications data from telecommunications operators in certain circumstances.

Under the proposed legislation, the Regulator can use this power 'for the purpose of preventing or detecting crime or of preventing disorder'. Broadly, communications data is the who, where, when and how of a communication but not the content - and covers phone calls, emails and other forms of electronic communication.

The powers are subject to safeguards, and can only be used in criminal investigations that meet statutory requirements. The Regulator expects that the new powers will help with criminal investigations into scam activity. In particular, it will be able to obtain data about the time, date and method by which a communication was sent.

## Annual funding statement 2020

In April the Pensions Regulator published its annual funding statement for DB schemes. The statement is particularly relevant for schemes with a valuation date between 22 September 2019 and 21 September 2020 (known as Tranche 15 schemes) or undergoing significant changes that require a review of funding and risk strategies. The Regulator appreciates that these are very challenging times and highlights its COVID-19 guidance (see page 1).

The scheme-specific considerations set out in the statement include:

- **Valuation dates** – trustees should consider very carefully any proposal to change their valuation date, perhaps to an earlier date prior to the impact of COVID-19, and can expect the Regulator to question such changes.
- **Post-valuation experience** – trustees are expected to consider taking account of post-valuation experience in their recovery plans. However, schemes close to completing their valuations (generally those with effective dates earlier in 2019) are not expected to change their valuation assumptions.
- **Calculating technical provisions** – the Regulator says it is reasonable for trustees to delay taking decisions about assumptions for technical provisions until more clarity emerges, but it expects schemes to proceed with as much of the preliminary valuation work as possible. It remains important for trustees to consider a range of possible future outcomes when setting assumptions.
- **Recovery plans** – where significant reductions in DRCs are agreed to support the employer, trustees should follow the specific guidance in the statement; this includes ensuring that the employer's additional liquidity is not used to support associated companies unless this will help it to support the scheme.

The Regulator encourages all schemes to set a long-term funding target and reiterates its long-standing expectation for trustees to focus on integrated risk management. On covenant assessment, it explains that:

- It may be appropriate to undertake some stress testing or scenario planning.
- Trustees should understand the impact of the UK's departure from the EU, including the possibility of leaving the current trading agreement in December 2020 on World Trade Organisation terms.
- In current conditions, the Regulator expects the frequency and intensity of covenant monitoring to be significantly increased until covenant visibility and strength is restored.
- Trustees should be vigilant of employer covenant leakage, which reduces its ability to support the scheme. This could include payment of dividends but also less visible leakage including through inter-company lending arrangements or transactions on non-commercial terms.

The Regulator subsequently published its analysis of the expected funding positions of Tranche 15 schemes, which is intended to give further context to its statement. It notes that most major asset classes in which UK pension funds invest achieved substantially positive returns over the three years to 31 December 2019. However, following the onset of the COVID-19 crisis, most major asset classes apart from government bonds fell in value.

The Regulator will consider issuing further guidance in the autumn. It says that its second consultation on a revised code of practice on scheme funding will not now be published until next year, and that it does not expect the new code to come into force until late 2021 at the earliest.

### Action

Trustees and employers of schemes with ongoing valuations, or for which funding and risk strategies are being reviewed, should take time to consider all relevant matters carefully and in detail. The Regulator stresses the need for trustees and employers to work collaboratively.

## Administering pensions tax relief

As promised in the March Budget, HM Treasury has published a call for evidence on the operation of the different methods used by pension schemes to administer income tax relief, and the improvements that could be made. At present, there are two main ways for members to receive tax relief on their pension contributions:

- **net pay arrangement (used by most occupational schemes)** – contributions are deducted from the member's gross pay before tax is calculated so the member receives immediate relief at their marginal rate of tax.
- **relief at source (RAS – used by personal pension schemes and some occupational schemes, including master trusts)** – contributions, net of basic rate tax relief, are paid out of the member's net pay and the scheme reclaims basic rate tax relief from HMRC. Members paying tax at rates higher than basic rate can claim any extra relief from HMRC via self-assessment.

Those whose earnings are below the basic rate threshold will not receive tax relief on contributions made under net pay schemes because their earnings are not subject to tax in the first place. However, members of RAS schemes receive a top-up equivalent to basic rate tax relief at 20%, even if they do not pay income tax due to low earnings. This anomaly for low earners (mostly women) has come under increasing focus following the introduction of auto-enrolment and the fact that many low earners are being automatically enrolled into schemes that use the net pay system.

The government is concerned with this discrepancy and has put forward potential options and is seeking views on possible solutions. The consultation closes on 13 October 2020.

# Interim regime for DB superfunds

The Pensions Regulator has published new guidance for those setting up and running defined benefit (DB) commercial consolidators (so-called superfunds). The consolidation of DB schemes was one of the topics discussed in the government's 2018 white paper – *Protecting defined benefit pension schemes*. Later that year, the Department for Work and Pensions (DWP) consulted on a new legislative framework for authorising and regulating such superfund schemes but a response is still awaited.

The Regulator's guidance is intended to provide an interim framework for regulating superfunds, ahead of the government putting legislation in place. It sets out the standards schemes will be expected to meet, to ensure that they are well-governed, run by fit and proper people, and backed by adequate capital. Superfunds will be assessed and regulated against these standards.

The Regulator defines a superfund as a model that allows a sponsor to sever its liability towards a DB scheme, with:

- A bulk transfer of all liabilities to a superfund scheme, with its own trustees, governance and administration; and
- The sponsor being replaced, with a new employer (which may be a special purpose vehicle) providing a capital injection to support member benefits.

This interim regulatory regime is intended to ensure that clear rules are in place as these models emerge, and to provide security for members. Superfunds will be expected to explain how they meet the expectations outlined in the guidance before transacting. Ongoing supervision will then take place.

Existing sponsors of pension schemes are expected to apply for clearance before any transfer to a superfund takes place. In line with the regulatory gateway proposed in the DWP consultation, the Regulator does not expect superfunds to accept transfers from schemes that have the ability to buy-out in the foreseeable future (an example of five years is given).

Some key areas of the regime are:

**Capital adequacy** - the superfund model is intended to give a very high degree of certainty that member benefits will be paid in full, even if the superfund were to exit the market. To achieve this, capital requirements will require superfunds to have:

1. Technical provisions at least as prudent as a reference basis, including a discount rate of gilts plus 0.5% p.a.
2. A market risk capital buffer that, when added to scheme assets, gives a 99% chance of being fully funded on a technical provisions basis in five years' time.
3. A further capital buffer for longevity risk.

At least initially, while different models emerge, no superfund investor will be able to extract profits until all member benefits are secured with an insurance company.

**Financing strategy** – a superfund's investment strategy should comply with the seven principles set out in the guidance. Each superfund will need a detailed framework for integrated risk management (IRM), including risk management plans for liquidity, climate change and overall resilience.

**Financial sustainability** – different superfund models will have different long-term goals; these could vary from ongoing self-sufficiency to buy-out. Superfunds should have costed plans for wind-up in all scenarios, including costs.

The guidance also covers people, governance and systems and processes.

## Actions

Trustees of DB schemes should consider whether, in their specific circumstances, a transfer to a superfund might be possible and in members' interests.

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## Investment news

### Compliance statement for CMA Order

From December 2019, the Competition and Markets Authority (CMA) Order introduced new duties for trustees, requiring them to set objectives for their investment consultants and carry out a tender process for fiduciary management services in certain circumstances.

In 2019 the DWP consulted on draft regulations designed to integrate the relevant parts of the CMA Order into pensions law, effectively replacing the Order. Once the DWP regulations are in place, responsibility for enforcement will transfer from the CMA to the Pensions Regulator. Final regulations were expected to be in place from April 2020 but are still awaited – therefore, until they come into force, trustees should continue to comply with the CMA Order.

In June the CMA published an update on the process and timing for various parties (including trustees of pension schemes) to submit compliance statements that confirm the extent to which relevant parts of the Order have been complied with. Trustees must send a compliance statement to the CMA by 7 January 2021 in relation to their duties.

In future (once the DWP regulations are in place) reporting of compliance will be done to the Pensions Regulator via the scheme return.

## Action

Trustees will need to submit a compliance statement by 7 January 2021 in relation to objective setting for investment consultants and any compulsory competitive tenders.

## A reminder: new investment disclosures

New regulations come into effect from 1 October 2020 and 1 October 2021 that require trustees to expand the content of their statements of investment principles (SIPs) and provide additional public disclosures on their investment activities.

The timescales for the new disclosures are not straightforward and are likely to require co-ordination and advance planning between trustees and advisers to ensure compliance. In some cases it may be preferable to plan to comply with the new requirements earlier than is strictly necessary in order to avoid the risk of later non-compliance.

### New content for SIP and DC default SIP

From 1 October 2020, a scheme's SIP, and the separate SIP for any DC default fund (if the scheme has at least 100 members), must be expanded to set out:

- the trustees' policy on arrangements with asset managers, including incentives to make decisions based on medium and long-term performance and how evaluation and remuneration of asset management aligns with the trustees' investment policies.
- additional considerations when setting engagement policies, on capital structure and management of actual or potential conflicts of interest (the considerations already include issues such as performance, strategy, social and environmental impact and corporate governance).

### Annual report content and website disclosure

For schemes required to have a SIP (most schemes with at least 100 members), additional information is required in the annual report and accounts and must be placed on a publicly accessible website. The SIP must also be published on the website, and the website must be signposted from members' benefit statements.

The requirements and timescales depend on whether or not a scheme is classed as a 'relevant scheme' as follows:

#### Relevant schemes

Broadly, these are schemes offering any money purchase benefits other than just AVCs.

These schemes must produce an annual **implementation statement** that includes information on the extent to which the SIP has been followed, whether or not the SIP has been reviewed and a description of the trustees' voting behaviour (including any proxy they use) during the year. The implementation statement must be included in any report and accounts finalised on or after 1 October 2020 and published on a website from the date the report and accounts are finalised. *Guidance issued by the DWP states that information on the voting behaviour needs only to be provided by 1 October 2021, but in practice, this is likely to mean it is appropriate to include the information in any scheme report and accounts signed off after 1 October 2020.*

#### Other schemes

These are schemes that are not relevant schemes above, such as DB-only schemes and DB schemes with money purchase AVCs.

These schemes must produce an annual **engagement policy implementation statement**, that includes information on the extent to which the trustees' policy on exercising shareholder rights has been followed and a description of the trustees' voting behaviour (including any proxy they use) during the year. The engagement policy implementation statement must be included in the report and accounts. *According to DWP guidance, the deadline is 1 October 2021, although in practice, this is likely to mean it is appropriate to include the statement in any report and accounts signed off on or after 1 October 2020. The statement needs to be published on a website no later than 1 October 2021.*

## Action

Trustees will need to update their SIP and should liaise with their investment adviser.

Trustees should also ensure their administrator (and others involved in preparing the annual report and accounts) and investment adviser understand when 2020 and 2021 annual report and accounts need to be signed off and when the first implementation statement or engagement policy implementation statement will be needed. For example, if 31 March 2020 accounts do not include the relevant statement, they may need to be signed off before 1 October 2020, which may have an impact on the usual process for producing accounts. In other scenarios it may be desirable to include the statement in 31 March 2020 accounts in order to avoid having to sign off 31 March 2021 accounts before 1 October 2021.

Trustees will need to liaise with their investment adviser to draft the required statements.

Trustees should also consider how the statements will be published on a publicly accessible website by the relevant deadline.



## Guide to effective stewardship

The Pensions and Lifetime Savings Association (PLSA) and the Investor Forum have published joint guidance to help schemes assess the effectiveness of their asset managers' delivery of stewardship. The guide – *Engaging the Engagers* – includes suggested questions for schemes to ask their managers, as well as providing a broader framework for assessing their approach to stewardship and engagement.





## Pension Schemes Bill makes progress

The progress of the Pension Schemes Bill was delayed due to the COVID-19 crisis, but it is now continuing to proceed through Parliament.

We have previously reported on the key features of the Bill, which include strengthening the Pensions Regulator's powers, changes to the scheme funding regime, provisions to support pensions dashboards, a framework for collective money purchase schemes (otherwise known as CDC schemes); and provisions to restrict statutory transfer rights, in order to help prevent pension scams.

A number of amendments have been introduced as the Bill progressed through Parliament, notably a requirement for schemes to report on their climate change strategies.

The Bill has completed its passage through the House of Lords and had its first reading in the House of Commons on 16 July. The Treasury has also published draft tax legislation to enable CDC schemes to operate as UK registered pension schemes from April 2021.

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## Equalising for GMPs – an update

### Lloyds supplementary hearing

Back in 2018 the High Court ruled in the Lloyds Banking Group case that trustees have a duty to equalise benefits for the effect of unequal guaranteed minimum pensions (GMPs). The third hearing relating to this case took place in May 2020 and the judgment is expected in the summer. The main focus of this hearing was whether the trustees are obliged to revisit transfers out of the scheme prior to October 2018 and, if so, the method that should be used and whether discharges and limitation periods affect this obligation.

### Industry guidance

In July the cross-industry GMP Equalisation Working Group (GMPEWG) published guidance on the data required for GMP equalisation. It sets out high-level considerations for how trustees can get their data ready for the GMP equalisation exercise, and more detailed consideration of some of the known issues. It is intended to be read alongside the GMPEWG's earlier guidance on methodology.

Also in July, HMRC released its latest guidance on tax issues arising from GMP equalisation, which addresses the tax position of various lump sums that may require a top-up because an unequalised lump

sum was paid out previously. HMRC confirms that in most cases lump sums will not become unauthorised just because a top-up is now due, however, there are exceptions. In particular, trivial commutation lump sums rely on the combined value of benefits in all schemes, rather than the amount of lump sum actually paid, being below a threshold – so additional benefits resulting from GMP equalisation could mean that the member was not entitled to take the original trivial lump sum.

The PLSA has published a *GMP equalisation made simple* guide to help trustees prepare for and begin GMP equalisation for their scheme. It says that equalisation is a long process with no complete roadmap available but urges schemes to engage actively with the task – uncertainty should not be an obstacle to making a start and completing the preliminary work will offer greater insights into the project.

### Action

**If they have not already done so, we suggest that trustees and employers discuss GMP equalisation with their advisers and agree how best to proceed.**



# Pension costs and transparency

## Review of cost disclosure and DC charge cap

The DWP has launched a call for evidence on how effective costs, charges and transparency measures are in protecting member outcomes. In particular, the DWP is looking for views and evidence on:

- the level and scope of the charge cap that applies to default arrangements within certain DC schemes used for auto-enrolment.
- the appropriateness of permitted charging structures and the extent to which they should be limited.
- options to assess take-up and widen the use of standardised cost disclosure templates.

Although mostly of relevance to DC arrangements, one of the questions asks if DB schemes should be required to adhere to the same standards.

The charge cap was introduced in April 2015 and is currently set at 0.75% of funds under management. The government reviewed the cap in 2017 and decided at the time that it would not make any changes but committed to a further review in 2020. Among other things, the government asks whether transaction costs and other costs associated with life assurance products should be included in the 0.75% cap; and it is looking for views on lowering the level of the cap and restricting the use of flat fee structures for small pots.

The DWP is also exploring how best to increase take up of the CTI templates (see below) as a standardised form of cost disclosure. The DWP suggests encouraging wider adoption of the templates by legislating for trustees to report on their usage via the scheme return, but compulsion is a possibility.

This call for evidence closes on 20 August and the government intends to report on its findings later this year.

## CTI launches new tools

A year after launching, the Cost Transparency Initiative (CTI) has released additional resources on its website. The CTI is a partnership between the PLSA, the Investment Association and the LGPS Advisory Board, aimed at helping institutional investors better understand their investment costs. Last year it launched a set of templates designed to allow asset managers to report costs and charges in a standardised format so that trustees can make clear comparisons across their investment managers and asset classes. The latest tools include a new fiduciary management template, additional reporting fields on the liability driven investments template, and additional case study and webinar resources.

## DC news

### FCA consults on value for money

The FCA is consulting on driving value for money in contract-based schemes such as group personal pensions. This follows a review by the FCA which highlighted that there is currently a lack of consistency in the way independent governance committees (IGCs) operate. Therefore, the consultation aims to make it easier for IGCs to compare the value for money of pension products and services, enabling them to be more effective in their assessment of value for members.

The proposals stem from the FCA's ongoing work with the Pensions Regulator on a joint regulatory strategy, one aim being to promote a consistent approach to assessing value for money across the pensions industry. The consultation includes proposals for a simple framework for the IGC annual assessment process, including a definition of value for money. The definition is intended to be specific to the role of the IGC and aligned with the Pensions Regulator's DC code. The consultation identifies three key elements of value (charges and costs, investment performance, and quality of service) that IGCs can consider when conducting their assessments. There are also proposals for IGCs to compare the value for money of their schemes against comparable schemes using publicly available information, and to explain their overall assessment in their annual reports.

The consultation runs until 24 September and the FCA will publish its final rules in Q4 2020. The FCA and the Pensions Regulator also plan to publish a discussion paper that will review possible options for metrics to measure value for money and for benchmarking.

### Savings goals for retirement

The Institute and Faculty of Actuaries has published the first in a series of five papers on savings goals for retirement. This first paper explores the risks to staying on track for younger DC savers, particularly in the context of the pandemic. It introduces a simple rule of thumb to help members check whether they are on track to meet their retirement expectations, with reference to the PLSA's retirement living standards (on which we reported in the [February edition](#) of In Sight).

### Inquiry into impact of pension freedoms

The Work and Pensions Committee has launched the first strand of a three-part inquiry into the impact of the pension freedoms. The 2015 changes aimed to give members with money purchase benefits more flexibility over how and when they could access their retirement savings. The broad investigation will look at how such people are protected as they move from saving for retirement to using these pension savings.

For the first part, the inquiry will look at pension scams and what more can be done to prevent them - the deadline for submissions is 9 September. The inquiry will then move on to looking at accessing pension savings and saving for later life, with a further call for evidence likely next year.

# News round-up

## FCA makes changes to DB transfer advice

The FCA has published final rules to implement a package of measures designed to improve the quality of DB transfer advice in the IFA market and to remove conflicts of interest. The rules are broadly as consulted on last year, including:

- A ban on contingent charging whereby the adviser is only paid, or paid much more, if the person decides to take a transfer. The FCA wants to remove the conflict of interest present in such charging structures that can result in unsuitable advice. Therefore, firms will have to charge the same amount irrespective of whether a member transfers, except in limited circumstances, such as serious ill-health or financial hardship.
- Limiting the ability of IFAs to recommend transfers that incur unnecessarily high ongoing charges by requiring them to articulate why a transfer to the member's current workplace DC pension (which by definition does not require ongoing advice) is not more suitable.
- Introducing an abridged advice process for recommendations not to transfer that would filter out members for whom a transfer is not suitable without the need to pay for full advice.
- Empowering members with a new checklist so they can ask the right questions of the IFA during the advice process and improve how advisers disclose charges to members to help them make informed decisions.

Most of the changes come into force on 1 October. A further consultation is running until 4 September, on proposed guidance about what is expected from firms advising on DB transfers, intended to further improve the suitability of DB transfer advice.

## Action

Where they have not already done so, employers and trustees may wish to consider appointing a preferred IFA to provide advice for scheme members, as the changes may lead to a contraction of the IFA market and hence a shortage of transfer advice specialists.

## Pensions dashboard data standards

The Pensions Dashboard Programme (PDP), set up by MaPS, is responsible for designing and implementing the structure that will make dashboards work. In July it launched a call for input on data standards for the initial pensions dashboard. This follows publication of two working papers in April that set out the PDP's emerging thinking on data scope (options for achieving comprehensive coverage across all pension sectors) and data definitions (a list of data items). Responses are requested by 31 August. The first version of the data standards is due to be published in the autumn and will then be subject to testing.

To accompany the launch, the Pensions Minister published a blog on realising the potential of pensions dashboards, noting that it is essential for schemes to be on the front foot and to get their data ready as soon as possible. With that in mind, he has written to a number of large pension schemes and providers asking about the readiness of their data for pension dashboards.

## MaPS encourages financial wellbeing

Even before Covid-19, there was an increasing focus on supporting financial wellbeing in the workplace. The Money and Pensions Service (MaPS) is now encouraging people to pay extra attention to their financial wellbeing during the pandemic, and to consider what protective steps they can take now to avoid money worries later on. It has released an online tool to help people navigate their finances in the wake of coronavirus. The Money Navigator asks a short series of questions about an individual's financial situation, before providing guidance that is personalised according to their needs. It will highlight areas where they should consider taking action most urgently to avoid money problems later on.

MaPS has been tasked with coordinating a national strategy to improve the country's financial wellbeing after research by the Organisation for Economic Co-operation and Development (OECD) found that the UK is well down the rankings of G20 countries in terms of financial wellbeing. It has launched a strategy for the next decade that will encourage regular saving and help ensure people understand enough to plan for and during retirement.



## Pension tracing service website

It has come to light that the DWP and a number of pension schemes have been using an incorrect link for the government's free Pension Tracing Service. Instead, they have directed members to a firm of financial advisers using a similar sounding name.

## Actions

Trustees and administrators should check that they are providing a link to the official government website for members searching for lost pension benefits, which is [www.gov.uk/find-pension-contact-details](https://www.gov.uk/find-pension-contact-details)

# Cases

## Court rulings on switching from RPI

Several recent High Court judgments have continued the series of cases that consider how some schemes can change the way in which they grant pension increases, in the context of a possible switch from RPI to CPI.

In *Carr v Thales Pension Trustees*, the High Court dismissed an appeal against a Pensions Ombudsman determination that increases should be calculated in line with RPI capped at 5%. The pension increase rule had become inconsistent in its reference to legislation, as it referred explicitly to the increase in RPI as specified in the official measure (which is now based on CPI). A notable aspect of the case is that a complaint to the Pensions Ombudsman was a means to challenge a switch from RPI to CPI.

In *Ove Arup v Trustees of Arup UK Pension Scheme*, the High Court rejected the employer's attempt to compel the trustees to change the index for pension increases from RPI to CPI. The rules allowed some flexibility if the Index was 'replaced'; the employer argued that RPI had functionally been replaced by CPI/CIPIH, but the Court held that the Index had not been replaced in its fullest sense.

As with similar cases, both judgments hung on their own specific facts and, in particular, the precise wording of the scheme rules.

However, in *Univar UK Ltd v Smith & Ors*, the High Court granted permission to change the basis of a scheme's pension increases from RPI to CPI. It was argued that RPI had been hardcoded into the 2008 rules by mistake because it was the statutory basis at the time. The Court agreed that this was not the intention and gave permission for the scheme rules to be rectified.

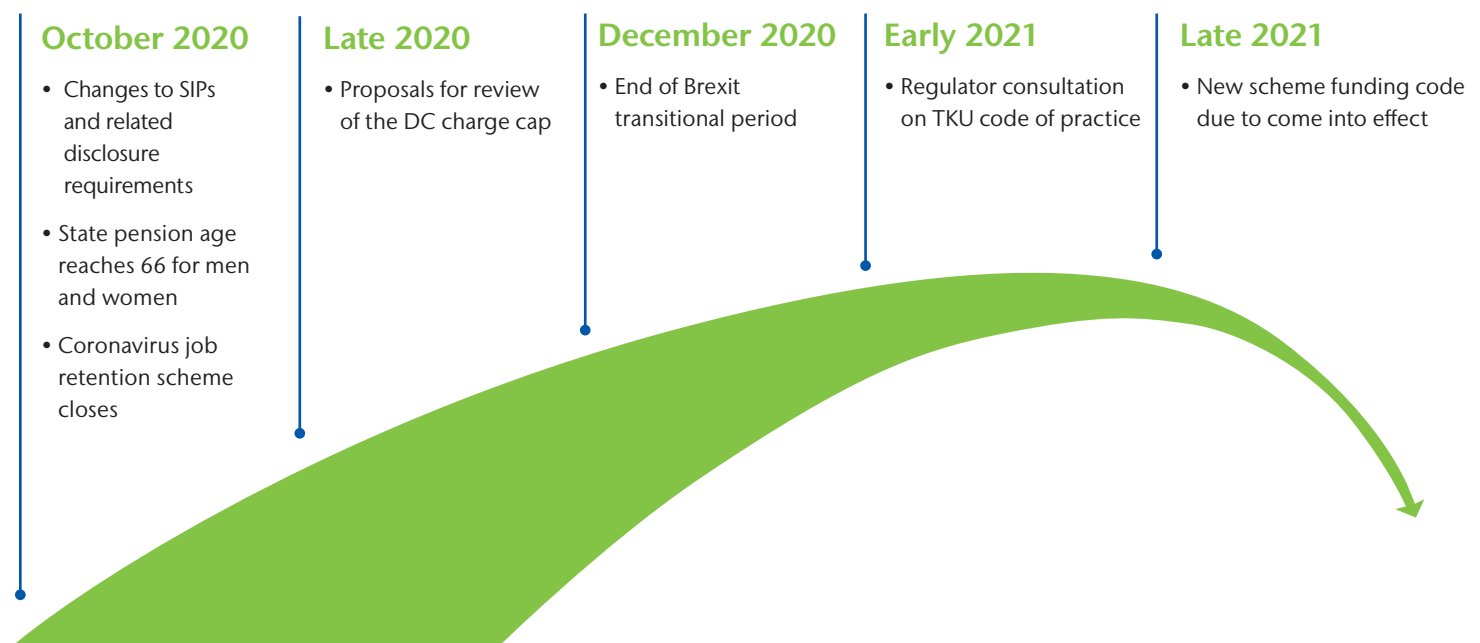
## PPF compensation cap discriminatory

The High Court has ruled that the Pension Protection Fund (PPF) compensation cap constitutes unlawful discrimination on the grounds of age. Broadly, the compensation cap is a limit on the amount of pension payable by the PPF which only applies to members who are under normal pension age (NPA) at the date the scheme is assessed for PPF admission.

In *Hughes v PPF*, claimants from several schemes sought a judicial review covering several matters in relation to PPF compensation. The review found that, amongst other things, the different treatment of those above and below NPA was not objectively justifiable. The government is considering how to respond but, if the ruling is upheld, the structure of PPF benefits will need to be amended. The government is already considering how to amend PPF benefits following the ECJ rulings in the *Hampshire and Bauer* cases. In the meantime, the PPF will continue to pay the current level of benefits. The impact on PPF levies is unknown at this stage.

# On the horizon

Here are some key future developments likely to affect pensions:





# Training and events

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

*To mitigate the risk and further spread of COVID-19, Aon is providing some of these courses via webinar – please contact [pensionstraining.enquiries@aon.com](mailto:pensionstraining.enquiries@aon.com) to register.*

You can find a copy of our training brochure at [aon.com/pensionstraining](http://aon.com/pensionstraining)

Pensions training courses	Dates
Defined Benefit – part 1	16/17 September (Webinar), 17 November
Defined Benefit – part 2	10/11 September (Webinar), 8 December
Defined Benefit Trustee Essentials (two days)	2020 – 7/8 October (Surrey) 2021 – 7/8 July (Surrey)
Defined Contribution	22/23 September (Webinar)
Pension Governance Committee (half day)	30 September (Webinar)
<b>Other events</b>	
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 to: <a href="http://www.aon.com/unitedkingdom/events">http://www.aon.com/unitedkingdom/events</a>	

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### About Aon

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