MAYER | BROWN

January 2021

The Pensions Brief

At a glance...

Issues affecting all schemes

▲ CLIMATE CHANGE

Consultation on draft legislation and guidance imposing new climate risk-related duties on trustees of larger schemes

▲ AUTOMATIC ENROLMENT

Earnings figures set for 2021/22

▲ PENSION SCHEMES BILL

Update on the Bill's progress through Parliament

Issues affecting DB schemes

▲ 2021/22 PPF LEVY

Finalised rules and guidance for the 2021/22 PPF levy

▲ GUARANTEED MINIMUM PENSIONS

Annual GMP increase set for 2021/22

▲ DB FUNDING

Interim response to the Pensions Regulator's consultation on a revised DB funding code of practice

Issues affecting DC schemes

▲ DC DEFAULT FUND CHARGE CAP

Government response to its review of the default fund charge cap and standardised cost disclosure

PENSIONS REGULATOR COVID-19 GUIDANCE

Guidance on transfer requests where funds are held in a gated fund

▲ Action required

▲ Follow development and keep under review

Issues affecting all schemes

Climate change – new trustee duties

The government has published a consultation on draft legislation and draft statutory guidance imposing a range of new climate risk-related governance and disclosure requirements on trustees of larger occupational pension schemes. The consultation closes on 10 March.

Among other things, the draft regulations require trustees to:

- Establish and maintain oversight of the climate-related risks and opportunities that are relevant to their scheme.
- Identify and assess the impact of climate-related risks and opportunities which they consider will have an effect over the short, medium and long term on their scheme's investment strategy and (where applicable) funding strategy.
- Undertake triennial scenario analysis considering certain prescribed matters in at least two scenarios where there is an increase in the global average temperature.
- Establish and maintain processes for identifying, assessing and managing climate-related risks which are relevant to their scheme.
- Select at least two emissions-based metrics and one additional climate-related metric, set a target in relation to at least one of those metrics, and measure the scheme's performance against the target(s) annually.
- Publish an annual report containing various prescribed matters relating to the trustees' climate-related risk governance, strategy and risk management processes. The report must be signed by the trustee chair and published on a website.

The new requirements will apply to schemes with relevant assets of over £5 billion from 1 October 2021 and to schemes with relevant assets of between £1 billion and £5 billion from 1 October 2022.

The government has also published non-statutory guidance for trustees on assessing, managing and reporting climate-related risks in line with the Taskforce on Climate-Related Financial Disclosures.

Action

Given the relatively tight timeframe for introduction of the new requirements, trustees of schemes with £1 billion+ of assets should start considering what processes they will need to put in place in order to comply with the new requirements.

Automatic enrolment – 2021/22 earnings figures

Legislation has been laid before Parliament that sets the automatic enrolment earnings figures for the 2021/22 tax year as follows:

- Earnings trigger: £10,000
- Qualifying earnings band: £6,240 – £50,270

Action

Employers should ensure that their automatic enrolment processes are updated to reflect the new earnings figures when these come into force.

Pension Schemes Bill – parliamentary process complete

The Pension Schemes Bill has now completed the parliamentary process and is awaiting Royal Assent. During parliamentary debate on the Bill, the government confirmed that the scheme funding regulations to be made under the Bill will be designed to retain a scheme-specific approach to scheme funding so that the position of open schemes which are not maturing in the same way as closed schemes can be appropriately acknowledged.

In addition, the pensions minister has confirmed that the new criminal sanctions and information-gathering powers under the Bill will not have retrospective effect.

Action

Employers and trustees should keep the progress of introduction of the Bill's provisions under review.

Issues affecting DB schemes

2021/22 PPF levy – finalised rules

The Pension Protection Fund (PPF) has published its finalised rules and guidance for the 2021/22 PPF levy. The published rules confirm that the PPF:

- Has introduced a small scheme adjustment to better reflect the risk posed by small schemes. The adjustment will halve the levy for schemes with under £20 million in liabilities, and the reduction will be tapered so that only schemes with £50 million+ in liabilities will be charged the full levy.
- Has reduced the cap on an individual scheme's levy from 0.5% to 0.25% of its liabilities.
- Will measure insolvency risk using credit ratings and the insolvency risk model now operated by Dun & Bradstreet, on the basis in use since April 2020.
- Expects to collect a levy of £520 million – £100 million lower than in 2020/21.

The deadlines for submission of documentation to the PPF in connection with the 2021/22 levy are set out in the timeline on page 6 of this Brief.

Action

Employers and trustees should ensure that any required documentation is submitted to the PPF by the relevant deadline. Trustees submitting documentation to support a contingent asset should note that, in contrast to previous years, documentation is to be submitted by email rather than in hard copy by **1 April 2021**.

Guaranteed minimum pensions – annual increase

Legislation has been laid before Parliament that sets the increase to be applied to GMPs in the 2021/22 tax year at 0.5%.

Action

Trustees should ensure that the 0.5% increase is applied to GMPs in payment.

DB funding – revised Pensions Regulator code of practice

The Pensions Regulator has published an interim response to its consultation on a revised DB funding code of practice. The response notes that there was general support for the principles and regulatory approach proposed in the consultation, but some concerns were raised about how the principles would be applied in practice through the proposed twin track regime (Fast Track and Bespoke).

The Regulator expects to publish its second consultation in the second half of 2021. The second consultation will include the draft revised code of practice and the Regulator's proposed regulatory approach.

Action

Employers and trustees should keep the progress of the second consultation under review.

Issues affecting DC schemes

Default fund charge cap – government review

The government has published a response to its June 2020 review of the default fund charge cap and standardised cost disclosure. The government has decided not to change the level of the charge cap or to bring transaction costs within the scope of the cap. However, the government will introduce a de minimis pot size of £100 below which flat fees may not be charged. This de minimis level will be kept under review with a view to increasing it with time.

The government will consider legislating for standardised cost disclosure if there is insufficient industry take-up of the Cost Transparency Initiative templates for cost reporting. The government will also explore how better standardisation of charges and how costs are expressed can be introduced.

Action

Trustees of schemes which offer funds with a flat fee charging structure should monitor progress on introduction of the ban on flat fees for pots under £100 so that they can ensure that they comply with the ban when it is introduced.

Covid-19 – Pensions Regulator guidance

The Pensions Regulator has updated its Covid-19 guidance on DC scheme management and investment to add a section on transfer requests where all or part of the funds are invested in a gated fund. While the Regulator acknowledges that payment of a cash equivalent transfer value (CETV) where all or part of the funds are held in a gated fund is likely to be problematic, it does not believe that the law permits it to grant an extension to the statutory timeframe for payment of a CETV in these circumstances.

Action

Trustees should note the Regulator's updated guidance and take all reasonable steps to ensure that transfer requests involving gated investments are processed within the statutory timeframe. The Regulator says that if only part of the investment is in a gated fund, reasonable steps might include exploring with the receiving scheme whether the monies from the gated section could follow once the fund has re-opened and, if so, offering the member a partial transfer as an interim measure.

Mayer Brown news

Upcoming events

All events will take place as online webinars.

- **Trustee Foundation Course**

  17 March 2021
  15 September 2021

- **Trustee Building Blocks Classes**
  16 June 2021 – Trustee discretions and decision-making
  8 December 2020 – DC governance

Employer Perspectives – news and views on employment and pensions issues

Visit the blog at employerperspectives.com and subscribe to blog updates via email.

The View from Mayer Brown: UK Pensions Law Videos and Podcasts

Watch or subscribe to Mayer Brown's YouTube channel here:

Subscribe via YouTube

Listen to or subscribe to Mayer Brown UK Pensions Law iTunes channel here:

Subscribe via iTunes

Please note – subscribing above will only work on a device with iTunes installed. Alternatively if you don't have iTunes you can access the audio via the links below:

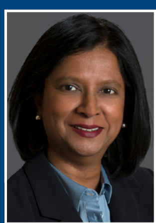
- Google
- Yahoo

Please speak to your usual contact in the Pensions Group if you have any questions on any of the issues in this Brief.

For more information about the Pensions Group, please contact:

Ian Wright

Co-Head of Pensions, London
E: iwright@mayerbrown.com
T: +44 20 3130 3417



Jay Doraisamy

Co-Head of Pensions, London
E: jdoraisamy@mayerbrown.com
T: +44 20 3130 3031

Dates to note over the next 12 months

14 February 2021
Annual allowance deadline for schemes to pay tax due under "scheme pays" (2018/19 tax year)

31 March 2021
PPF levy deadline for submission of scheme returns, special category employer applications and contingent asset, ABC and accounting standard change certificates

1 April 2021
PPF levy deadline for submission of supporting contingent asset documents

5 April 2021
Deadline for employers to exercise statutory power to amend schemes to reflect employer NICs increase resulting from abolition of contracting-out

30 April 2021
PPF levy deadline for submission of deficit reduction contribution certificates and exempt transfer applications

30 June 2021
PPF levy deadline for submission of full block transfer certificates

6 July 2021
Annual allowance deadline for employers to provide schemes with information to calculate pension input amounts incurred by members in pension input periods ending in 2020/2021 tax year

31 July 2021
Annual allowance deadline for member requests for "scheme pays" (2019/20 tax year)

30 September 2021
Final deadline for schemes to include implementation statement in scheme annual report and publish it on a publicly available website

1 October 2021
Climate risk governance and disclosure requirements expected to come into force for larger schemes

5 October 2021
DC default fund charge cap changes and additional DC governance and disclosure requirements expected to come into force

6 October 2021
Annual allowance deadline for schemes to provide members with pension saving statements (2020/21 tax year)

31 December 2021
Annual allowance deadline for schemes to include details of tax due under "scheme pays" in scheme's AFT return (2019/20 tax year)

31 January 2022
Deadline for schemes to send annual event report to HMRC (2020/21 tax year)

Key:

- Important dates to note
- For information