



Happy holiday reading

Pensions Agenda

December 2022

1. LDI and liquidity

The bodies that regulate the funds industries in Ireland and Luxembourg have **issued a statement** recognising the improved resilience of sterling LDI Funds in Europe. The Pensions Regulator **welcomed** this statement and has **issued guidance** of its own. The guidance calls on trustees to ensure an appropriate level of resilience in LDI arrangements so they can better withstand a fast and significant rise in bond yields. Trustees should also, where appropriate, improve their scheme's operational governance. The guidance sets out in some detail what the Regulator's expectations are in relation to both resilience and governance.

Action – Consider any investments in LDI funds in the context of the Pensions Regulator's statement and whether any updated or additional governance processes are required. For suggestions on what trustees should be doing in relation to LDI, see our **speedbrief**.

2. Pensions dashboards

The final version of the **dashboard regulations** has now been issued and came into force on 12 December 2022. Staging begins on 31 August 2023 and the majority of schemes with over 1000 active and deferred members will be required to stage by 30 September 2024. There is no date yet for dashboards to go live to members, but the Government will need to give schemes 6 months' notice of this. The Pensions Regulator has issued a **draft compliance and enforcement policy** setting out when it expects to use its powers in relation to dashboards. The Pensions Dashboard Programme has also issued final versions of the **technical dashboard standards** that schemes will need to comply with and is **consulting on the design standards** for how information will be displayed.

Action - Make sure scheme staging dates are identified and an action plan is in place to ensure that the scheme will be dashboard-ready. Talk to administrators or third party providers to ensure that they have sufficient capacity to take the required actions.

3. Corporate activity

The Pensions Regulator has **issued a blog post** setting out its expectations around corporate mergers and acquisitions. It says that the Regulator monitors corporate activity and expects both sponsors and bidders to involve trustees at an early stage. It also expects the position of the scheme to be considered, and that bidders will enter into binding agreements with trustees before completion. There is still no sign of final regulations implementing an **updated notifiable events regime** requiring notification to be given to the Pensions Regulator and trustees about various forms of corporate activity.

Action - Be alert to any corporate activity which might affect any DB schemes and consider the Pensions Regulator's expectations. Watch out for developments in relation to notifiable events.

4. Data protection and overseas transfers

The Information Commissioner's Office has issued final guidance on **overseas data transfers**. Where data is transferred to another country which has not formally been found to have adequate data protection laws (broadly, anywhere outside the European Economic Area), additional safeguards will need to be put in place to ensure that data will be kept secure. The ICO guidance confirms that this will be the responsibility of the party actually transferring the data, and **provides tools** on how to assess the risk of transfers. Where data is kept secure through the use of standard contractual terms, all new contracts will need to use the new terms adopted this year and the guidance sets out the timeline for updating terms in existing contracts.

Action - Consider whether any overseas data transfers are made and what steps need to be taken to ensure that data is kept secure.

5. Transfers

A review of the [transfer conditions](#) implemented in November 2021 is due in May 2023 and DWP has continued to engage with the industry about the issues that they have caused – in particular, where legitimate transfers have amber or red flags associated with them because, for example, the receiving scheme has overseas investments. The Pensions Regulator has also [issued a statement](#) cautioning members and schemes about the increased risk of scams in the current economic climate and asking trustees to ensure members are aware of the risks.

Action - Consider whether any changes need to be made to transfer due diligence and member communications on transfers in light of the Pensions Regulator's statement and look out for updates on the transfer conditions.

6. PPF

The PPF has issued its [final levy rules](#) for 2023/24. There will be a significant reduction in the levy with the result that 98% of schemes are expected to pay less. No significant changes are being made to the way the levy works, although some of the easements put in place for the pandemic will fall away. In exploring the development of the levy in the future, the PPF's policy statement confirms that *"the principle that schemes that pose more risk, should pay more"* will inform its thinking. Finally, as it continues to limit the impact of European law on UK law, the [Government has confirmed](#) that it is not intending to preserve the EU cases (such as [Hampshire](#)) extending PPF compensation.

Action - The 2023 levy deadlines are set out [here](#). Keep a watching brief on any changes to the compensation payable by the PPF. Identify what documents will need to be submitted and by when.

7. DC schemes and illiquid assets

The Government [has consulted](#) on proposals that would **require** trustees of DC schemes with default funds to set out their policy on investing in illiquid investments and provide details of any such investments held in their statements of investment principles (SIP) when they are updated from October 2023. There will also be provisions allowing performance fees to be excluded from the default fund charge cap to facilitate such investments. The Productive Finance Working Group has [issued guidance](#) to help trustees investing in illiquid assets and the Pensions Regulator has also [highlighted](#) some issues to consider.

Action - Watch out for developments and final regulations and, where this is relevant, consider what amendments will need to be made to default fund SIPs.

8. Trust registration service

New, non-exempt trusts **have 90 days** to ensure that they register with HMRC's [trust registration service](#). Registered pension schemes are exempt, as are insured life cover arrangements (provided any death benefits payable are distributed within 2 years from the date of death). However, unregistered pension schemes and any separate trusts holding death benefit lump sums beyond the 2-year window are not exempt and must register. In addition, it is worth a reminder that all trustees, including registered pension scheme trustees, are [required to keep records](#) in relation to the beneficial owners of their trust and to produce those records when requested by certain people.

Action - Identify whether there are any trusts which require registration and consider whether all anti-money laundering records are up to date. See our [speedbrief](#) for more information on how and when to register.

9. Scheme funding

Draft Regulations were issued back in July which set out details on how the new DB funding regime will work. Schemes must aim to be fully funded on a low-risk basis by the time they are "significantly mature". Significant maturity will be defined in the new DB funding code and is to be measured by the duration of liabilities. It is understood that the Regulator is likely to issue a new draft DB funding code early in 2023 and that the final funding regulations are likely to come into force in October 2023.

Action - Watch out for the draft funding code early next year and identify the first scheme valuation likely to be covered by the new requirements.

10. Single code of practice

In 2021, the Pensions Regulator [consulted on its new single code of practice](#), which will set out the internal controls and governance processes that the Regulator considers schemes should have in place and how they should be monitored and reviewed. It seems likely that this code will also be issued early in 2023.

Action - Watch out for the new code early next year and identify any deadlines for new policies. Consider carrying out a gap analysis to identify any additional governance processes that the new code might require.

Key dates for pension diaries

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| December 2022 | Dashboard regulations come into force and contain scheme staging dates and dashboard obligations | Identify staging dates and have action plan in place. |
| 27 December 2022 | Existing contracts providing for overseas data transfers need to be updated to include new safeguards where data includes EU data. | Identify which contracts might be affected and which provisions will need to be updated. |
| January 2023 | The Pensions Regulator has indicated that it intends to lay the new single code of practice before Parliament early next year – no date has been specified. | Consider carrying out gap analysis to identify what new governance processes might be required. |
| January 2023 | Draft funding code of practice expected. | Review draft and consider implications. |
| Spring 2023 | Still awaiting new notifiable events provisions (which will require notification of certain corporate transactions) to come into force. | For more detail about the new requirements, see our Guide to the Pension Schemes Act 2021 |
| May 2023 | DWP committed to a review of the new transfer conditions within 18 months of them going live. | Watch out for any proposed changes. |
| August 2023 | From August 2023 onwards schemes will need to connect to the dashboard ecosystem – the exact date will depend on size and type. | Identify dashboard connection date and consider what needs to be done to get ready. |
| 1 October 2023 | New version of AS TM1 which sets out the assumptions for money purchase illustrations comes into force. | Consider whether it will result in changes in DC benefit projections. |
| October 2023 | The new funding regime is likely to come into force in the Autumn. | Watch out for final details. |
| 21 March 2024 | Existing contracts providing for overseas data transfers need to be updated to include new safeguards. | Identify affected contracts and required amendments. |
| 6 April 2028 | Normal minimum pension age will rise from age 55 to 57 but some members may retain a right to retire at 55. | Consider when to tell members and what protections are available. |
| 2030 | RPI likely to be aligned with CPIH. | Consider likely impact on scheme investments and benefits. |

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