Hot Topics in Pensions

Autumn 2021

UK – September 2021

The reopening of UK nightclubs and live music venues has inspired us to produce a disco-themed Hot Topics in Pensions this autumn. We turn back time to the 1970s, switch on the flashing lights and invite you to boogie your way through the latest pensions developments with us. Are you in the mood for dancing?

The PSA21 Dons Its Gladrags

The Pension Schemes Act 2021 (PSA21) is starting to flare into force. From 1 October, two new offences (which will attract criminal penalties) of avoidance of an employer debt and conduct risking accrued scheme benefits come into existence. Other measures in force include the new financial penalties regime of up to £1 million for certain acts/failures to act, such as failure to report a notifiable event. The government is currently adding a touch of glitter to the "super" notifiable events regime, which is expected to come into force on 6 April 2022.

Spinning the Decks of ESG

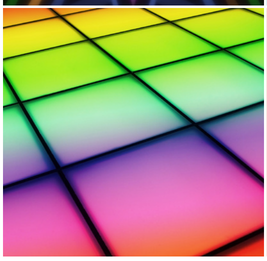
ESG continues to be a groovy topic. The Pensions Regulator (TPR) has consulted on draft guidance to assist trustees of schemes in scope to comply with new climate-related governance and reporting requirements, which come into effect on 1 October 2021. With COP26 taking place in the "funky town" of Glasgow, the government is keen to demonstrate that UK pension funds are playing a part in tackling global warming. Meanwhile, TPR has dropped the proposed 20% limit on investments in unregulated assets from the draft single code of practice that might have impacted certain ESG investment choices. See our #How2DoPensions ESG quick guide.

Warning – Single Code Compliance May Cause Night Fever

The interim response to the consultation on the single code of practice confirms that TPR will reconsider aspects of the Own Risk Assessment and whether more clarity can be provided for public service schemes. The single code is expected to come into force in summer 2022, but we encourage trustees to become familiar with the draft code and consider how to adopt a proportionate approach for their scheme. The work ahead may seem daunting – in fact, at first you may be afraid, you may be petrified – but our one-page roadmap should help you to formulate an action plan.

GMP Equalisation – Money, Money, Money

Guidance from the PASA-led GMP Equalisation Working Group has illuminated the difficult issue of correcting past transfer values. While the judgment known as *Lloyds 3* focused on the obligations of schemes that paid transfer values without taking GMP equalisation obligations into account, the guidance also highlights decisions faced by trustees of defined benefit schemes that received such transfers. For example, how should transferred-in benefits be incorporated into a GMP equalisation exercise? Should top-up payments for underpaid transfers be accepted, and, if so, should additional benefits be provided? Mamma Mia! It is not straightforward.



Freak Out! Pension Age Set to Increase

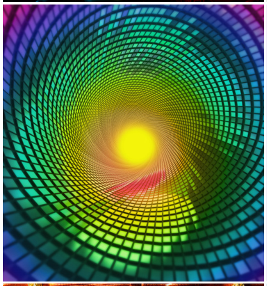
Normal Minimum Pension Age will increase from 55 to 57 from 6 April 2028. Although it is not a tragedy, this development is not top-of-the-pops with pensions professionals and further clarity is needed. There will be a protected pension age for those who are members of a scheme on 5 April 2023 and where the scheme rules on 11 February 2021 conferred an "unqualified right" to take pension benefits below age 57. Some protections will apply where there is a bulk transfer or individual transfer to another provider. Member communications should be updated in due course.

DC Governance Is Jumping and Jiving

New disclosures and reporting requirements apply to "relevant" schemes with defined contribution (DC) benefits (the same schemes that are required to produce a chair's statement). For scheme years ending after 1 October 2021, trustees must state their net returns for the default funds and other funds that members can select. For scheme years after 31 December 2021, schemes with less than £100 million of assets need to demonstrate annually that they offer value for members comparable with larger schemes – otherwise, trustees should look at winding-up the scheme. Statutory guidance should help trustees to keep the beat.

In a Spin About Data Transfers?

Trustees should get their roller-disco skates on, to check whether personal data is transferred outside the UK (including where access to the data is provided to an entity outside the UK) and whether this is done in a legally compliant way. Throwing a further complication into the rink, the ICO is consulting on new measures for organisations to adopt when transferring personal data outside the UK, including a new draft international data transfer agreement and guidance, to replace Standard Contractual Clauses.



Dashboards – Delivering Pensions From the Technology Time Warp

Compulsory connection with pensions dashboards is expected to start with the largest schemes in 2023. Trustees and pension providers will need to ensure that their data and technology are dashboard ready. The Pensions Dashboards Programme has created a sparkly new hub to help schemes to prepare. Some large pension providers have volunteered to jump to the left, step to the right, put their hands on their hips and assist with the alpha phase of testing early in 2022. In the meantime, solutions are being sought to the problem of how to match individuals with their pensions records.

Hot Stuff! New Trusteeship Awards

The Pensions Management Institute has announced two new trusteeship awards. The accreditation programme for lay trustees is similar to the professional trustee programme. To gain accreditation (and possibly a medallion), trustees should complete TPR's toolkit and parts one and two of the Certificate in Pension Trusteeship. To maintain accreditation, trustees should keep up to date with changes to TPR's toolkit and undertake 15 hours of relevant training each year. The new Diploma in Pension Trusteeship has an ESG element and is predominantly aimed at professional trustees and those undertaking roles such as a scheme secretary or as a member of a governance committee.

On the Horizon – Don't Stop 'Til You Get Enough

New regulations changing an individual's right to take a statutory transfer are expected to become law this autumn and procedural changes will be required to transfer processes. Trustees should not dance around their handbags – they should be prepared to act quickly to implement change. Separately, we expect to hear about progress on a number of industry developments, including the authorisation of defined benefit superfunds; the establishment of the Long Term Asset Fund (announced by Chancellor Rishi Sunak last year); and consolidation solutions for small deferred pension pots.

We have highlighted a lot of developments in this publication. If you need a break, it may be worth a stay at the YMCA (we had to get this in somewhere!).

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