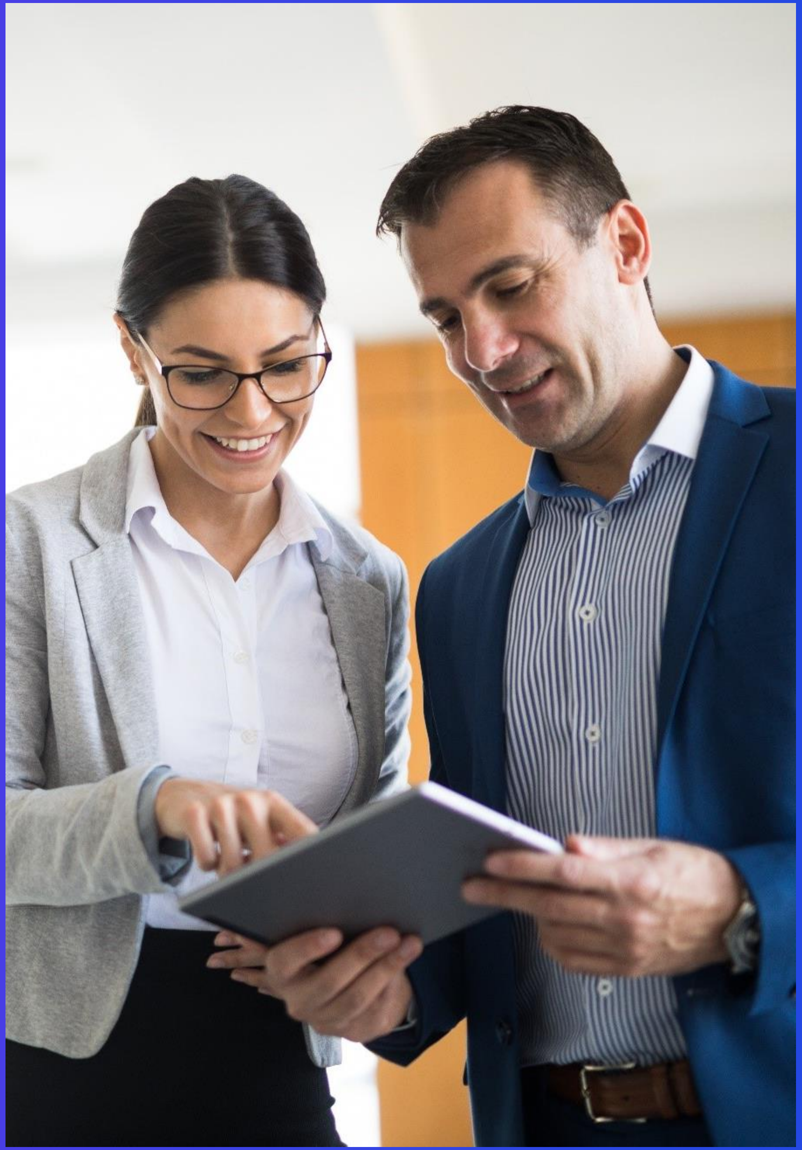
Pensions accounting, assurance and regulatory round-up



Private sector occupational pension schemes

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Spring 2024

Introduction

Welcome to the most recent edition of our Pensions accounting, assurance and regulatory round-up for private sector occupational pension schemes. This update covers a range of topics and considers developments from the Pensions Regulator ("TPR"), the Department for Work and Pensions ("DWP") and the wider pensions industry.

If you have any queries or would like to discuss any of the matters herein further, please do get in touch with your usual contact at KPMG, Sarah or Anne.

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At time of writing (03 June 2024) all articles are up to date.

Executive Summary

Proposed revisions to FRS 102

A high-level view of the impact on pension schemes of the Financial Reporting Council's ("FRC") proposals.

Schedules of Contributions / Payment Schedules: drafting issues

A quick look at the requirements for, and potential pitfalls in drafting, a Schedule.

Amendments to scheme provisions

Two recent cases highlight the complexities of amending scheme provisions.

General Code

A look at the content of TPR's long awaited new General Code.

TPR news

A round up of some of TPR's recent activity.

TPR's Statement of Strategy Consultation

A look at TPR's proposals for the new Statement of Strategy document.

Defined Contribution ("DC") activity and reminders

Updated insights including TPR on value for money and an outline of potential reforms from the Treasury.

ESG Essentials

A summary of headlines over the period, to keep schemes abreast of new developments and announcements.

Climate Change Governance and Reporting: Understand and increase confidence in disclosures

A brief summary of the benefits of obtaining assurance over climate disclosures.

PPF response to DWP plans for a public sector consolidator and Superfunds update

DWP continues to plan Public Sector Consolidator supported by the Pension Protection Fund ("PPF") and Debenhams Retirement Scheme transfers in to Clara Pensions superfund avoiding PPF.

Pensions Dashboards update

An update on the development of the new Dashboard.

Ending the proliferation of small pots: the multiple default consolidator model

A summary of the latest proposals on consolidation of small pots.

Decumulation: Helping savers understand their pension choices at the point of access

A summary of proposals requiring all schemes to offer a decumulation provision.

News in Brief

Proposed revisions to FRS 102

The Financial Reporting Standard ("FRS") appropriate to pension schemes in the UK is FRS 102. The Pension Schemes Statement of Recommended Practice ("SORP"), giving further practical application to pension schemes, flows from FRS 102.

FRSs are subject to periodic reviews (every 5 years). The second review of FRS 102 is underway. The Financial Reporting Council ("FRC") issued Financial Reporting Exposure Draft ("FRED") 82 outlining proposed changes to FRS 102. The revised FRS 102 was originally expected to be effective for accounting periods starting on / after 1 January 2025. However, a project update reported that the effective date will not be earlier than 1 January 2026. The FRC issued a revised standard on 27 March 2024.

The changes have been precipitated by changes to international standards, International Accounting Standards Board ("IASB") proposals in relation to smaller entities, feedback and other developments in reporting. Principal amendments relate to revenue and lease accounting. Other incremental changes are also proposed. Minor amendments are proposed to Chapter 34 of FRS 102 in respect of Retirement Benefit Plans.

The Pensions Research Accountants Group ("PRAG") SORP Working Party will review the proposed amendments to develop a revised SORP looking at the proposed revisions to FRS 102 and other pension specific matters. The effective date of the revised SORP is expected to be in line with the effective date of the revised FRS 102.

An update to the SORP opens up the possibility of wider discussion on the development and purpose of scheme annual reporting. The proposed revised SORP will be subject to a consultation process. We will keep you updated as to the progress of the project and opportunities to respond on the SORP consultation draft.

Schedules of Contributions / Payment Schedules: drafting issues

Under the Occupational Pension Schemes (Requirement to Obtain Audited Accounts and a Statement from the Auditor) Regulations 1996, trustees are required to obtain an auditor's statement as to whether or not contributions have in all material respects been paid at least in accordance with the schedule of contributions or payment schedule.

A schedule of contributions prepared for a hybrid or defined benefit ("DB") scheme must show the rates and due dates of all contributions (other than voluntary contributions) by or on behalf of the employer and the active members of the scheme together with any other contributions made to the scheme to satisfy other liabilities (such as for administrative expenses). The schedule must be signed by the trustees, allow for signature by the employer and be certified by the scheme actuary.

DC schemes must have a payment schedule in place. This serves a similar function to a schedule of contributions but can be prepared for a longer period and does not need actuarial certification.

In the majority of cases, the drafting of a schedule of contributions / payment schedule does not cause a problem from an audit point of view. However, recent cases have shed light on a number of areas which give rise to complications, the key issues highlighted being:

- The inclusion on a schedule of payments by the employer to escrow or other contingency arrangements which sit outside the pension fund. The inclusion of these amounts on the schedule brings them within the scope of the auditor's statement on contributions, as per the requirements of the Audited Accounts Regulations. Care then needs to be taken on the presentation of these amounts in the summary of contributions as the assets received will not be within the balances included in the scheme financial statements.
- Additional payments referred to in the schedule of contributions but paid under a separate arrangement (such as an arrangement funding a buy-in for example) where the amount is paid into the scheme directly will come within the auditor's statement and be included within the summary of contributions.
- An overly complex contribution structure will result in additional audit time and costs. References, for example, to triggers in the employer's financial position will result in the need for the scheme auditor to seek additional comfort on the contribution levels received by the scheme.
- A schedule of contributions becomes effective only from the date of certification and cannot be backdated to take effect earlier. The scheme auditor will only pick up a new schedule at the certification date and will not take account of any backdated period. If contributions over this backdated period have been reduced (following the revised schedule) then this could lead to a modification of the auditor's statement. Any overpayment made (as against the schedule in place up until the revised schedule is certified) will not lead to modification of the auditor's statement as the auditor is required to report on whether contributions have in all material respects been paid at least in accordance with the schedule. An adjustment made to contributions within the schedule to be received after the certification date reflecting a changed contribution rate for an earlier period does not cause any issue as the auditor will report against the new revised schedule.
- In cases where contributions are defined as a percentage of pensionable salary, the definition of pensionable salary should be aligned with the definition in scheme documentation.
- Any schedule should be drafted taking practical considerations such as the operation of the employer payroll (which may be run on a 13 4-weekly basis) into account.
- As a general rule, keeping the schedule as clear and unambiguous as possible is to be advised. It is recommended that trustees share a draft of any new schedule with the scheme auditor before it is finalised.

Amendments to scheme provisions

Two recent court cases have shed light on the validity of changes made to scheme provisions.

In June 2023, the High Court handed down a decision in the case of Virgin Media Limited v NTL Pension Trustees II Limited and others relating to the validity of certain historical pension changes. This case may have implications for other defined benefit schemes in the UK.

The case focuses on the implications of failing to obtain actuarial confirmation (as required by s37 of the Pension Schemes Act 1993) when making an amendment to the deed and rules affecting section 9(2B) rights and, consequently, whether the scheme would continue to satisfy the requirements for those rights. Section 9(2B) rights refer to the reference scheme test level of benefits to be met by schemes contracted-out on a salary-related basis over the period from 6 April 1997 to 6 April 2016.

The Virgin Media case related to the validity of a trust deed and rules change from 1999, for which no Section 37 Confirmation had been located. There are three parts to the court's decision:

- **Issue 1:** What was the consequence of failing to obtain actuarial confirmation?
  The court decided that the failure of a salary-related contracted-out scheme to obtain an actuarial confirmation required by Section 37 meant that the amendment was invalid and void.
- **Issue 2:** Was the invalidity limited to changes in relation to rights attributable to service before the date of the amendment (past service rights) or did it also apply in relation to rights attributable to service after that date (future service rights)?
  The court decided that any change in relation to Section 9(2B) rights would be invalid and void; the invalidity was not limited to changes to past service rights.
- **Issue 3:** Was the invalidity limited to adverse alterations to Section 9(2B) rights or did it apply in relation to all alterations to such rights?
  The court decided that the requirement for actuarial confirmation applied to all amendments to Section 9(2B) rights and not just those which would or might adversely affect Section 9(2B) rights. All changes to Section 9(2B) rights, even where the changes could only improve such rights, are therefore invalid if no actuarial confirmation was obtained.

The judgement is potentially relevant for schemes that:

a) were contracted-out on a salary-related basis between 6 April 1997 and 5 April 2016, and

b) made changes to member benefits in that period that could have impacted Section 9(2B) rights.

The court ruling is fairly wide ranging, in that it is possible that both past service and future service changes are invalid, even if those changes could not adversely affect Section 9(2B) rights. Schemes may wish to wait for the outcome of any appeal before concluding whether the current ruling impacts them or not.

Trustees of impacted schemes may see auditors undertaking additional enquiries of management and review of legal and other documentation. Appropriate accounting and narrative disclosure in the scheme annual report and accounts will need to be dealt with on a case by case basis.

In a second and separate High Court case involving the BBC the court ruled that, under the relevant rule, changes to future service benefits and/or member contributions for active members could only be made when the trustee and employer agree and set conditions in the rule were satisfied. The BBC have been granted permission to appeal the decision.

The above cases highlight the complex issues which need to be considered when making changes to scheme provisions and the need for trustees to obtain expert advice and document decisions made.

General Code

TPR's General Code (the 'Code') was laid before Parliament on 10 January. Its effective date is 27 March 2024: some three years after the original draft was published.

The Code consolidates 10 out of the existing 16 Codes of Practice. It should be noted that 6 Codes remain outside this new 'supercode' and should be referred to separately where circumstances dictate.

A modular approach is taken, with 51 modules in total, facilitating easier update of individual topics. Modules are clear, short, and concise and helpful glossaries are included throughout.

Some modules contain what appear to be long lists of useful considerations, e.g. the Trustee Knowledge and Understanding module, though these will need to be tailored to the needs of each scheme.

Much of the content is familiar from TPR's existing codes. However, there are new areas (noted below) which trustees need to be aware of and follow up on.

Stewardship

The module reiterates requirements for reporting requirements and policies in relation to financially material Environmental, Social, and Corporate Governance ("ESG") considerations, voting and arrangements with asset managers. TPR's expectations are set out and include for example identifying rights (including voting rights) attached to investments and considering the approach to voting and engagement.

Climate change

The module distinguishes between physical and transition risks and notes Task Force on Climate-related Financial Disclosures ("TCFD") reporting for schemes in scope. Trustees should 'talk to advisers and managers about how short and long term climate change risks and opportunities are built into their recommendations and understand what is being done in relation to climate change risk within investments. The module notes that although schemes are not required to align to the Paris Agreement and other goals such as the UK's target of net zero by 2050, they may wish to assess progress towards these goals.

Cyber security

Trustees should reduce the risk of incidents and deal appropriately with any which do occur. Expected actions for assessing and managing cyber risk are noted, such as regular back-ups, policies on device use and on data. A cyber incident response plan should also be in place.

Risk Management

The Code includes a requirement for schemes requiring an Effective System of Governance ("ESOG" – see below) with 100+ members to have a risk management function. This is to be proportionate to the circumstances of the scheme and is in addition to the Own Risk Assessment ("ORA" – see below).

Assurance on internal controls

Options are noted such as statutory audit (in relation to financial affairs), internal audit, assurance reporting by service providers and trustees' commissioning of their own assurance procedures and reporting.

Two key new areas will require more trustee consideration. These are the ESOG and the ORA.

ESOG

A new term for pension schemes in the UK, the ESOG includes all delegated functions. Features of an ESOG are described by the Code as:

'A system of governance will include anything that can reasonably be considered part of the operation of a pension scheme. Internal controls are a key feature of any system of governance.'

A proportionate approach can be implemented taking the 'size, nature, scale and complexity' of the scheme into consideration.

The module refers to other areas of the Code which form part of the ESOG, including:

- management of activities, such as the role of the governing body, meetings and remuneration policy,
- organisational structure, including appointment and role of the Chair and conflicts,
- investment matters, such as investment governance, decision making and monitoring, the Statement of Investment Principles ("SIP"), stewardship and climate change, and

General Code (cont.)

- communications and disclosure covering general principles for member communications.

The ESOG should be reviewed every three years but this does not have to be done at a single point in time. Review may form part of the ORA. Trustees may wish to consider obtaining assurance.

One area specifically referred to in the ESOG module is the remuneration and fee policy. There is a requirement for a written remuneration policy, to be reviewed every three years. In a change from the draft General Code we saw in March 2021, there will be no requirement to publish the policy on a website.

ORA

Schemes requiring an ESOG with 100 members or more will need to undertake an ORA. The ORA considers how well the ESOG is working and how risks are being managed. Again, the principle of proportionality applies. TPR may view failure to complete an ORA as indicative of poor governance.

The first ORA must be carried out according to the timescales set out in the Regulations. This is likely to mean a date roughly two years into the future though, as there are other considerations within the Regulations, each scheme must assess this based on its own individual circumstances.

All areas covered by the ORA should be assessed. It is not necessary to review all aspects together but a whole ORA should be completed every three years (note this is a change from the one year timescale set out in the 2021 draft and now fits in with the 3 year requirement in the 2018 Regulations). A new assessment will be needed where there are new or updated elements and where there is a material change in the ESOG or risk profile of the scheme.

Trustees may need to enhance existing risk assessments to meet the requirements. The ORA could be a collection of existing documentation and may include assurance reporting from delegated functions.

Undertaking an ORA should be an iterative process; the results may be useful in formulating processes or procedures and help trustees with prioritisation of required actions.

ORAs must be in writing, signed off by the Chair with documents supplied to all trustees.

They should include the date of current and next review and detail regarding any interim reviews.

As an overview, an ORA should cover:

- 'how the governing body has assessed the effectiveness of each of the policies and procedures covered;
- whether the governing body considers the operation of the policies and procedures to be effective and why'.

The ORA module of the Code then goes on to list the specific areas to be covered – regarding policies for the governing body, risk management, investment (with additional matters for DB schemes), administration and payment of benefits.

What can trustees be doing now?

Trustees need to plan ahead for the new requirements. They should:

- familiarise themselves with the requirements of the Code;
- identify the modules expected to form part of the ESOG now and ensure they are planning how to comply;
- consider new requirements, such as the remuneration policy;
- assess whether existing procedures meet the requirements for an ORA, collate documents which will form part of the ORA and identify gaps. The first ORA process may involve significant work and resource needed to complete this should be recognised and planned for; and
- ensure training and resource to meet the new requirements is anticipated and planned for.

TPR news

TPR has published a number of items since our last Round Up. Some items of news not covered in other articles are summarised here.

Call for trustees and employers to reassess their long-term objectives

TPR's 2024 Annual Funding Statement ("AFS") (published in November 2023) provides valuable insights into the current state of defined benefit (DB) pension schemes in the UK. Here are the key takeaways:

Improved Funding Levels:

- Most schemes have seen significant improvements in funding levels, with half exceeding their estimated buy-out funding levels.
- This positive development presents opportunities for trustees and employers to reassess their long-term objectives.

Options for Well-Funded Schemes:

- Well-funded schemes have a range of options, including:
  - targeting surplus generation,
  - consolidation with other schemes, and
  - buy-out with an insurance company.

Focus on Recovery Plans for Deficit Schemes:

- Around a quarter of schemes remain in deficit.
- Trustees of these schemes need to focus on achieving a recovery plan that is as short as reasonably possible, based on the employer's affordability.
- They also need to be mindful of the employer covenant, given their higher reliance on it.

Discretionary Increases:

With improved funding, trustees may face requests for discretionary increases from employers and members.

When considering these requests, trustees should be mindful of:

- the overall scheme position,
- the resilience of the investment strategy,
- the level of covenant support,
- the situation of members who would benefit from an increase, and
- the scheme's history of making such awards.

Overall:

The 2024 AFS highlights the positive developments in DB scheme funding levels. However, it also emphasizes the need for continued focus on recovery plans for deficit schemes and careful consideration of discretionary increases.

The growing role of the Regulator

In March 2024, Nausicaa Delfas, Chief Executive of TPR gave a speech at the JP Morgan Pensions and Savings Symposium "The growing role of The Pensions Regulator". TPR is taking several steps to adapt to the changing pensions landscape, including:

Becoming more market-focused:

- Enhanced market intelligence: TPR is investing in its market intelligence capabilities to stay abreast of industry developments and emerging risks.
- Proactive engagement: TPR is increasing its engagement with stakeholders, including trustees, sponsors, and industry bodies, to understand their challenges and concerns.
- Targeted interventions: TPR is focusing its resources on areas where it can have the greatest impact, such as complex schemes and those with governance weaknesses.

TPR news (cont.)

Strengthening its regulatory framework:

- Developing new guidance: TPR is developing new guidance to help trustees navigate the challenges of larger, more complex schemes.
- Updating existing requirements: TPR is reviewing and updating its existing requirements to ensure they remain fit for purpose in the evolving landscape.
- Collaborating with other regulators: TPR is working closely with other regulators, such as the Financial Conduct Authority ("FCA"), to ensure a coordinated approach to regulation.

Improving its internal capabilities:

- TPR is investing in technology to improve its efficiency and effectiveness.
- TPR is investing in training and development to ensure its staff have the skills and knowledge needed to regulate effectively.
- TPR is restructuring its organization to better align with its strategic priorities.

Examples of specific initiatives:

- The "Future of Pensions" project: This project aims to develop a new regulatory framework for the pensions sector that is fit for the future.
- The "DB Superfund" initiative: This initiative aims to create a new consolidation vehicle for defined benefit (DB) pension schemes.
- The "Trustee Toolkit": This online resource provides trustees with guidance and support on their key responsibilities.

Overall, TPR is taking a proactive and comprehensive approach to adapting to the changing pensions landscape. These changes are designed to ensure that TPR remains an effective regulator and can continue to protect the interests of savers.

Equality, diversity and inclusion ("EDI"): how transparency can help to build trust

Sandisiwe Dhlamini, Equality, Diversity and Inclusion Lead at TPR, has written a blog highlighting why addressing pay gaps at the Regulator can help lead the way and make workplace pensions develop to meet the needs of a diverse workforce.

TPR published its pay gap data for gender, disability, ethnicity, and sexual orientation, exceeding legal requirements. It believes that transparency builds trust and encourages EDI commitment within TPR and the wider pensions industry.

TPR is committed to addressing all pay gaps, particularly those related to sexual orientation and ethnicity. Strategies to address pay gaps include talent acquisition and management solutions to improve representation at all levels.

Ground-breaking research by TPR shows the majority of trustees support diverse and inclusive boards for good decision-making and member outcomes.

TPR's EDI strategy provides a strong foundation for further progress in the pensions industry.

TPR's three tips for trustees to improve EDI are:

- leverage good practices from the wider pensions industry,
- engage with TPR's EDI guidance for practical ways to improve board diversity and inclusion, and
- recognize the value of everyone in driving the EDI agenda and create a strategy or action plan for your scheme.

Diverse boards lead to better performance and decision-making, ultimately delivering more value for savers.

Overall, Dhlamini emphasizes the importance of transparency, commitment, and action in addressing pay gaps and promoting EDI within TPR and the pensions industry. She encourages trustees to take advantage of available resources and implement strategies to improve their scheme's EDI standards.

TPR news (cont.)

Trustee D&I Survey 2023

…"Pension boards lack diversity, but not the desire to improve…"

In February 2024, TPR published its findings following a survey of over 1,000 pension board members from a range of different organizations (in January 2024). The survey was undertaken by TPR, in partnership with the Investment Association and the National Association of Pension Funds.

The results show that pension boards are lacking in diversity, with women and ethnic minorities under-represented. However, the research also found that there is a strong desire among pension boards to improve diversity.

Highlights from the report:

- Only 25% of pension board members are women.
- Only 10% of pension board members are from ethnic minorities.
- 75% of pension board members believe that their board should be more diverse.
- 80% of pension board members are willing to take action to improve diversity.

The research also found that the main barriers to improving diversity on pension boards are:

- a lack of awareness of the benefits of diversity,
- a lack of knowledge about how to improve diversity, and
- a lack of time and resources.

TPR is committed to improving diversity on pension boards and has published a number of resources to help pension boards improve diversity, including:

- a guide to diversity on pension boards,
- a toolkit for improving diversity on pension boards, and
- a case study of a pension board that has successfully improved diversity.

TPR believe that improving diversity on pension boards is essential to ensuring that all members of society have access to a secure retirement and are committed to working with pension boards to make this happen. The full report is available here.

Pension scheme research

TPR has published its report following its annual survey on DB pension schemes. This year, TPR enhanced the methodology used to validate scheme status from the data they receive via the scheme returns. Therefore, findings from 2023 report cannot be compared to results from previous years.

The report found that there were 5,400 defined benefit pension schemes in the UK in 2023, with a total membership of 10.4 million people. The report also found that the total assets of defined benefit pension schemes in the UK were £1.8 trillion.

The report found that the number of defined benefit pension schemes in the UK has been declining in recent years, as employers have moved away from offering these types of schemes. However, the report also found that the total assets of defined benefit pension schemes in the UK have been increasing in recent years, as the value of investments held by these schemes has increased.

The report concluded that the defined benefit pension landscape in the UK is changing, but that defined benefit pension schemes remain an important part of the UK's retirement provision.
To read the full report, click here.

TPR news (cont.)

Pension Schemes must get the basics right

TPR's Chief executive Nausicaa Delfas has told the industry that pension schemes need to "…get the basics right…" highlighting a need for those in charge to produce quality data to enable them to distribute pensions dashboards and value for money.

Main Points:

- Pension schemes must prioritize data quality to deliver on key areas like pensions dashboards and value for money.
- Poorly performing schemes will face increased regulatory scrutiny.
- TPR will engage with hundreds of schemes to assess their data quality and take action against those failing to meet expectations.
- TPR will play a more active role in market development and innovation.
- The roadmap aims to ensure value for money for DC savers, security for DB members, and high standards of trusteeship for all.

Specific Actions for TPR:

- revamped approach to supervising master trusts,
- considering how to engage employers to challenge schemes on value,
- new guidance for DB trustees on alternative models of provision,
- extending regulatory grip to supervise professional trustee firms,
- new data quality initiative targeting hundreds of schemes, and
- encouraging schemes towards open data, open standards, and common protocols.

Overall Message:

TPR is taking a proactive approach to ensure that pension schemes are well-run, deliver value for members, and meet the challenges of the future. This includes a focus on data quality, increased regulatory scrutiny, and support for market development and innovation.

TPR Statement of Strategy Guidance

On 5 March, TPR published a consultation document regarding proposals for the statement of strategy required under the new funding regime. The consultation, which ran until 16 April, looks at the format of the required submission together with the type and extent of information needed. This forms part of a suite of measures detailing the new funding regime.

The proposed approach requires information to be submitted in a standard format. To facilitate this, TPR will produce four templates covering differing scheme situations, i.e. for schemes using the Fast Track and Bespoke approaches and for schemes before or after a relevant date. Smaller schemes will be required to make reduced disclosures and some requirements differ depending on whether the scheme is following a Fast Track or a Bespoke route to compliance. TPR highlights in the consultation that proportionality was key in drafting the template proposals and note an expectation that regulation will continue to evolve.

The new regime is expected to apply to valuations after 22 September 24.

The new regime requires the production of a funding and investment strategy (FIS) setting out how trustees intend the scheme to reach low dependency by the time it is significantly mature.
The funding journey to low dependency will be included. Funding risk taken must be supported by the covenant and maturity of the scheme. A statement of strategy comprising two elements will follow the FIS. The first being the FIS (to which the employer must agree) and the second ‘supplementary matters’ (needing employer consultation) including consideration of the implementation of the FIS, risks faced and how they are managed. The statement of strategy must be signed by the chair of trustees. It is intended that the statement will become a useful planning tool for trustees and enable TPR to collate information for regulatory purposes.

The new regime will require submission of actuarial valuations and a statement of strategy, including an estimate of maturity at valuation and relevant date and the funding position at the relevant date on a low dependency basis. Assumptions for the valuation and the FIS should be consistent. Schemes in deficit will also need to submit a recovery plan and schedule of contributions. No summary of the valuation will be required

Section 2 of the consultation summarises the expected contents of the FIS and supplementary matters.

The FIS must include:

- the funding level on a low dependency basis and the investments planned for the relevant date,
- the funding position on a low dependency basis at the actuarial valuation date, and
- details of the journey plan to reach the intended funding position.

Supplementary matters must include:

- an assessment of the implementation of the FIS and whether this is successful,
- actuarial information,
- investment information, and
- the trustees’ assessment of the employer covenant together with supporting information.

TPR will issue guidance considering the employer covenant.

DC activity and reminders

Since our last edition of Round-Up, we have seen further activity in relation to DC schemes.

TPR blog on Value for Money

On 21 March, TPR issued a blog outlining the use of challenge and disclosure to ensure members achieve value for money. The new value for money framework from TPR (in collaboration with the DWP and FCA) will facilitate comparison of metrics moving the focus away from pure cost analysis to value for money and consideration of whether consolidation into a larger scheme would result in better outcomes. TPR will use disclosed data to challenge trustees' decision making.

The blog encourages trustees to challenge investment advice noting that they need the right skills, governance and expertise to consider all asset classes. This follows on from TPRs earlier private market guidance stating that trustees should have appropriate knowledge and understanding to consider whether investing in private market assets may be advantageous to them. Those who do invest in such assets can 'reap the rewards of the greater resilience and new opportunities that diversification brings – with potential for higher risk-adjusted returns'.

The blog concludes with a tough question:

'Where the data is telling trustees that their scheme does not offer good value, or where trustees, working with their advisers, do not have the skills and resources to explore more diversified investments, trustees should ask themselves……..: would their savers' interests be better served through consolidation?'

TPR findings of pilot value for members study

A recent TPR press release set out conclusions of a recent pilot study looking at the implications of the requirement for smaller schemes (those with less than £100m in assets) to undertake a more extensive assessment of value for members. Trustees of such schemes concluding that their scheme does not offer value for members must set out how they intend to improve or their plans to transfer members to a scheme offering better value.

The results indicated that 16% of trustees in the study had assessed their schemes as not offering value and have taken the decision to wind up.

TPR will continue to review data and issue fines for any non compliance. TPR note that one fine of £12,500 has already been issued, adding that where:

"….. trustees are found to be in breach of their duties on value, we'll want to understand how they'll improve. But, if they can't or won't, we expect them to transfer members to a better-value scheme and consider winding up their scheme".

Proposed reforms

A press release from the Treasury on 2 March set out the Government's plans for reform to encourage investment in British business and enhance saver returns.

In summary,

- Defined Contribution schemes will be required to disclose how much is invested in UK businesses,
- poor performing schemes will be prohibited from taking on new business, and
- the changes align with Government's plans to improve outcomes and encourage pension scheme consolidation.

Public disclosure will increase scheme comparability and enable informed decision making. This sits alongside other reforms to improve value and consolidate the market.

The proposals will require DC schemes to disclose their investment in British businesses together with their costs and net investment returns by 2027, a public comparison of performance will need to be made against competitors, including at least two with at least £10bn assets and poor performers will be prohibited from engaging in new business from employers.

The Chancellor noted: "………………these new rules mean employers and savers can see how their money is invested and how the returns compare to other schemes".

"These requirements will help focus minds on how to improve overall returns and outcomes for savers."

DC activity and reminders (cont.)

Illiquids

In August, TPR updated its guidance to help DC schemes comply with new regulations designed to ensure they consider all the investment opportunities available to achieve the best value for savers. From 1 October 2023 trustees must state their policy on investing in illiquid assets in the Statement of Investment Principles for their scheme's default arrangements. Trustees are also required to disclose the asset class breakdown for each of their scheme's default arrangements in the Chair's Statement.

The requirement to state the trustees' policy on the default arrangements investing in illiquid assets in the default SIP takes effect from the first default SIP produced after 1 October 2023. The default SIP must be updated to include this policy by 1 October 2024 at the latest.

If the policy is for a default arrangement to invest in illiquid assets, the default SIP must, for that default arrangement, describe:

- the age profile of the members for whom investments will be held in illiquid assets,
- whether the investments made in illiquid assets will be made directly in illiquid assets or via a collective investment scheme,
- the types of illiquid investments that will be held,
- why the policy is to invest in illiquid assets – including the advantages over other classes of assets, and
- whether there are plans to increase investment in illiquid assets in the future.

If the policy is for a default arrangement to not invest in illiquid assets, the default SIP must explain why, and whether there are any plans to invest in illiquid assets in the future.

The trustees must make the default SIP publicly available free of charge on a website.

Asset allocation

From the first scheme year ending after 1 October 2023, the annual Chair's Statement must disclose for each of the scheme's default arrangements the percentage of relevant scheme assets allocated to each of the following asset classes:

- cash,
- corporate bonds, UK government bonds and foreign government bonds,
- listed equity,
- private equity,
- infrastructure that provides or supports public services including water, gas and electricity networks, roads, telecommunications facilities, schools, hospitals, and prisons,
- property/real estate (excluding property included under 'infrastructure'),
- private debt/credit (excluding debt investments included under 'bonds'), and
- other assets.

DWP's Statutory Guidance explains these asset classes in more detail, with advice on presenting this information for different age cohorts, and further detail on sub-asset classes to help member understanding.

Performance-based fees

New regulations from 6 April 2023, have removed a regulatory barrier that may have hindered trustees from exploring investment in certain funds that came with performance fees. Trustees have the option to exclude specified performance-based fees from the list of charges falling within the regulatory charge cap limit of 0.75% per annum. Schemes must disclose any performance-based fees incurred in relation to each of their default arrangements, calculated as a percentage of the average value of the assets held in those defaults in their Chair's Statement. Trustees must then assess the extent to which these fees represent good value for members alongside other costs and charges.

ESG Essentials

There has been further activity relating to ESG themes. A selection of key issues is discussed below.

TPR Review of climate disclosures by occupational schemes: Year 2

In April, TPR issued a summary of its conclusions following a review of the second year of climate reporting. 30 climate reports were reviewed with year ends from 1 Oct 22 to 30 Sept 23 covering a mix of first and second year reporting. The findings noted that just over 60% of reports had a goal of net zero by 2050.

TPR advocates continuous improvement and believes that the conclusions of the review will be helpful to preparers of TCFD reports, noting that:

'Climate reporting should be the output of the strategic decisions that trustees are making. Alongside ensuring trustees properly consider the impact of climate change on their own scheme, one of the purposes of climate reports is to drive improvements across the pensions industry through transparency and sharing good practice.

Climate change poses risks and offers opportunities to all pension schemes. Trustees of schemes not subject to the Climate and Governance Regulations, may also benefit from our findings which will help them improve their management of climate-related risks and opportunities.'

Several overall points are made.

- Inclusion of scheme information at the start of a report helped in putting the report into context.
- Explanation of the materiality of mandates noted in reporting aided understanding.
- Avoidance of generic wording and use of specific detail would improve reporting.
- TPR agrees that relevant re-use of prior year material is sensible but this should be brought up to date for the current year.
- The length of reports varied with 38 pages being the average and 94 the maximum. More concise reports were found to be better.
- Some reports made good use of plain English summaries for members.
- Action plans (with progress monitored and reported on) should follow any identified needs.

Several examples of actions which trustees have taken are noted. These include:

- inclusion of sustainable funds,
- exploration of opportunities such as forestry and green bonds, and
- working to obtain emissions data from relevant asset classes.

The report then goes on to look in more detail at each area of the required disclosures highlighting good practice, observed issues and points for improvement. Improvements noted included, inter alia, those noted below.

- Though governance was noted as a generally stronger section, possible improvements included ensuring all disclosure requirements were met and demonstration of strong oversight of delegated activities.
- In the strategy section, potential improvements included trustees forming their own views for the scheme and setting sufficiently long time horizons to reflect the length of the investment.
- Regarding scenario disclosures, consideration should be made of including qualitative analysis as an alternative to quantitative analysis if the latter is not yet available. Trustees should understand the limitations and assumptions behind a quantitative approach. Time should be allowed for interpretation of results which should be referred to in the report.
- TPR recommends inclusion of sufficient detail to demonstrate a 'robust and proportionate' risk management framework and use of stewardship as a 'risk management tool'.

ESG Essentials (cont.)

- In relation to metrics, trustees are urged to extend emissions data with the potential use of estimates where data is not available and to use summarised or aggregated data to make it easier to understand. Metric results should be reviewed with commentary in the reporting.
- Reduction of carbon emissions from scheme assets was the most common target set. Trustees should consider using targets where their actions can manage risks and opportunities.

Several points of interest are also noted.

- Trustees' approach to consideration of climate risks and opportunities on the sponsor's covenant should be proportionate and clearly explained.
- Recent challenges to scenario analyses used by trustees indicate they may understate the risk and lack understandability. Trustees should understand the modelling used.
- Data coverage was generally lower for the new portfolio alignment metric.

The above presents a brief snapshot of some of TPRs findings. Please see the report for more detailed information.

Taskforce on Social Factors: Considering Social Factors in Pension Scheme Investments

The Taskforce on Social Factors ("TSF") published the above guide in March 2024. The guide, which aims to provide assistance incorporating good practice, helps trustees to get started in their consideration of social factors and demonstrates how social factors align with trustees' duties.

Social Factors may be financially material and are defined as 'considerations about an investment that relate to people …… this means looking at both the impact of social factors on an investment along with the social outcomes and impacts '. Consideration of such factors, which can be relevant to individual companies or to entire sectors, can increase the 'resilience, impact and value creation of investments'. Trustees must invest in members' best interests (which includes a responsibility to consider financially material factors) and can influence exposure to social risks and opportunities through their stewardship approach.

A framework is offered guiding trustees through baseline, good and leading practice features with trustees developing their activities over time. A 'deep dive' into the issue of modern slavery is included. A materiality framework is also suggested to focus trustee effort, taking a 'top down' approach from country level, through sector level to considerations for individual companies. Data available to trustees to analyse social issues is also discussed, specifically the need for good quality data and difficulties faced regarding measurement.

The guidance was published together with recommendations for trustees and other stakeholders regarding 'what good looks like' in the integration of social factors, suggested oversight questions for investment managers and consultants (including a focus on modern slavery), case studies and data sources.

Transition plan taskforce resources published

In early April the Transition Plan Taskforce ("TPT") launched their latest resources to help businesses in general transition to net zero. Materials 'support the creation of consistent, comparable company reports and reduce the level of disclosure complexity faced by firms'.

The published Framework notes that:

'Transition plans should take a strategic and rounded approach which explains how an organisation will meet climate targets, manage climate-related risks, and contribute to the economy-wide climate transition. Transition planning is an iterative process …'

Additional materials include:

- transition plan guidance covering various sectors for, inter alia, Asset Owners and Asset Managers,
- summary guidance covering 30 sectors,
- guidance on undertaking a transition planning cycle,
- analysis of the opportunities and challenges of transition plans in emerging markets and developing economies, and
- independent advice from TPT Working Groups looking at going beyond net zero.

ESG Essentials (cont.)

Institutional Investors Group on Climate Change ("IIGCC") Net Zero Voting Guidance

In January, the IIGCC issued net zero voting guidance with the aim of supporting asset owners, such as pension schemes, in developing net zero voting policies and practices.

The guidance notes that trustees must 'set their own strategies, policies and practices based on their own best interest and in compliance with any applicable illegal and regulatory requirements'.

Three principles are outlined for net zero voting. In summary these are that voting should align with trustees' net zero objectives and targets, it should communicate expectations regarding net zero and support net zero stewardship engagement and investment activities.

Engagement and stewardship play a key role in aligning climate goals. The guidance stresses the importance of voting as a mechanism to hold companies to account for their performance either highlighting poor performance or offering support for those who are taking appropriate actions.
It goes on to discuss development of 'a voting approach that augments engagements, signals shareholder interests, and supports companies to deliver the rapid acceleration in decarbonisation required to halve emissions by 2030 and put the world on course for net zero by 2050 or sooner'.

The PLSA have also published their 2024 Stewardship and Voting Guidelines. This new edition includes content on recent events impacting engagement activities, a new section on social factors, topics such as cybersecurity, artificial intelligence and biodiversity and an extended summary on voting recommendations.

Climate Change Governance and Reporting: Understand and increase confidence in disclosures

Assurance plays an important role in building trust around the robustness of non-financial information.

What about assurance?

Assurance is all about demonstrating the quality of data. One of the TCFD's principles for effective disclosure is that "disclosures should be reliable, verifiable, and objective". Assurance can provide an independent review of this effectiveness, and although assurance is currently voluntary, we are nevertheless seeing businesses gain assurance over certain climate-related financial disclosures, and we expect market leaders to move towards comprehensive assurance over disclosures to provide maximum comfort to their investors.

Mandatory assurance appears to be the inevitable next step in the reporting process. Indications are clear that corporate reporting will face some sort of mandatory assurance over the next twelve to twenty-four months and, as a natural progression, pension schemes will undoubtedly follow. Not only does the assurance performed provide peace of mind for trustees in the early stages when data can be inconsistent, incomplete and unreliable, it can also help protect the reputation of pension schemes.

What are the benefits of assurance for trustees?

Enhanced creditability: A signal to stakeholders not only that the chosen metrics have been reviewed by an independent party, but also that the metrics are genuinely important to the trustees.

Drive improvement: In addition to an assurance opinion, improvement observations can be provided on the scheme's ESG processes and controls. This will focus on the quality of data which is frequently an area where management oversight and rigor is not as strong as for financial reporting.

Benchmark to best practice: Insight into disclosure seen elsewhere in the market and enhancement to the overall quality of non-financial reporting.

Regulatory readiness: Understanding and proactively managing the risks is key to developing a scheme that is 'regulation ready' and resilient to changing legislative demands.

Audit efficiency: There are a number of synergies to benefit from when those providing ESG assurance also provide the statutory audit.

Formal opinions over reported ESG metrics and disclosures can either be private or made public. These opinions are delivered in accordance with International Standard on Assurance Engagements ("ISAE") (UK) 3000 to either a limited or reasonable level of assurance (depending on stakeholder needs). Importantly, this will come with a private management feedback report with observations from the work. This service can be provided to audited entities and non-audit clients.

On 21 March, the FRC launched a study into the UK market for sustainability assurance services with the aim of ensuring the market is functioning properly and providing quality assurance. Conclusions are expected in early 2025.

This is a growing market and the FRC is keen to understand the implications for competition and resilience in the statutory audit market with many services supplied by major audit firms.

Key areas of focus will include choice, quality and competition, capacity and barriers, the impact of international regulation and the relationship between sustainability assurance and statutory audit markets.

If you are interested in finding out more about our ESG Assurance services, please either follow this link, or get in touch with your usual engagement lead.

Pensions Dashboards update

There have been developments on the dashboard project.

Guidance on connection: the staged timetable

March saw the publication of guidance by the DWP 'Pensions dashboards: guidance on connection: the staged timetable'. An accompanying Ministerial Statement notes that whilst the guidance 'is not mandatory, it is a legal requirement that trustees ……. have regard' to it. The guidance notes that to not take account of the guidance would be a breach of the requirements. Consideration of the guidance can be demonstrated, inter alia, by not making decisions without reference to the guidance, being able to demonstrate adequate governance and processes for decision making, documenting reasons for decisions including risk evaluation and management, ensuring access to relevant information and keeping audit trials for decisions made. Failure to demonstrate compliance with the requirement may result in regulatory action.

Relevant schemes (those with over 100 members at the scheme year end between 1 April 2023 and 31 March 2024) and providers must connect to, and be ready to interact with, to the dashboard system by 31 October 2026, with failure to do so potentially resulting in regulatory enforcement action. The recent guidance sets out a staged timeline for this connection with dates set depending on scheme type and size (measured by number of members). Schemes with the largest memberships are staged as a priority to ensure that, as early as possible, sufficient number of 'pots' is available to 'find and view' to allow the launch of the dashboard system to the public. Further connection guidance is expected from the Pensions Dashboard Programme (PDP) together with other supporting materials. TPR's guidance is also referred to including their checklist for use in preparation.

The guidance warns against leaving connection close to the 31 October 2026 deadline as this could result in a strain on the system and missed deadlines. Connection in line with the proposed timetable is encouraged. This is reiterated in an April blog from the PDP, noting that:

'The connection deadline of 31 October 2026 provides certainty for industry and also ensures connection remains mandatory. The staging timetable in guidance provides the phased approach to connection that is so important to manage the volume and flow of connections. This helps ensure all pension providers and schemes connect to the ecosystem on time and supports industry to manage onboarding in a stable and staggered way.

Connecting in line with the staging timetable will also support more extensive user testing, which will in turn make it possible to launch the service to the public as soon as possible.'

Two routes to connection are noted being an in-house technical solution (building of a direct connection) or through use of an Integrated Service Provider (ISP) or other third party. Connection to the ecosystem will be done in two stages – firstly, though connection of those building a direct connection and secondly, connection of those using a third party provider. Early engagement is recommended in both cases. Once they are connected, all requirements will apply such as remaining connected and fielding 'find' requests, matching and returning relevant data.

Any voluntary connection to dashboards will be supported by further PDP guidance. New schemes will need to connect by the later of 6 months from their first year end or the relevant connection date in the guidance. Deferment of connection beyond the dates set out in the guidance as a result of a change in administrator is also discussed with early notification of the PDP and TPR encouraged. Trustees in this situation are encouraged to refer to DWP guidance on deferred connection.

Benefits of adherence to the staged timetable are noted both for the PDP and schemes, including allowing sufficient time for testing, demonstration of good governance and strong risk management. The requirement to cooperate with the PDP is noted. Those schemes using third party providers are encouraged to liaise early to agree what is needed.

PDP update report

Late April saw the publication of the PDPs latest progress update report highlighting engagement with the industry ahead of the first connections and work with volunteer organisations ahead of their own connection.

Standards are still being worked on (data standards, setting out how data must be formatted, are now published) and user testing considered. The standards will require approval from the Secretary of State.

An advisory group has also been inaugurated to assist with dashboard delivery.

Pensions Dashboards update (cont.)

Following the publication of the connection timetable (as noted above), the PDP will work with industry and other stakeholders to ensure readiness for connection. The PDP will publish further guidance on connection, including a ‘connection hub’, and is expecting to start testing connections with those building a bespoke ‘direct route’ to connection later in 2024. Early communication with the PDP is encouraged for such organisations. Connection testing will start on a direct route being built by a group of volunteers later this year.

The update notes that from March, the provision of a dashboard became a regulated activity needing authorisation from the FCA.

Testing of the live dashboard with real people and data will inform the Secretary of State’s decision regarding the public dashboards available point (DAP).

The need for robust testing of dashboards is noted. Research and testing of the MaPS MoneyHelper dashboard is currently in progress with the aim of testing with pension providers as soon as possible.

PDP’s work with industry is described as including various groups and fora, collaborations in working groups, webinars and other industry engagement.

Updates are given from the DWP, FCA and TPR who are working with PDP on the dashboard project. The update notes the DWP’s publication of annualised accrued value calculations for dashboards to support value calculations. A consultation on the new regulated activity has been issued by the FCA and TPR has been encouraging stakeholders to remain engaged with the dashboard project and working with PDP on standards. The update reiterates that TPR will be in touch with schemes 12 months ahead of their staging date.

PPF response to DWP plans for a public sector consolidator and Superfunds update

Subsequent to previous the Government's Call for Evidence to enable greater flexibility to access DB Scheme asset investments, the DWP has proposed a public sector consolidator administered by the PPF to be in place by 2026.

Although commenting on the challenge of defining eligibility, DWP believes this would provide up to 2,300 schemes with an alternative option to the PPF, supporting circa 960k members and releasing £10bn for UK productive finance.

Such a consolidator would act as a pooled vehicle, with the link to the employer severed unless underfunded where contributions would be made on a 'run on' rather than 'buy out' basis.

Whilst external organisations have commented on concerns regarding subsequent impact upon UK insurance and superfund markets, initial estimates suggest 90% of the DB market would continue to be served by such institutions.

PPF Chair, Kate Jones commented: "The PPF's core mission is to protect DB members and, as we look to the future, member interests must remain paramount. To deliver the best possible outcomes for all DB members, choice, and timely, affordable access to endgame solutions is vital. Evidence, and stakeholder feedback, suggests more choice in the market is needed to capitalise on this window of opportunity with improved funding levels.
Our maturity and capabilities mean we can operate this new, separate fund – providing more choice for schemes and a secure home for transferring members – without affecting the continued successful delivery of our existing functions."

Whilst CEO, Michelle Ostermann said: "International experience shows that pension consolidation can drive better member outcomes and support productive investment.
There is a big opportunity in the UK to consolidate the highly fragmented DB landscape and make more of the £1.4 trillion in assets work harder for members and the UK economy.
To fully realise the potential of the new consolidator, we believe it should be open to all schemes who, without it, may struggle to get timely access to market solutions.
We remain confident that a well-designed PPF-run consolidator will complement commercial providers and ultimately support a thriving marketplace which delivers for all members."

In related news, Debenhams Retirement Scheme has become the second superfund transaction into Clara Pensions, securing 100% of benefits for 10,400 members with the transfer of assets totalling £600m, therefore exiting PPF assessment which commenced in April 2019 subsequent to Debenhams insolvency.

The Trustees confirmed this was, in their opinion after a robust process and input from PPF and TPR , the best possible option available to secure member benefits.

Clara was established in 2017 and completed TPR's assessment process for superfunds in November 2021. It is backed by global investment firm, Sixth Street.

Clara Pensions Chief Executive Simon True said "By injecting £34m of new capital we are making these pensions more secure and setting them on the path to an insured future in a few years' time. Joining Clara also means topping up the pensions of all members back to 100% of what was originally promised to them. With 20,000 members now in the Clara Pension Trust, we are firmly on the road to making British pensions safer and more secure."

This is the second such transaction in to Clara Pensions, with the first in November 2023 of £590m from Sears Retail Pension Scheme.

Ending the proliferation of small pots: the multiple default consolidator model

On 22 November, the DWP issued a two-part document. The first part of this contained a response to their consultation which ran from 11 July to 5 Sept 2023 seeking views on proposals for a multiple default consolidator to 'sweep up' the current proliferation of small deferred pots.

The consultation, which received 55 responses, proposed automatically consolidating deferred small pots into one of a number of schemes authorised for this purpose. The second part of the DWP publication constitutes a call for evidence on the longer-term direction of occupational schemes – the so called lifetime provider or 'pot for life' model.

The DWP have concluded that the multiple default consolidator approach is the most appropriate and this will be legislated for when Parliamentary time allows. An industry delivery group has now been formed to delve further into complexities and issues to be addressed and allow further time for policy development.

A number of key issues are addressed in the DWP's response; these are explored below.

The need for a central clearing house

A mechanism is needed to let schemes know how to allocate member pots. The clearing house approach is preferred as it will offer an independent central point of contact for schemes and members, where members do not make any active choice. It is hoped that this will result in a low-cost system of benefit to members. The operation of the clearing house will be a priority concern for the industry delivery group.

Some members may express a consolidator of choice however it is likely that many will not. It is preferable that members are allocated into an existing pot with an authorised consolidator. For those who do not have such an existing pot, a carousel approach will be adopted allocating pots equally between authorised entities.

Authorisation to act as a consolidator

DWP aim for both trust-based and contract-based consolidators to be authorised and supervised. The response highlights certain authorisation criteria which include, inter alia:

- already undertaking same scheme consolidation,
- demonstration of good Value for Money,
- offering decumulation services including a default, and
- be of sufficient size to deliver value.

Eligible pot criteria

To be eligible for automatic consolidation, pots must be:

- created since the start of automatic enrolment,
- within charge-capped default funds within the automatic enrolment workplace market,
- have received no contributions for 12 months, and
- be valued at £1,000 or less (this criterion will be kept under review to ensure it remains valid).

Note that members will be able to opt-out of consolidation for example if they intend to return to the scheme in future.

The response also highlights key areas for the industry delivery group to consider. The group, launched in early 2024, will aim to give an update to Ministers in Spring / Summer 2024 and proposals in late 2024.

The second part of the DWP publication is a call for evidence looking at workplace pensions in the longer term, in particular whether a lifetime provider model would be beneficial in preventing further proliferation of small pots, how the CDC market can be grown and whether the two issues are linked. The closing date for responses was 24 January 2024.

Ending the proliferation of small pots: the multiple default consolidator model (cont.)

Changing work patterns mean that the traditional paternalistic model of occupational pension provision may no longer be appropriate. The creation of multiple pots brings difficulties for members in keeping track of their savings and increases the risk of small pots being ‘cashed out’, though the importance of dashboards in helping people see all their entitlements is noted. Small pots may also inhibit investment in productive finance, another of the Government’s key initiatives.

DWP note that the lifetime provider model would reduce the number of pots and improve member engagement, schemes would have better data and access charges would be less. There may also be more opportunity to invest in illiquid assets which may result in higher returns for members.

The DWP are keen to understand how a central system to identify a lifetime provider can be operated such that choice for members can remain for those who are engaged but a default is embedded to capture those who do not make a choice. An interim step is proposed focusing on a voluntary, member-led model for those making choices. To facilitate this, changes would need to be implemented for example, to require employers to accede to payment of contributions to employees’ scheme of choice.

The proposals will use policy developments in other areas to smooth the transition to a lifetime provider model with key elements being data standardisation, Value for Money, the multiple default consolidator model (including a central clearing house) and ensuring appropriate decumulation options (see article).

However, the DWP recognise that there could be challenges with a lifetime provider model. These include the impact on employers: specifically, would payment of contributions to varying different schemes affect the support provided to employees? Exemptions would also be needed where the scheme offered by the employer is better than the lifetime provider; adoption of minimum criteria for example in relation to fees and returns may be useful in understanding comparisons. There is also a desire to evolve the CDC market. Impacts are foreseen on payroll providers with a system like the banking ‘BACS’ system needed. The call for evidence discusses the need for the lifetime provider model to operate in conjunction with a policy consolidating existing pots and requests feedback on a ‘whole system’ approach vs adoption of a lifetime provider model solely for future accrual. Other considerations are also noted including, for employers, whether schemes would need to be offered at all, for the industry, impacts on differing business models and, for individuals, the flexibilities needed.

The Government are keen to promote improved security, returns and reduce risk for members. Decumulation risks including ‘cashing out’ and a lack of member understanding are discussed with reference made to proposals of a duty on trustees to offer suitable decumulation services (see article).

CDC is noted as a possible solution. Such schemes spread risk between the membership during the accumulation and decumulation phase, thus reducing the risk of investment shocks and reducing the need for lifestyling. Pooling enables investment in higher growth assets for longer leading to the possibility of higher returns. Views are sought on whether use of CDCs for accumulation in auto enrolment would bring benefits although this would be a significant change to the status quo and the impact on the market for Pension Freedom products would need to be considered. A range of issues are noted for further consideration, including member access, employer understanding, market impacts and transition.

Possible benefits of adoption of CDC and the lifetime provider model together are discussed: delivering savings in one place, a target income for life and enhancing outcomes with the potential for investment in productive finance through the decumulation phase. The default consolidator model could be used as a ‘stepping stone’ towards the use of CDCs and a lifetime provider. DWP are keen to understand the use of a CDC lifetime provider longer-term.

Decumulation: Helping savers understand their pension choices at the point of access

On November 22 the DWP published a response to their consultation earlier in the year looking at supporting scheme members at the point of accessing their benefits.

Key proposals, recognising the role of trustees in supporting membership, include a requirement for all schemes to offer a decumulation option. The consultation ran between 11 July and 5 September 2023, receiving 70 responses.

The response concludes that the most appropriate measures are:

- To legislate to introduce a new duty on all trustees (to include the Nest scheme) to offer appropriate decumulation options at the right price. Whilst recognising that members with multiple pots may cause complexities, DWP believe these can be mitigated, notably through consolidation. Where schemes are not able to offer decumulation, then consolidation should be considered.
- To require provision of a default option. This may be done in partnership with other organisations. Members making no active choice will be defaulted into a solution which they will then need to ‘opt out’ of if desired. The DWP will be flexible around default design though member communications will be key. In connection with communications, work is being undertaken by DWP together with the FCA and His Majesty’s Treasury (“HMT”) around the advice/guidance boundary.
- Before any legislative requirement, decumulation options will be encouraged and supported by guidance from TPR. In an industry speech, TPR noted 5 principles to ‘shape the conversation’ on decumulation including value for money, helping savers with decision-making, putting the saver at the heart of decumulation, market innovation and support offered by schemes. This was followed by a blog highlighting 7 challenges to be addressed by schemes in ensuring good decumulation outcomes and becoming ‘full-service providers’. If schemes are not able to do this, then consolidation should be considered.

DWP will monitor measures put in place together with the potential role for CDCs in decumulation to ensure that they are advantageous to members and a more prescriptive approach may be taken if required. CDCs may result in preferrable member outcomes and DWP consider them a possible model for the provision of future pensions. The CDC market is developing with the introduction of multi-employer schemes.

News in brief

TPR prosecution: fraud

TPR has been active in prosecuting a company director for fraud by abuse of position. The case was heard in early May at Southwark Crown Court. The defendant pleaded not guilty.

Use of TPR powers: the Newburgh Engineering Case and auto-enrolment powers

In late March, TPR published a regulatory intervention report outlining the settlement reached in the Newburgh Engineering Case. TPR had issued a warning notice seeking financial support for the Newburgh Engineering Co Ltd Pension and Assurance Scheme. TPR intervened after assets were diverted to other group companies meaning that they could no longer be accessed by the scheme following the sponsoring employer entering administration. The action resulted in £3.52m being paid into the scheme which subsequently entered the PPF.

TPR commented on the case, noting that “our actions in this case send a clear message that TPR will investigate corporate transactions and restructurings which affect schemes of all sizes.

Where proper mitigations have not been considered for pension schemes, our anti-avoidance powers may be engaged.

We will consider reasonable settlement offers which help us to meet our statutory objectives of acting in the interests of scheme members and the PPF, while saving considerable costs and resource for all parties involved.”

A separate publication noted increased use of TPR’s auto enrolment powers in the second half of 2023, with TPR highlighting that its ‘decision to publish information driving our enforcement activity helps ensure we are transparent about the use of our powers and can also help inform and educate those we regulate about our decisions and actions and therefore serve as a deterrent.’

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