



# Blooming marvellous? Pensions Agenda

May 2022

## 1. Pensions Regulator powers

The Regulator has finalised two policies setting out how and when it will exercise its powers to impose fines of up to £1 million. One relates to fines in respect of failing to comply with the Regulator's **information gathering powers** and **the other** to avoiding employer debts or conduct risking accrued benefits. The Regulator has also issued a consultation on a **draft prosecution policy** setting out how it will use its powers to impose criminal sanctions and a **draft enforcement policy** on how it will use its powers more generally and choose which powers to use.

**Action** – Ensure that sponsors and trustees are aware of both the Regulator's new and existing powers and when it will use them. More details on the Regulator's new powers are in our [Guide to the Pension Schemes Act 2021](#).

## 2. Stronger nudge

**New requirements** will come into force on 1 June 2022 which will require trustees to nudge members with DC benefits (including DC AVCs in DB plans) towards guidance from Pension Wise where they apply to access those benefits or, where they are over age 50, to transfer them. Unless the individual receives the guidance or opts out in a permitted manner, trustees will not be able to proceed with their application. The Pensions Regulator has updated its guidance on **communicating with DC members** to reflect these new requirements.

**Action** – Consider whether the stronger nudge requirements will apply to any plan benefits and ensure appropriate processes are put in place. More details about the new requirements are set out in our [speedbrief](#).

## 3. Scheme funding

The Regulator has issued its **annual funding statement** which sets out its expectations for plans with valuation dates between September 2021 and 2022. It cautions against paying dividends where a sponsor cannot support a plan and highlights factors for trustees to consider in light of the current economic conditions and the pandemic. Indications continue to be that draft funding regulations will be issued soon and then a revised draft of the funding code will follow after.

**Action** – If the plan has a valuation date in the period covered by the funding statement or is revisiting funding arrangements, consider how to take the funding statement into account. Otherwise, keep an eye out for the draft funding regulations and code of practice. There is more detail in our [speedbrief](#).

## 4. GMP equalisation and conversion

HMRC has issued **guidance** on top-up transfer payments and GMP conversion. It confirms that from a tax perspective, those entitled to a top-up transfer payment are deferred members and, if other conditions are satisfied, a top-up can be paid as a lump sum. It also sets out the annual allowance position for pre and post April 2006 deferred members. In addition, a **new Act** will facilitate conversion in the future (once regulations have been issued) as it allows for changes to the spouse's pensions that need to be provided post-conversion and the consents that need to be obtained.

**Action** – Part of GMP equalisation exercises should involve considering past transfers (see our [speedbrief](#) for an explanation of why) and this guidance should be taken into account when dealing with the issue. It is also relevant if considering conversion.

## 5. Data transfers

On 21 March 2022, the UK **updated the safeguards** which can be used for transferring personal data outside of the UK and Europe. From 21 September 2022, new contracts involving overseas data transfers will need to use the updated safeguards. They will also be required for transfers under existing contracts that change (e.g. where new data fields or recipients are added). Where processing remains unchanged under existing contracts, the new safeguards will not need to be added until 21 March 2024 unless the agreement covers the **transfer of EU data** (e.g. where members are based in Europe), in which case they will need to be incorporated by 27 December 2022.

**Action** – Identify whether there are any existing contracts which provide for transfer of member data outside of the UK and European Economic Area and consider when they will need to be updated. Ensure that terms for new contracts are updated before 21 September 2022.

## 6. Dashboards

Work continues on introducing pension dashboards in 2023 and the Government currently remains committed to that deadline. The **Pensions Dashboard Programme** is developing the technical standards that plans will need to comply with to connect to the dashboards and has issued a **draft code of connection** setting out the required security and operational standards which will need to be followed. The Regulator is aiming to contact trustees at least 12 months ahead of their proposed staging deadline, to help them to prepare sufficiently and on time – this will start in May 2022.

**Action** – Proposed staging dates vary depending on plan type and size. Check the **draft regulations** for likely dates and work on ensuring that data is dashboard ready. Where dashboard compliance is being outsourced, consider liability provisions in contracts. For more information, see our **speedbrief**.

## 7. Corporate transparency

The Government has issued a **white paper** which confirms that it is planning to bring into force legislation which will require corporate entities who act as directors to only have natural persons as directors themselves. There will also be a new identity verification process for new and existing directors and anyone with significant control over a company and some additional reporting requirements in relation to anyone that has significant control. There will be penalties for non-compliance.

**Action** – Consider whether the proposals will cause problems for any existing trustee structures and how the new identity verification processes can be complied with.

## 8. Trust registration

Updates to **anti-money laundering legislation** mean that from 1 September 2022 the majority of express trusts will need to register with HMRC's trust registration service and provide prescribed information. **HMRC guidance** sets out which trusts will need to register and the information they will need to provide. This excludes (amongst other things) **registered pension schemes** and **insured death benefit trusts**. However, unregistered funded schemes, uninsured and other death benefit trusts created where assets are not distributed after two years are included and will require registration.

**Action** – Consider whether there are any death benefit or other trusts that might be caught by the new registration requirements – this may involve checking plan rules to determine if trusts are deemed to be created where death benefits are not distributed within two years. For more details on these requirements, see our **speedbrief**.

## 9. Investment and natural capital

The Taskforce for Nature-Related Financial Disclosures has **consulted** on a framework for governance and disclosure around nature-related risk in investment. In a **recent article**, the Pensions Minister said "*pensions can play a crucial role in driving forward [the Government's] pledge to protect precious natural habitats and reduce emissions*" and welcomed the movement of the portfolios of a number of pension plans "*away from activities that are driving deforestation*".

**Action** – Be aware of the drive to incorporate the impact on nature into investment decision making and consider the extent to which such issues constitute a financially material consideration that should be taken into account in plan investment. For more information, see our **briefing**.

## 10. Single code of practice

Last year, the Pensions Regulator **consulted on its new single code of practice**. This will set out the internal controls and governance processes that the Regulator considers plans should have in place and how they should be monitored and reviewed. The Regulator **has said** that it expects the final version of the code will be ready in the summer.

**Action** – Watch out for the new code 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. For more detail on the single code, see our **speedbrief**.

For more information on how we can help you please contact:



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## Key dates for pension diaries

Date	Change	Action
May/June 2022	Consultation due on new draft funding regulations which will require trustees to have a long term funding and investment strategy	Watch out for the consultation and consider whether to respond. For more detail, see our <a href="#">Guide to the Pension Schemes Act 2021</a>
1 June 2022	Stronger nudge requirements will apply where DC beneficiaries apply to access their benefits or (where they are age 50 or above) to transfer them. Unless a beneficiary is exempt, trustees will need to offer to arrange a guidance appointment	Have processes in place to check if exemption applies and, if not, to offer to arrange an appointment with Pension Wise
July 2022	The Pensions Regulator has indicated that it intends to lay the new single code of practice before Parliament in the summer – no date has been specified	Consider carrying out gap analysis to identify what new governance processes might be required
31 July 2021	DC plans with assets of less than £100m preparing chairs' statements (for year ends after 31 December 2021) need to include new value for members information	Consider whether these requirements will apply and what information will be needed
August – September 2022	The Pensions Regulator has said that it intends to consult on the new funding code of practice in late summer – no date has been specified	Watch out for the consultation and consider whether to respond
1 August 2022	Legislation setting out the details of the new Collective Money Purchase Schemes comes into force	For more details, see the <a href="#">final regulations</a>
September 2022	Possible further consultation on dashboard regulations following "indicative" draft regulations earlier in the year.	Watch out for developments and identify staging date
21 September 2022	New contracts dealing with transfers of personal data outside of the EEA should include new safeguards	Update contractual terms and be aware of which contracts might be affected
1 October 2022	New simpler annual statement requirements come into force for DC only plans used for auto-enrolment	In-scope plans will need to ensure that statements issued after this date fit on two sides of A4
1 October 2022	The climate change reporting requirements will extend to plans with £1bn or more of assets. In addition, it is proposed that in-scope plans will need to report against an additional metric	If a plan is in scope of the climate change requirements, compliance work should already be underway
6 October 2022	Possible date for new notifiable events provisions (which will require notification of certain corporate transactions) to come into force as original April date missed	For more detail about the new requirements, see our <a href="#">Guide to the Pension Schemes Act 2021</a>
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
June 2023	From June 2023 onwards it is proposed that plans 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 should come into force	Watch out for final version
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