

During the cold winter months, our readers might like to entertain family and friends in the comfort and warmth of their homes. We would like you to have some fun with us as we play some traditional board games and parlour games, while highlighting our top ten current pensions issues. Come and play!



Pension Protection Fund (PPF) – Was it Mr. Hunt in the Commons With the Autumn Statement?

Following on from the summer's [Mansion House proposals](#), the government has been searching for clues on how to increase pension scheme investment in productive finance. Part of the mystery might have been solved following the PPF's [appearance](#) before the work and pensions committee, and the [chancellor's autumn statement](#). Unlike the typical murder mystery game, a new proposal means that there might not need to be a death (of the sponsoring employer) before the PPF enters the room. We expect a consultation this winter on the PPF acting as a public consolidator for small defined benefit (DB) schemes with solvent employers, where those schemes are unattractive to commercial consolidators.



Pension Trustees – Anyone for Draughts?

It is important to assess the skill set, capability, knowledge and diversity of a trustee board. Strategic thinking is required. To this end, the government [has said](#) that accreditation of professional trustees might be mandated in the future and that a register of trustees will be established by The Pensions Regulator (TPR). The Department for Work and Pensions (DWP) has a game plan to have a smaller number of schemes, all with a professional trustee on board. The Treasury has jumped over any consideration of trustees' fiduciary duties for the time being, but there may be more on this following a review by the Financial Markets and Law Committee.



Dashboards Move Closer to Passing "Go"

We expect the final dashboards data standards and the connections guidance to be published early in 2024 – the DWP aims to provide at least 12 months' notice of the first connection date so that trustee agendas are not monopolised by last-minute dashboards compliance work. TPR is emphasising that trustees should heed its [initial guidance](#) and maintain momentum in the meantime. Separately, the DWP has issued a "Get Out of Jail Free" card, by way of [guidance](#) on how schemes can apply (in very limited circumstances) for deferred connection of up to one year from 31 October 2026. Finally, the Pensions Dashboards Programme has recently published an informative [progress report](#).



Extracting Surplus – Not a Trivial Pursuit

In the [outcome of its call for evidence on options for DB schemes](#), the government said that there would be a change to the new DB funding code in order to support a less risk-averse approach to investment. What else did the government propose? (a) Making it easier to extract surplus from schemes, (b) a reduction in the tax rate on the return of surplus to the employer, (c) measures to ensure that surplus could be shared with members, or (d) all of the above? The answer, of course, is (d) – all of the above! Extracting surplus as a means of incentivising investment by DB schemes in productive finance is clearly no trivial matter.



Trustees To Follow Suit on Decumulation

The DWP has laid its cards on the table by [confirming](#) that it will legislate to bring in a new duty for trustees of defined contribution (DC) schemes to offer decumulation products and services that are appropriate for their members, including a default option for members who do not wish to make a choice. In the short term, the DWP will trump in and encourage trustees to develop or enhance their decumulation offerings, with TPR producing interim guidance to support this. The DWP will continue to work with the pensions industry to reshuffle the legal framework so that Collective DC-in-decumulation vehicles can be established.



Piecing Together the Lifetime Allowance (LTA) Abolition Jigsaw

An [HMRC policy paper](#) confirmed that the abolition of the LTA will go ahead on 6 April 2024. The [Finance Bill 2023-24](#) contains most of the pieces of the puzzle, but the practicalities are not easy to fit together, and time is short. This issue is causing difficulties for the pensions industry and uncertainty for members (especially those close to retirement). It is important that trustees work with administrators and seek advice to provide the best possible information for members. Ensure that processes are followed carefully – this could be an area for future complaints to The Pensions Ombudsman (TPO). The picture is forming, but more slowly than we would like.



Transfer Determination – Removing a Block Without Collapsing the Tower

TPO had to carefully balance a stack of considerations when approaching a recent complaint about a trustee board’s interpretation of the [2021 conditions for transfers regulations](#). TPO [concluded](#) it was reasonable for the trustees to adopt a strict interpretation of the regulations in deciding that the receiving scheme contained “overseas investments,” which triggered a requirement for a MoneyHelper appointment. By focusing on the reasonableness of the decision, rather than providing a definitive view on how the regulations should be interpreted, TPO may have intended to extract a ruling without disturbing the pile of potential alternative interpretations.



Environmental, Social and Governance (ESG) – Triple Word Score

There are lots of points for getting ESG into an investment review. To save trustees from scrabbling about, here are some of the latest developments. The Taskforce on Nature-related Financial Disclosures has made its final recommendations and published a [framework](#) for considering nature-related issues. The Taskforce on Social Factors has published a [draft guide for consultation](#), which includes resources and data for trustees when assessing social risks and opportunities. And the Transition Plan Taskforce has published a [disclosure framework](#) along with [sector-specific guidance](#) on climate change transition planning.



Retained EU Law – Place Your Bets!

The end of 31 December 2023 feels much like a game of chance so far as retained EU law is concerned. While there is a definitive list of the retained EU legislation that will be revoked, other retained EU law will disappear that is not individually specified (including the effect of some court decisions). Consequently, the DWP (acting as croupier) has laid before Parliament draft regulations that incorporate into UK legislation EU-derived case law relating to equal treatment and PPF compensation. While the government has said that the [Bauer](#) decision will be out on 31 December, the wheel is still spinning on what else will be in or out.



I Spy, With My Little Eye, Something Beginning With “P”

Did you guess? It is “p” for “pensions” of course, with 2024 set to be another busy year. Trustees of DB schemes are awaiting sight of the final funding and investment regulations and the funding code of practice. Trustees of DC schemes will be eager to view developments on the new value-for-money framework, on which The Financial Conduct Authority (working closely with TPR and the DWP) will consult in Spring 2024. In the meantime, the government has highlighted its medium-to-long-term vision to introduce a pension pot for life – a concept that will certainly spark a lot of debate in the industry!

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