Hot Topics in Pensions

Spring 2022

UK – March 2022

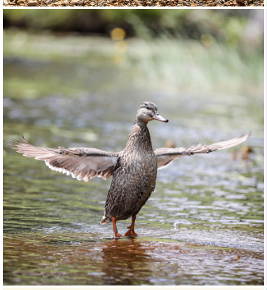
The days are getting longer and (in the main) warmer – a perfect time for day tripping. Our Spring Hot Topics is filled with sunshine and fresh air. We invite you to take a trip out and about with us, taking in some current pensions developments for your trustee and corporate agendas.

Changes to the Notifiable Events Regime – Sandstorms Ahead?

A day on the beach may bring unexpected perils and so it is always best to plan ahead. It is expected that, from April, certain types of corporate activity will be required to be notified to The Pensions Regulator (TPR) and trustees in advance of implementation. TPR will be drawing a line in the sand, with failure to comply attracting a financial penalty of up to £1 million. This could fall on individual directors, as well as on the corporate entity. Even routine business activity by the sponsor of a defined benefit (DB) pension scheme could be caught, do not bury your head in the sand.

The Stronger Nudge – Get Out of the Deckchair

Some members may be snoozing in the comfortable deckchair of inertia. From 1 June 2022, trustees will be required to "nudge" members to wake up and consider guidance if they have flexible benefits (i.e. cash balance and defined contribution (DC) including additional voluntary contribution arrangements) and they wish to access their flexible benefits or transfer to another scheme with the intention of accessing their benefits flexibly. Trustees and administrators need to follow new processes before a benefit application or transfer can be implemented. TPR has updated its DC guidance.

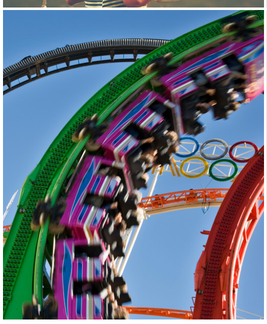


Flying Towards Single Code Compliance

The sights and sounds of a nature reserve might be the perfect way to relax. Observe the waders, warblers or wildfowl before shaking your tail feathers and progressing scheme governance activity. Many schemes have completed their initial "gap analysis" assessments and are starting to take flight towards compliance with the single code of practice. The next steps are to agree a risk-based, proportionate approach and to implement an action plan designed to achieve compliance in a way that minimises disruption to other key scheme activity. See our roadmap. We understand that TPR aims to have the single code of practice in force for Summer 2022.

Collective Defined Contribution (CDC) – Winds of Change

If you enjoy the outdoors, then hold on tight to your kite and be mindful of shifts in wind direction. The winds of change are blowing across the pensions industry with CDC schemes becoming a reality. TPR issued a consultation on its draft code of practice for the authorisation and supervision of CDC schemes. The regulations needed to implement single or connected employer CDC schemes have been published and are due to come into force on 1 August 2022. With the CDC launch date now approaching, the government is on a trajectory to further extend the scope of CDC provision.



Taskforce on Climate-related Financial Disclosures (TCFD) – All the Fun of the Fair?

If theme parks appeal to you, then buckle-up and off we go! Climate-related investing and disclosure started as a gentle ride, but has become a rollercoaster of developments. TCFD governance, reporting and disclosure requirements now apply in respect of the largest private sector schemes and authorised master trusts. From 1 October 2022, schemes that had £1 billion or more of assets as at the first scheme year-end date falling on or after 1 March 2021 will no longer be able to dodge 'em. The governance requirements will apply, with TCFD reporting and disclosure following, within seven months of the end of the scheme year. The regulations to impose an equivalent regime for LGPS funds have been delayed while government considers the impact of its levelling-up White Paper.

The Rocky Path of International Data Transfers

Our national parks offer some challenging terrain for hikers, including rocky ascents. There are parallel obstacles to navigate for international data transfers. If personal data relating to a pension scheme is transferred to or accessed from outside the UK, legislation requires extra safeguards to be in place. Where trustees or their service providers rely on standard contractual clauses (SCCs) to meet requirements, those clauses need to be updated in line with the new SCCs adopted by the European Commission, or the UK's new International Data Transfer Agreement. Check that contractual protections are not undermined by the legal regime of the recipient country – extra due diligence is required.

Environmental, Social and Governance (ESG) Investing – Food for Thought?

Does the sea air make you feel hungry? Can you resist fish and chips, candyfloss or ice cream? Decisions, decisions. There are plenty of decisions for trustees, too, when taking into account ESG factors in their investment strategy. Meat industry or not? Fossil fuels or not? Do you have a plan if your ESG policy is challenged by members or activists? How would you respond to allegations of wrongdoing and who would be involved in preparing that response? Contact us if you would like help in preparing an ESG "breach response plan". In the meantime, the recording of our recent webinar explores some of these challenges.

State Pension Age – A Stately Affair

In Britain, you are never far from a place of history – majestic castles and stately homes, dungeons and ruins – every place with a story to tell. Meanwhile, within the grand houses of parliament, another chapter is unfolding. The government will soon be conducting a review of the rules for setting the state pension age, which it is obliged to carry out every six years. In the lead up to this review, the Department for Work and Pensions (DWP) has issued a Call for Evidence to inform an independent report, exploring the metrics government should take into account when considering how to set state pension age. The pre-programmed increases to normal minimum pension age are set to go ahead regardless.

Forget Surfboards – Time to Get to Grips With Pensions Dashboards

Don your wetsuit and get ready to board! A recent consultation by DWP indicates the size of the incoming surf of obligations associated with the introduction of pensions dashboards. Well-prepared pension scheme trustees will be better able to ride the waves and should plan ahead to avoid last minute wipe outs – starting with looking up their scheme's proposed "staging date". Trustees should also discuss with administrators how compliance with the new requirements will be achieved and investigate whether their scheme's data is dashboard ready. Our blog contains some initial thoughts.

In the Picture

It is raining! Head for the cinema for our blockbuster pensions "pick 'n' mix". 1. The first DB superfund successfully completed its TPR assessment – we remind trustees and employers of the importance of seeking legal advice at an early stage of considering any type of scheme consolidation. 2. Questions are arising on the implementation of the new transfer regulations – if in doubt, speak to us for a practical interpretation of the regulations. 3. From 1 October 2022, regulations will require DC schemes that are used for auto-enrolment to produce simpler annual benefit statements – is your scheme administration on track?

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