



No lazy days ahead

UK Pensions Agenda - Summer 2021

1.

GMPs – The Pensions Administration Standards Association has published **guidance on GMP conversion**. The guidance outlines some of the key issues that plans will need to address when deciding whether to convert GMPs. It also looks at potential tax issues that can arise and various approaches that different plans have taken to them.

Action: If considering conversion as a solution to GMP equalisation, the guidance does not provide solutions to all potential conversion issues but does provide some insight into what other plans are doing.

2.

Transfers – **Draft regulations** have been issued which set out additional conditions that will need to be met before a member can exercise a statutory right to transfer to another plan. These changes are aimed at combatting scams and where transfers are not to certain types of plan which are considered to be secure (including master trusts, personal pension plans and public sector schemes) trustees will need to consider issues such as whether the member has a genuine employment link with the receiving arrangement and whether any red flags which would potentially indicate a scam are present.

Action: Consider what changes will be needed to existing transfer due diligence processes and ensure that they can be put in place by the time the new requirements come into force. For a more detailed explanation of what conditions will need to be met, see our **speedbrief**.

3.

Chair's statements and value for members – The Government is going ahead **with legislation** which will require DC schemes to set out net investment returns in chair's statements for the first plan year ending after 1 October 2021 and put this information on a website. In addition, for plan years ending after 31 December 2021, where the plan is at least 3 years old and has assets of less than £100 million, trustees will need to assess key elements of the value to members relative to at least 3 larger plans and report on this in the chair's statement and to the Pensions Regulator.

Action: Where relevant, ensure that net investment return information is available and a value assessment can be carried out within appropriate timescales. The Government has issued **draft statutory guidance** to help with this process.

4.

Climate change – **The Regulations** which set out the climate change governance reporting requirements that trustees of larger plans and master trusts will need to meet have now been finalised. There is also **statutory guidance** and the Pensions Regulator has issued **draft guidance** on its expectations around climate change and when it will look to impose penalties. The Regulator is clear that climate change is an issue which is potentially relevant to all plans and which trustees should in general have regard to.

Action: Where a plan is in scope for the new statutory climate change requirements, continue taking appropriate steps to action them. For more details of which plans are in scope and what is required, see our **speedbrief**.

5.

Dashboards – The Pensions Dashboard Programme is **consulting on staging dates** for plans to provide information to the dashboards. The intention is for master trusts and personal pension plans to stage in April 2023 with DC and hybrid plans used for auto-enrolment with over 1000 members and larger DB schemes staging later in 2023. The remaining plans will generally stage by April 2025.

Action: Consider what needs to be done to ensure that plan data is ready for the dashboards and that member benefits can be digitally identified. For more information see our **speedbrief**.

6.

Levies – The **Court of Appeal** has confirmed that the cap on PPF compensation for members who are under their plan's normal pension age when it enters a PPF assessment period is age discriminatory, which could have slight implications for the PPF levy. The government **is also looking at** how the fraud compensation fund can collect enough money to meet potential claims now that the courts have confirmed that pension liberation schemes can be eligible to claim from it.

Action: Keep an eye out for further updates on what future levies are likely to be and ensure that they are factored into contribution schedules. There are more details in our **speedbrief**.

7.

Communications with DC members – **Draft regulations** have been issued which will require trustees to "nudge" DC members over age 50 who want to access their benefits or take a transfer towards Pensions Wise guidance. This will include offering to arrange a guidance appointment for the member. In addition, the **Government has confirmed** that it is going ahead with new legislation which will require DC plans used for auto-enrolment to ensure that members' annual benefit statements fit on two sides of A4.

Action: Where applicable, consider what changes will be needed to annual statements and how the new nudge requirements should be implemented. For more information on the simpler annual statement, see our **speedbrief**.

8.

Annual funding statement – The Regulator has issued its **annual funding statement** which applies to plans with valuation dates between September 2020 and September 2021 but is useful reading for any trustees undertaking funding reviews. In particular, the statement highlights the impact of the pandemic, changes to RPI, "own risk assessments" (in accordance with the **draft single code of practice**) and new corporate tax reliefs.

Action: If any funding or risk reviews are being undertaken, consider the funding statement. There is more detail in our **speedbrief**.

9.

Pensions Regulator powers – The Regulator has issued a **draft code of practice** on factors it will take into account when exercising its moral hazard powers. The Government has **also confirmed** the level of fixed and escalating penalties that will be applied from October 2021 where Regulator requests for information or to attend interviews are not complied with – fixed penalties are £400 and escalating penalties can be up to £10,000 a day for a corporate entity and £200 for an individual.

Action: Ensure that all staff are aware of the importance of responding to information requests from the Regulator. Also ensure, where relevant, that there is appropriate dialogue between sponsors and trustees around issues that could give rise to contribution notices under the Regulator's new powers.

10.

Past under-payments – The **High Court has confirmed** that there are generally no limitation periods in relation to claims for underpaid benefits (including GMP equalisation claims). It has also given further consideration to the operation of forfeiture provisions – which in order to be effective, need to spell out very clearly that a member's benefit entitlement is forfeited. The judgment also gives a helpful list of factors that the court considers are relevant to take into account if a plan's forfeiture clause is discretionary.

Action: Where thinking about relying on forfeiture provisions consider how wide they actually are and, if they are discretionary, what factors should be taken into account.

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



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