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The Pensions Brief

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Issues affecting all schemes

Pensions dashboards – trustee obligations

The government is consulting on the detailed requirements for pensions dashboards, including:

- The staging timetable for connection to the dashboard ecosystem – this will be based on scheme size and type and will run from June 2023 to September 2024.
- The requirements that trustees will need to meet – these will include registering with the Money and Pensions Service (MAPS), connecting to the dashboard ecosystem by their staging date, complying with standards issued by MAPS, having regard to guidance issued by MAPS and the Pensions Regulator, and keeping associated records.
- The process for matching data requests with member records – among other things, schemes will be required to decide on criteria to use for matching.
- The data to be provided by schemes once a match has been made – this will include data such as the scheme name, the nature of the member's benefits, details of how to contact the scheme administrator and the scheme's website address, as well as accrued and projected pension values. Schemes will only be required to provide data to active and deferred members.

Schemes will also be required to complete a number of pre-connection steps which will be set out in standards to be published by MAPS.

The consultation closes on 13 March.

Action

Trustees and administrators should keep the progress of the consultation under review.

Automatic enrolment – proposed changes

A private member's bill has been laid before Parliament which makes changes to the automatic enrolment regime. In particular, it:

- Extends the automatic enrolment regime to all jobholders aged 18 and over.
- Removes the lower automatic enrolment qualifying earnings threshold.

Relatively few private member's bills are enacted.

Action

Employers and trustees of schemes that are being used for automatic enrolment should keep the bill's progress through Parliament under review.

Pension scams – Regulator warning

The Pensions Regulator has warned that too few trustees are reporting suspected pension scams and is calling on all administrators, trustees and providers to take responsibility for protecting savers and join the Regulator's Pledge to Combat Pension Scams.

Action

Trustees and administrators should ensure that they report any suspected pension scams to the appropriate authorities. They should also consider whether they wish to join the Pledge to Combat Pension Scams if they have not already done so.

Covid-19 – temporary relief at source easements

HMRC has announced that certain of the temporary easements to relief at source processes in light of Covid-19 that are due to end on 31 March 2022 will be extended to 31 March 2024. All other temporary changes for relief at source will end as planned on 31 March 2022.

Action

No action required, but administrators may wish to take advantage of the extension.

Collective DC schemes – authorisation and supervision

The Pensions Regulator is consulting on a draft code of practice on the authorisation and supervision of collective defined contribution (CDC) pension schemes. The code outlines how trustees of CDC schemes can apply for authorisation and how the Regulator will assess schemes against the authorisation criteria at the initial application stage and throughout on-going supervision. Once published, the code will form part of the Regulator's consolidated code of practice. The consultation closes on 22 March.

Action

No action required, but employers who are interested in establishing a CDC scheme should keep the progress of the consultation under review.

Decision-making – consideration of relevant evidence

The Pensions Ombudsman has confirmed that the weight to be given by a decision-maker to evidence relevant to the decision to be made is for the decision-maker to decide. There is a distinction to be drawn between ignoring or refusing to consider relevant evidence and giving it no or little weight.

Action

No action required.

Issues affecting DB schemes

Scheme revaluation rule – interpretation

The High Court has decided how the following scheme revaluation rule should be interpreted: *"In relation to a Member of the Final Salary Section only, short service benefits before they come into payment shall be revalued in accordance with Chapter II of Part IV of the Pension Schemes Act 1993 [statutory revaluation]. This Rule shall only apply if it would provide a greater increase in deferred benefits than that provided at Rule 21."* Rule 21 broadly provided for annual increases of the increase in a cost-of-living index subject to a cap of 5% per annum and, in respect of pensionable service prior to 1 April 2005, a floor of 3%. The Court held that the rule meant that members were entitled to statutory revaluation rather than the greater of statutory revaluation and the increase under Rule 21.

Action

No action required.

Issues affecting DC schemes

Pensions guidance – "stronger nudge"

Regulations will come into force on 1 June that require trustees to ensure that individuals seeking to access, or transfer for the purpose of accessing, their flexible benefits have received or opted out of receiving appropriate pensions guidance from Pension Wise (referred to as the "stronger nudge" to Pension Wise). The requirements will apply in relation to members and other beneficiaries aged 50 and over.

The government has also responded to its consultation on the "stronger nudge", while the Pensions Regulator has published a blog post on the new requirements.

Action

Trustees and administrators of schemes providing flexible benefits should ensure that their administration processes and member communication are updated to reflect the new requirements.

Default funds – flat fees

Regulations will come into force on 6 April that:

- Impose a ban on flat fees being charged in DC default arrangements in schemes being used for automatic enrolment (qualifying schemes) to the extent that the fee would reduce the value of the member's pot to less than £100.
- Require trustees of qualifying schemes, where more than one flat fee is charged on a member's DC default fund pot in a single charges year, to restore the member's pot to the position it would have been in if only one flat fee had been charged.

The new requirements will apply in relation to the first scheme charges year ending on or after 6 April.

The government has updated its non-statutory guidance on the DC default fund charge cap to cover the new requirements.

Action

Trustees and administrators of DC qualifying schemes with default arrangements that charge a flat fee should start making preparations to ensure that the application of those fees complies with the new requirements for charges years ending on or after 6 April.

Mayer Brown news

Upcoming events

All events will take place as online webinars. For more information or to book a place, please contact Katherine Carter.

- **Trustee Foundation Course**
  9 March 2022
  8 June 2022
  7 September 2022
  7 December 2022
- **Trustee Building Blocks Classes**
  11 May 2022 – member communications
  9 November 2022 – trustee discretions and decision-making

Employer Perspectives – news and views on employment and pensions issues

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Mayer Brown media comment

Liam Kellett of our Pensions team was part of the Mayer Brown team that represented Marlin Equity Partners, the global investment firm, on its majority investment in Silobreaker, a leading provider of risk and threat intelligence solutions.

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

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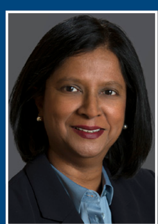

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Dates to note over the next 12 months

31 March 2022

- PPF levy deadline for submission of scheme returns, contingent asset and asset-backed contribution certificates and special category employer applications
- Temporary extension of certain HMRC pension administration processes expected to end

1 April 2022

PPF levy deadline for submission of supporting contingent asset documents

6 April 2022

- Ban on flat fees being charged on DC default fund pots of £100 or less comes into force
- Changes to the notifiable events regime and new "declaration of intent" requirements expected to come into force

29 April 2022

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

1 June 2022

Stronger trustee guidance obligations for schemes providing flexible benefits come into force

30 June 2022

PPF levy deadline for submission of full block transfer certificates

1 August 2022

Authorisation and supervision framework for collective money purchase schemes comes into force

1 October 2022

- New annual benefit statement requirements for DC-only automatic enrolment schemes come into force
- New climate change governance and reporting requirements come into force for schemes with £1 billion+ of assets
- New Paris Agreement alignment reporting requirements expected to come into force for certain schemes

7 January 2023

Deadline for submission of annual compliance statements to the CMA

31 January 2023

Deadline for schemes to send annual event report to HMRC (2021/22 tax year)

Key:

Important dates to note

For information

Mayer Brown is a distinctively global law firm, uniquely positioned to advise the world's leading companies and financial institutions on their most complex deals and disputes. With extensive reach across four continents, we are the only integrated law firm in the world with approximately 200 lawyers in each of the world's three largest financial centers—New York, London and Hong Kong—the backbone of the global economy. We have deep experience in high-stakes litigation and complex transactions across industry sectors, including our signature strength, the global financial services industry. Our diverse teams of lawyers are recognized by our clients as strategic partners with deep commercial instincts and a commitment to creatively anticipating their needs and delivering excellence in everything we do. Our "one-firm" culture—seamless and integrated across all practices and regions—ensures that our clients receive the best of our knowledge and experience.

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