SQUIRE PATTON BOGGS

# Hot Topics in Pensions

Summer 2020

We welcome readers to our Summer Hot Topics in Pensions, in which we celebrate great British gardens. Social distancing measures have encouraged many to retreat to their gardens, whether that is for relaxation, sporting activity or horticulture. We invite you take a stroll through our virtual garden where pensions issues are intertwined with nature.

## 1. Trustees Retain Head Gardener Responsibilities

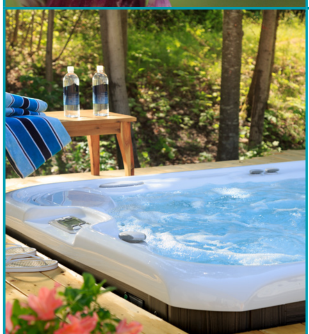
Advisers and administrators can prune and trim and they can set the robotic lawnmower running. However, trustees still retain head-gardener responsibility. Essential business needs to continue during the COVID-19 pandemic but, as with the virtual Chelsea Flower Show, technology can assist. Trustees should bear in mind that the usual formalities such as having a quorate meeting will continue. We are noticing a trend towards trustee boards incorporating. This simplifies the process for executing documents and provides an additional layer of protection from personal liability for individual trustees.

## 2. TPR is no Wallflower in the Current Crisis

The Pensions Regulator (TPR) made some careful selections from its nursery of budding initiatives, and rose to the economic challenges by cultivating a whole blooming display of COVID-19 guidance for trustees, employers and public service pension schemes including reporting and regulatory easements, member communications and guidance for dealing with corporate sponsors. The guidance is updated frequently and reporting easements are subject to review. We recommend that readers revisit the webpage before taking decisions that may be impacted by TPR's guidance and seek legal advice if in doubt.

## 3. Scheme Assets and Investments – A Hive of Activity

The buzzing around the flower beds might signal a sting in the tail for those currently trying to value scheme assets. HMRC is not bumbling along; it has relaxed the requirements for valuing pension scheme assets when calculating tax and allowances and has confirmed that it will not issue notices to file pension scheme returns for 2019/20. The current crisis poses some honey-coated opportunities, as well as risks, for institutional investors. Insurers are busy bees, as schemes seek to capitalise on favourable terms for buy-ins and buy-outs. Consider discussing de-risking opportunities with advisers.



## 4. The Hot Tub of Valuations

TPR's annual funding statements may have become part of the garden furniture, but this year's statement is particularly pertinent. The messages are relevant to defined benefit schemes with valuation dates between 22 September 2019 and 21 September 2020 and schemes undergoing significant changes that require a funding and risk strategy review. TPR sets the right temperature for conducting valuations under current conditions. It also emphasises the importance of retaining a focus on the long term planning and risk management issues that continue to bubble away, whilst still managing the immediate impact of COVID-19.

## 5. Don't Slide into October Without Being Prepared!

The new trampoline looks inviting! Trustees should jump into action and revise their statement of investment principles (SIP) before 1 October 2020, in particular by including policies in relation to arrangements with asset managers. Don't bury your head in the sandpit! Allow sufficient time to take advice and consult the employer. All SIPs must be published online by 1 October 2020. Trustees of DC/hybrid schemes must also publish an implementation report, although it will be a case of swings and roundabouts for defined benefit trustees – should they publish a mini-implementation report this October or wait until October 2021?

### 6. In The Herb Garden – Thyme for the Funding Code

TPR has extended the consultation deadline for the defined benefit funding code of practice to 2 September 2020, which seems like a sage decision. The consultation features the "Fast Track" and "Bespoke" compliance routes for actuarial valuations, a debate about the employer covenant and the importance of setting long term objectives. The new code is expected to come into force in late 2021 (at the earliest). TPR has defended the principles set out in its consultation, applying lemon balm to the vocal cords of critics who say that the pandemic should lead to a rethink.

### 7. Levy Rumours Will Not Bear Fruit

Over in the orchard, the Pension Protection Fund (PPF) has reassured levy payers that seeds sown in the press will not come to fruition. Any impact due to COVID-19 on the 2020/21 levy should be minimal as the rules were fixed and data collected prior to the outbreak of the pandemic. Additionally, current legislation prevents the 2021/22 levy from growing by more than 25%. In other news, according to the PPF's Chief Customer Officer, the PPF's self-imposed target of blossoming into being 110% funded by 2030 could be postponed, if needed, in light of the pandemic.

### 8. The Magic Beans of Government Support

The Coronavirus Job Retention Scheme (CJRS) shot up like a beanstalk, branching out to cover an array of employment-related issues. Rapidly evolving HMRC and TPR guidance provide some clarity on pension contributions for furloughed employees (including those in a salary sacrifice arrangement), and the Treasury has clarified when a furloughed employee can continue to act as a pension scheme trustee. The Chancellor has announced plans to phase out the CJRS by 31 October 2020, including allowing furloughed employees to work part time from July and stopping claims to subsidise pension contributions from August.

### 9. Professional Trustee Accreditation Schemes Take Flight

There is twittering in the bushes and chirping round the bird bath, as our feathered friends discuss the professional trustee accreditation schemes offered by the Pensions Management Institute (PMI) and the Association of Professional Pension Trustees (APPT), which are now live. The first fledgling accredited trustees have recently flown the nest. Both organisations have adopted arrangements to allow individuals to continue working towards accreditation despite the COVID-19 pandemic. For example, the PMI is offering online exams via remote invigilation and the APPT will award provisional accreditation pending completion of the stages that are currently more difficult to meet.

### 10. What's Cooking on the Pensions BBQ?

Some smoking hot issues are almost ready to hit our plates! We await the outcome of the recent court hearing on the extent to which benefits transferred out of a scheme should be adjusted to compensate for unequal Guaranteed Minimum Pensions. Separately, the consultation deadline for aligning the Retail Prices Index more closely with CPIH has been extended to 21 August 2020 – trustees and sponsors of defined benefit schemes will be interested in the future impact on assets and liabilities. Flames will be reignited on the Pension Schemes Bill when parliamentary discussion resumes.

## Contacts


**Kirsty Bartlett**
Partner, London
T +44 20 7655 0298
E kirsty.bartlett@squirepb.com

**Matthew Giles**
Partner, Birmingham
T +44 121 222 3296
E matthew.giles@squirepb.com

**Elizabeth Graham**
Partner, Leeds
T +44 113 284 7494
E elizabeth.graham@squirepb.com

**David Griffiths**
Partner, Manchester
T +44 161 830 5359
E david.griffiths@squirepb.com

**Wendy Hunter**
Partner, London
T +44 20 7655 1119
E wendy.hunter@squirepb.com

**Catherine McKenna**
Partner, Leeds
T +44 113 284 7045
E catherine.mckenna@squirepb.com

**Clifford Sims**
Partner, London
T +44 20 7655 1193
E clifford.sims@squirepb.com

**Philip Sutton**
Partner, Birmingham
T +44 121 222 3541
E philip.sutton@squirepb.com


**Follow us on Twitter:**
@SPB_Global

**Search:**
#How2DoPensions
#meetPAUL