

In our spring edition of Hot Topics in Pensions, we embrace a theme of exploration. We invite you to join our voyage of discovery, as we reach new frontiers and boldly go where no pensions publication has gone before. Here are our top 10 pensions developments.



### 1. The Pensions Regulator Is Armed for Battle – “Spanish Armada” Style

The new powers that will soon become available to The Pensions Regulator (TPR) might prove to be a treasure chest that even Sir Francis Drake could only dream of. TPR will have new and increased powers to issue fines, including a fine of up to £1 million for failing to make a notifiable event submission. Other measures include a new criminal offence of wilful or reckless behaviour (with up to seven years in prison and unlimited fines) and failing to comply with a contribution notice. There will also be changes to the anti-avoidance regime and a new “declaration of intent”. See our [blog](#) for more information.



### 2. Transfer Concerns – Another Everest?

Could Sir Edmund Hillary and Sherpa Tenzing have scaled the mountain of pension transfer problems? The Financial Conduct Authority, TPR and the Single Financial Guidance Body (soon to be renamed the Money and Pensions Service) have published a protocol on their sharing of market intelligence to ensure that members of defined benefit (DB) pension schemes are fully informed about transfer options. This follows concerns about member engagement and advice given to some British Steel Pension Scheme members. Where market intelligence suggests that transfer activity may increase, or where TPR approves a scheme restructure, TPR will contact trustees to set out its expectations regarding their handling of transfer requests.



### 3. Must Professional Trustees Be as Fit as Astronauts?

Standards for professional trustees are now in force, setting out general standards (including a fit and proper person test) and standards when acting as chair and/or sole trustee. The standards and accreditation process will apply to individuals only, including directors of corporate trustees. TPR expects between 200 and 600 trustees to apply to the Pensions Management Institute (PMI) for professional trustee accreditation – not as many as the 8,000 applicants who applied to train as astronauts when Sally Ride was picked in 1978. That many applicants might have been a mission too far for the PMI!



### 4. The Pensions Ombudsman – Wider Jurisdictions Than Captain Cook?

After his discovery of Australia, Captain Cook said “*aloha*” to far-off Hawaii. The government has consulted on widening the jurisdiction of The Pensions Ombudsman (TPO), including a new “early resolution service” allowing disputes to be resolved before a determination. It also proposes that TPO may mediate in disputes and become involved before a scheme’s internal dispute resolution procedure (IDRP) begins. These proposals may affect schemes’ IDRPs in due course. The consultation also provides for an employer to be able to refer a dispute against a group personal pension provider to TPO on its own behalf.



### 5. Will Discrimination Be Exterminated?

We jump into the realm of time travel – “Dr Who” style – by looking ahead to an anticipated appeal. The government is seeking permission from the Supreme Court to appeal the Court of Appeal’s decision that transitional measures adopted on the reform of judges’ and firefighters’ pensions (protecting members closest to retirement) were discriminatory. This is unsurprising given the provisional estimate that the potential impact of the judgment could cost around £4 billion per year. Schemes that have adopted similar measures to soften the blow of benefit changes, and that favour older members, should pay close attention (or find a Tardis).



## 6. Guaranteed Minimum Pension – Careful Navigation Required

Amelia Earhart said, “In soloing – as in other activities – it is far easier to start something than it is to finish it.” This may resonate with trustees who are navigating their way through the turbulence caused by the *Lloyds Bank* case. Guaranteed Minimum Pension (GMP) equalisation projects require careful handling: calculating transfer values, GMP reconciliation and rectification, paying arrears of pension, adjusting future benefits, etc. Many trustees are also eyeing up GMP conversion. Trustees should look out for further court judgments and government guidance, which should, in time, provide a clearer flight path.



## 7. Automatic Enrolment Follows the Yellow Brick Road of Progress

After Dorothy’s bumpy landing in Oz, she was immersed in a very different culture. Auto-enrolment is successfully fostering a cultural change in retirement savings, and the next step is the increase in employer contributions from 2% to 3% of qualifying earnings from 6 April 2019. The government will monitor the impact of this increase before moving further down the road with proposals in the mid-2020s to lower the age of eligibility to 18 and remove the lower earnings limit from the contribution calculation. And will there be a wizard to magically solve the self-employed gap?



## 8. Defined Contribution Consolidation – As Complex as the Winding Canals of Venice

Marco Polo knew all about investing in long-term assets. His father travelled to China to purchase silk cloth to sell years later when he returned to Venice. In a similar vein, the government is looking to facilitate investment by defined contribution (DC) schemes in less liquid assets (sometimes referred to as “patient capital”). It is consulting on requiring trustees of larger DC schemes to publish their policy in relation to such investments and trustees of smaller schemes to consider every three years whether members would receive better value if the scheme were to be consolidated into another arrangement. See our [blog](#) for more information.



## 9. Twenty Thousand Leagues Under the Public Sector Sea

With Captain Nemo-like precision, the government is exploring the depths of proposed changes to pension protections for local government employees whose employment is compulsorily transferred. Following such a transfer, employers would have to offer continued membership of the Local Government Pension Scheme (LGPS) – no more offering pension schemes that provide “broadly comparable” benefits. Some employees who have previously “taken the plunge” away from local government would be able to transfer back into the LGPS. Some transfers may not happen at all, with employees being “deemed” to remain with their public sector employer for pension purposes.



## 10. On the Sunny Pensions Horizon. Wish You Were Here?

We conclude with (arguably) the best explorer of all, Judith Chalmers, who between 1974 and 2003 seemed to discover more exotic holiday resorts than anyone else in history. On the pensions horizon, we await the outcome of a number of consultations, including on collective DC schemes and DB consolidators – legislation is expected to be in a pensions bill this year. We also await the outcome of the pensions dashboard consultation but are pleased to note that the government has said it will legislate to make the provision of information to the dashboard compulsory. So, there is plenty to keep us busy between the holidays!

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