

New Year celebrations will be different this year, without the traditional mass gatherings in public places. However, we expect fireworks to light up the night sky and champagne corks to pop on the stroke of midnight, as we draw a line under what for many has been an *annus horribilis*. In our Winter Hot Topics, we explore some New Year's traditions from around the globe, while at the same time providing an update on current pensions issues for your trustee or corporate agenda.



## 1. Smashing GMP Equalisation

If you find the street full of smashed plates on New Year's Day, you are either in Denmark (it is good luck), or you live next door to a trustee of a scheme that was contracted-out. The High Court has ruled on liability for past transfers that were not equalised for the effect of Guaranteed Minimum Pensions (GMPs). The position differs depending on whether the member took a cash equivalent transfer value, was part of a bulk transfer, or took a non-statutory individual transfer. Inadequate member records will be an added complication for some schemes. ([See our update.](#))



## 2. Say Auld Lang Syne to GDPR? It Is Not That Simple!

In Scotland, Hogmanay may be celebrated with a few wee drams of single malt, resulting in a hangover. The decision of the Court of Justice of the European Union in *Schrems II* may also cause headaches for trustees where pension scheme personal data is transferred to, or can be accessed from, outside the EEA. As a first step, trustees should identify whether this could be an issue for their pension scheme, for example, by referring to data maps and checking service provider engagement terms. Where a scheme is impacted, trustees should establish whether adequate safeguards are in place to protect that data.



## 3. Post-Brexit Measures – Tyne for a Change?

This new year marks a change in UK law. The Supreme Court and Court of Appeal will gain the power, where appropriate, to disapply pre-31 December 2020 EU case law. Perhaps a solution to some tricky pensions law? Other Brexit changes include planned [new measures](#) for mandatory reporting across the UK economy in line with the recommendations of the Taskforce on Climate-related Financial Disclosures, which will affect many occupational pension schemes. A New Year lump of coal might bring good luck in Newcastle, but its appeal elsewhere could be waning.



## 4. Amendments Take Their Toll on the LGPS

In Japan, a bell is sounded 108 times to ring in the new year. Also causing a ding-dong, the long-promised £95,000 cap on public sector redundancy payments came into force on 4 November – this includes the cost of unreduced early retirement pensions, which are currently mandatory in the Local Government Pension Scheme (LGPS) for members aged over 55. Unfortunately, the LGPS regulations will not be amended to accommodate the cap until early 2021. In the meantime, Administering Authorities and employers will need to take legal advice about how to manage these directly conflicting obligations.



## 5. TPR's Personal Training for Superfunds

Gym visits normally soar in January (and wane in February) due to the UK's top New Year's resolution of improving one's fitness. The Pensions Regulator (TPR) has resolved to put superfund transactions through their paces – it has issued [guidance](#) for trustees and employers who are considering a transfer to a superfund where the scheme cannot afford to buy out benefits with an insurer now or in the "foreseeable future." Sponsoring employers should apply to TPR for clearance and TPR will adopt a "hands on" approach to each transaction. Legal, actuarial and covenant advice will be integral to the decision-making process.



## 6. PPF Levy Reductions Light Up the Sky

Cruise ships assembled off the coast of Madeira to watch the firework display are a traditional sight on New Year's Eve. Closer to home, a different kind of boat is waiting and is "well equipped to weather the storm." The Pension Protection Fund lifeboat is expected to issue its levy determination in January. For 2021/22, it has [proposed](#) a levy reduction adjustment for schemes with up to £50 million in liabilities and a cap reduction on the amount of levy paid by any individual scheme from 0.5 to 0.25% of that scheme's liabilities.



## 7. COVID-19 Support – Difficult to Swallow

Spaniards eat a grape on each stroke of midnight – that is a lot to digest. Something else likely to give you heartburn is the moving feast of COVID-19 support. The second lockdown led to a last-minute extension of the Coronavirus Job Retention Scheme (see our [publication](#)). Trustees should ensure the correct pension contributions and benefits are paid in respect of furloughed employees. Separately, TPR is concerned about a rise in corporate activity that could have a detrimental effect on pension schemes. TPR's [guidance](#) sets out the steps that trustees should take to enable them to act swiftly if they spot warning signs of corporate distress.



## 8. Lucky Pants and Pension Statements

In Brazil, the colour of your New Year's Eve underwear could signal your fortune in the year ahead. Wear yellow for wealth and red for romance. A recent government [consultation](#) also questioned the importance of colour. Should annual benefit statements be sent in an envelope of a particular bright colour? This idea has been rejected (for now). The government plans to consult "later this year" on proposals to compel defined contribution schemes used for automatic enrolment to issue annual benefit statements based on the standard two-page template referred to in the original consultation. It also favours a mandatory approach to when statements are issued.



## 9. Do Not Drop the Ball on Trustee Standards

In New York's Times Square, there will be a virtual ball drop this year to celebrate the New Year. In the UK, there will be nothing virtual about the new [code of practice](#) for professional trustee firms acting as sole pension trustee, which will be effective from 1 January. The principles-based code has been developed in conjunction with TPR. Employers of schemes that have a sole trustee, or who are considering switching to a sole trustee model, may find it helpful to be familiar with the contents of the code.



## 10. On the Horizon – Know Your Onions

In Greece, it is lucky to hang an onion on your front door and then tap your children on the head with it on New Year's Day. (Your children may not feel so lucky.) Trustees and sponsoring employers will need to peel away the layers of the Pension Schemes Bill/Act to ensure that their scheme is compliant – especially in relation to regulatory reporting. Separately, trustees should schedule time to consider the impact of the decision to more closely align RPI inflation with CPIH from 2030. Finally, do not forget the deadline of 7 January 2021 for submitting an investment compliance statement to the Competitions and Markets Authority.

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