Hot Topics in Pensions

Spring 2023

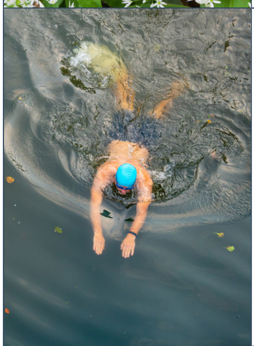
Spring has sprung, prompting many of us to spend more time outdoors and close to nature. In our latest Hot Topics in Pensions, we celebrate some of the many outdoor hobbies that our readers might enjoy as we highlight the latest pensions issues for your trustee and corporate agendas. Come and explore with us!

Dashboards About To Tee Off

If you like to play a round or two of golf, you will appreciate that pensions dashboards have progressed a fairway in the last year or so, but, on 2 March 2023, it was announced that the timing of dashboards obligations will be "reset", due to complexities. We remind trustees – (1) to document all efforts to ensure a timely and smooth connection for their scheme, to putt them on a strong footing if unexpected problems arise and explanations need to be provided to The Pensions Regulator (TPR); and (2) to obtain legal advice before entering into contractual arrangements with third parties concerning dashboards services – if trustees land in the rough, they will want to make sure that a recovery against the service provider responsible is not out of bounds.

Combined Code Compliance – Time To Grasp the Nettle?

Do you go foraging for food in the woodlands and hedgerows? Here are some tips on what to look out for each month. Make sure that compliance work does not mushroom out of control on TPR's combined code of practice – try to stick to an implementation timetable and ensure that a proportionate approach is adopted for your scheme, while not interfering with your business-as-usual activity. If you are at an early stage, we recommend that you focus on "high-risk" areas, while starting to fill your policy basket with a few "quick wins". Please do not berry your head – speak to us if you need help to stay on the compliance path.



Testing the Water With CDC Proposals

Are you brave enough for open water swimming? The Department for Work and Pensions (DWP) has taken the plunge and issued a consultation on extending the remit of collective defined contribution (CDC) schemes to accommodate multi-employer schemes (including master trusts). It also seeks views on the introduction of "freestyle" decumulation-only CDC products. For now, the DWP is dipping its toes in the water and asking for opinions on how these new forms of CDC should operate. The consultation repeatedly refers to a wave of interest within the pensions industry in extending CDC provision. We anticipate further consultations will follow when the DWP is in a position to dive deeper.

New Disclosure Seeds Sown in Law

It is time to prepare the vegetable patch. The DWP has been digging over defined contribution (DC) governance again. Regulations in force from 6 April 2023 introduce new requirements for the default funds of relevant DC schemes from 1 October 2023. Trustees are required to root through their portfolios, disclosing and explaining their allotment to illiquid assets in the default statement of investment principles, and disclosing asset class allocations in the chair's statement. Trustees should schedule these requirements into business plans, allowing time to weed out any issues arising. Separately, the DWP and regulators are cultivating new proposals around value-for-money assessments.

Focusing our Binoculars on the Defined Benefit (DB) Funding Code

Experienced twitchers are used to waiting patiently for birds to come into view. Those waiting for TPR's draft DB funding code of practice to land (since the first consultation in 2020) have now been rewarded. TPR's consultation on the draft code provides guidance on how trustees should set (and document) their long term funding approach and comply with legislative requirements without getting into a flap. The proposed twin-track approach to assessing valuations offers a choice between a Bespoke or Fast Track route – valuations meeting Fast Track parameters would not come under TPR's eagle-eyed scrutiny.

Automatic Enrolment (AE) – A Rocky Ascent

Let's head for the hills! AE has scaled a few mountains and chalked up its successes. Since AE was introduced, the thresholds have steadily climbed to £10,000 (earnings trigger), £6,240 (lower-limit qualifying earnings band) and £50,270 (upper-limit qualifying earnings band). The twelfth annual review of the AE thresholds for 2023-24 has resulted in the thresholds remaining at current heights for another year. The Work and Pensions Committee has made recommendations that would rope in more workers, by widening the remit of AE. In response, the government has confirmed its commitment to harness the 2017 AE review ambitions by the mid-2020s.

Tax Recommendations – Barbecued Lump Sum, Anyone?

Will we have barbeque weather this spring? The Institute for Fiscal Studies (IFS) is turning up the heat on the current pensions tax regime. Its blueprint for a better tax treatment of pensions contains a menu of recommendations for the government. These include capping the 25% tax free lump sum, making employees' pension contributions free from national insurance tax while making employers' pension contributions subject to national insurance tax, which would be subsidised. Still cooking on gas, the IFS would tax inherited pensions and redesign the lifetime allowance. Finally, once the smoke has cleared, the IFS would set light to the current annual limits.

Employment Contract Changes – Extra Route Planning Required

On your bikes! Employers planning future changes to employee's contractual terms (including those relating to pension provision) may need to apply the brakes and consider a draft statutory code of practice on dismissal and re-engagement, published for consultation by the Department for Business, Energy and Industrial Strategy. The draft code maps out employers' responsibilities when seeking to change employment terms, if there is the prospect that employees who do not agree to the changes will be dismissed and they (or a replacement) will be appointed on new terms. Our employment colleagues are pedalling hard to assist – here is their blog on the subject.

Fishing for a Solution – Automatic Transfers

Is angling your passion? The DWP has scattered some bait to lure the pensions industry into helping to identify the best low-cost automated transfer solution to reduce the number of small deferred DC pension pots that have grown significantly since AE was introduced. Industry views are sought on pooling through commercial consolidator schemes and a pot-follows-member approach, but the DWP is not ruling out the need for a state backed solution. Key questions include – what size of pension pot should be reeled-in to the automatic transfer system, and what constitutes a "deferred" pension for this purpose?

Surf's Up – What Is Bobbing on the Horizon?

Wetsuits on! The tide may be turning for the chair's statement, the future of which is questioned by the DWP in its value-for-money consultation. Meanwhile, pension trustees continue to surf the wave of environmental, social and governance considerations. A consultation on new sustainability disclosure requirements for pension schemes could make a real splash, along with progress on the government's roadmap on greening finance. The government is also expected to establish a new high-water mark for climate change governance and reporting requirements for the Local Government Pension Scheme, while the Institutional Investors Group on Climate Change is perfecting its own point break – a climate resilience investment framework.

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