

### 1. Amber Light on Changes to Price Indices

When Garrett Morgan introduced the amber light into the modern traffic light system, he also created a widely recognised “get ready” symbol. The government is getting ready to consult on measures of price inflation in January 2020. The consultation will include the alignment of the Retail Prices Index (RPI) with the CPIH. Changes are not planned before 2025, to allow financial markets time to prepare. This development will be of particular interest to sponsors and trustees of schemes where RPI is hard-wired into the rules. The consultation results are expected in spring 2020.



### 2. Guaranteed Minimum Pension Equalisation – Will a DeLorean Be Required?

“Great Scott!” The parties to the *Lloyds* guaranteed minimum pension (GMP) equalisation case are going back to the courts (rather than “Back to the Future”), to seek guidance on the extent of the Trustee’s obligation to revisit past transfers out of the scheme when equalising benefits for the effect of GMPs. The hearing is expected to take place between April and June 2020. If the court decides that pension trustees need to go back in time to equalise benefits that have been transferred out, they may need Doc Brown’s inventive skills to correct the past.



### 3. Two Points of Gravity

The Pensions Regulator (TPR) follows similar laws of gravity to Sir Isaac Newton – it is attracted to mass. TPR is undertaking one-to-one supervision of the largest pension schemes. Currently, 35 schemes have been selected based on their strategic importance (not because of any wrongdoing), but the number will soon increase to around 100 schemes. The supervision is intended to be a positive experience for employers and trustees. Separately, employers should take care when fulfilling their automatic re-enrolment duties – TPR has recently issued some very hefty fines for non-compliance.



### 4. Trustees Should Consider a Recent Order Before Spending a Penny

Thomas Crapper knew all about flushing away waste. TPR is doing its part to assist trustees in ensuring value for money and suitability of advisers. TPR has issued draft guidance for consultation, which covers tendering for fiduciary management services and investment consultancy services, setting objectives for investment managers and selecting an investment governance model. This is in response to the Order issued by the Competition and Markets Authority on 10 June 2019. TPR encourages trustees not to get caught short; they should comply with the spirit of the Order, whether or not this is legally required.



### 5. The Power of Rectification

Mistakes happen. Where the wording of an agreement does not reflect the parties’ common intention regarding the terms, it may be appropriate to apply to the court to rectify the mistake. A recent Court of Appeal decision sets out the requirements that should be met for rectification to be granted in these circumstances, concluding that a key requirement is to establish the parties’ subjective intentions. As a practical point, if decisions and objectives are recorded, it should be easier to demonstrate what the parties intended if a drafting mistake comes to light. Michael Faraday, the father of electricity, could not have illuminated the issue more clearly.



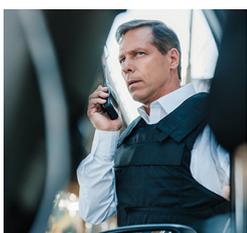
## 6. Police Officers Sign up for Retirement Benefits With Exploding Pens

It is a good job that Q did not misrepresent his inventions to 007; otherwise, the consequences could have been severe. Recently, some police officers found that negligent misstatement by their police authorities had serious tax implications. In *Corsham*, police authorities were found liable for negligent misstatement by referring to retirement lump sums as being “tax free” when they ought to have known that the immediate re-employment of police officers in a civilian role would trigger tax charges, as protections under tax legislation would be lost. Avoid explosions by drafting member communications carefully.



## 7. Alexander Fleming and the Most Important Modern Discovery

Penicillin can cure many infections, but the bacteria of pensions scams is proving difficult to eradicate. The voluntary [Code](#) of Good Practice on scams has been updated, and the importance of complying with anti-scam regulatory and industry best practice was considered in a recent [determination](#) by The Pensions Ombudsman (TPO). Trustees should ensure that they and their administrators work in line with the updated material. We also expect consultation on changes to the statutory transfer legislation later this year.



## 8. Bullet-proof Data Sharing

Stephanie Kwolek’s invention of the super-strength fibre, Kevlar, has saved many from harm (and is used in a surprising range of products, including bicycle tyres). A recent consultation by the Information Commissioner’s Office on new data-sharing guidance includes recommendations for trustees to protect their scheme’s personal data when it is shared with other data controllers. Trustees cannot hand over responsibility for ensuring that the data is secure. The draft guidance recommends precautionary steps such as reviewing the recipient’s security measures, adopting data-sharing agreements and carrying out impact assessments.



## 9. Extinguishing the Flames of a Dispute

George Manby, the creator of the modern fire extinguisher, might approve of TPO operating a process for putting out the flames of less complex disputes at an early stage. The government is in favour of this, but intends that parties would be able to opt to use a scheme’s internal dispute resolution process or opt for a more formal TPO determination at any point in the early resolution process. The government is also in favour of extending TPO’s remit to include complaints brought by an employer against a workplace pension provider.



## 10. Anthea Turner to the Rescue

The pensions bill is expected to contain legislation on collective defined contribution schemes, the pensions dashboard and strengthening TPR’s powers, but the timing of the bill remains uncertain. In recent political changes, Thérèse Coffey MP has become the latest Secretary of State for Work and Pensions, following the resignation of Amber Rudd MP. Our politicians have a lot on their minds, but we hope that important pension reforms are not stifled. Perhaps the creator of the iconic Tracy Island model and former “Blue Peter” presenter, Anthea Turner, could assist with a roll of tinfoil and some sticky-back plastic?

See our [Pensions Lessons](#) 2019 for further current pensions issues.

Have you seen our Protect Against Unmitigated Liabilities (#meetPAUL) campaign? We have issued a series of [factsheets](#) containing mitigation tips in relation to frequently unaddressed risks.

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