February 2020

In Sight

a quarterly pensions publication

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PPF developments

PPF levies for 2020/21

The Pension Protection Fund (PPF) has published its final levy rules for 2020/21. The levy calculation is substantively unchanged from 2019/20. However, at an overall level, the PPF estimates that total levies will be around 8% higher than in 2019/20, but the impact will vary significantly between schemes.

Invoicing of 2020/21 levies is expected to commence in autumn 2020, with larger sums invoiced first.

Actions and deadlines

Schemes can now submit relevant information and consider other actions needed to manage their 2020/21 levy, in line with the following key deadlines:

- Submitting data to Experian to impact on monthly scores — one calendar month prior to the score measurement date.
- Scheme returns and contingent assets certificates – on Exchange by midnight on 31 March 2020 (although guarantor strength reports or any other hard copies must be submitted by 5pm on 1 April 2020).
- Asset-backed contribution certificates — email by midnight on 31 March 2020.
- Special category employer applications, including confirmation of no changes from 2019/20 — email by midnight on 31 March 2020.
- Certificates and supporting evidence for mortgage exclusions and accounting standard changes — email by midnight on 31 March 2020.
- Certifying deficit-reduction contributions – on Exchange by 5pm on 30 April 2020.
- Submitting block transfer information — email exempt transfer forms by 5pm on 30 April 2020, or full block transfer certificates to be submitted on Exchange by 5pm on 30 June 2020.

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PPF insolvency risk consultation

The PPF is consulting until 11 February on its model for assessing insolvency risk for levies from 2021/22, in conjunction with the (re-) introduction of Dun & Bradstreet (D&B) as the PPF's insolvency risk service provider. The proposals have the potential to significantly impact schemes' levies – the PPF's analysis suggests that over 60% of employers will see a change in levy band.

A new web-based D&B portal for the provision of scores has also been launched. Our experience has already shown that there are issues with incorrect and/or missing data on the new portal, and the PPF has given schemes until the end of April 2020 to correct the data.

A further consultation will cover other aspects of the levy rules from 2021/22.

Actions

Schemes and employers should ensure that D&B holds the correct information to calculate insolvency risk scores and hence PPF levies, including:

- Complete the registration process to access the new D&B portal.
- Check the data shown in the new portal and ask D&B to correct it where necessary.
- Submit any voluntary information to D&B even where data has been provided to Experian previously.
- Understand the potential impact of the proposals on their schemes' levies.

Adequacy of pension protection

In December the European Court of Justice (ECJ) gave its ruling in the Bauer case, relating to the German equivalent of the PPF. The ruling may increase PPF compensation for some members and ultimately scheme levies. However, the impact appears more limited than was feared based on the Advocate General's preliminary opinion on the case; it seems likely that many members will not be impacted, particularly once they become entitled to a state pension.

The EU insolvency directive requires a minimum degree of protection and these requirements were essentially transposed into UK law in the Pensions Act 2004, which established the PPF. Earlier ECJ judgments (notably Hampshire) indicated that the 50% compensation threshold for individuals was sufficient but last year the Advocate General suggested that this level of protection was inadequate.

The ECJ reaffirmed that member states are not required to guarantee employees' pension benefits in full in the event of employer insolvency. The key aspect of the Bauer judgment is that any reduction in a member's benefit in the event of employer insolvency should not result in the member's total income falling below a poverty threshold determined by Eurostat (this amounted to around £11,000 a year in 2018).

The government and the PPF need to consider the implications for UK pension schemes. Significant uncertainties must be resolved, including whether (and how) the judgment will apply retrospectively, and whether Brexit could affect what is required.

Trustee guidance on investment governance

The Competition and Markets Authority (CMA) Order requires trustees to set objectives for their investment consultants and carry out competitive tender processes for fiduciary management services. In the last edition of In Sight, we highlighted that trustees would need to comply with the requirements of the CMA Order from 10 December 2019 and that the Regulator was consulting on draft guidance. The regulatory guidance was published at the end of November, covering the following areas:

1. **Choosing an investment governance model** – this guide aims to support trustees to understand their investment governance capability and highlights key matters to consider when deciding on an appropriate level of delegation.
2. **Tendering for fiduciary management services** – this aims to provide practical information to support trustees in meeting the legal requirements to tender for such services, and the guidance notes that even when the legal requirements do not apply the principles may be relevant if the trustees consider it appropriate to carry out a competitive tender.
3. **Tendering for investment consultancy services** – this addresses the CMA recommendation that the Regulator consider how the competitive tender process could be applied to the appointment of investment consultants; it aims to provide guidance to trustees on the key matters to consider when putting together a competitive tender exercise.
4. **Setting objectives for providers of investment consultancy services** – this aims to provide practical information on key matters to consider when setting objectives for the provider of investment consultancy services (as defined in the Order, although the Regulator suggests that, as a matter of good governance, trustees should set objectives even where the legal requirement may not directly apply) and deciding on the services to obtain from the investment consultant.

The requirements of the CMA Order are expected to be incorporated into pensions legislation from April 2020, following the DWP's July consultation. The Regulator intends to update its guidance once this legislation is finalised.

Actions

Trustees should take account of the guidance when setting objectives for their investment consultants or carrying out competitive tenders for fiduciary management services, as required by the CMA Order. Trustees may also wish to consider the best practice aspects of the guidance and apply these in wider circumstances.

Guidance on responsible investment

The Investment Association (IA) has published a report setting out definitions that aim to create a common language across the investment management industry around environmental, social and governance (ESG) risks and responsible investment. The report accompanies the launch of the IA's Responsible Investment Framework, to categorise the most common responsible investment approaches and help savers access and compare funds. This follows consultation with over 40 investment management firms in 2019.

In addition, the Pensions Climate Risk Industry Group plans to consult in early 2020 on draft guidance covering how trustees can integrate, manage and report on climate risks in line with the recommendations of the Task Force on Climate-Related Financial Disclosures (TCFD). This pensions industry working group was set up by the government and the Pensions Regulator in July 2019 as part of the government's Green Finance Strategy, to help trustees address climate-related financial risks as part of their governance processes.

Stewardship Code 2020

The Financial Reporting Council's UK Stewardship Code 2020 took effect from 1 January. It is designed to complement the Corporate Governance Code, which was updated in January 2019, and has an extended focus that includes asset owners such as pension scheme trustees.

Signatories to the updated code will be expected to report annually on their stewardship activity and its outcomes over the previous year. Among the changes from the previous version, there are requirements for signatories to take account of ESG factors including climate change and to ensure their investment decisions are aligned with the needs of their clients.

They must also explain:

- their organisation's purpose, investment beliefs, strategy and culture;
- how the needs of beneficiaries have been taken into account; and
- how they have exercised stewardship across a wide range of asset classes.

The code is voluntary but many large pension schemes sign up to it and the Pensions Regulator encourages trustees to do so.

Action

Trustees should review the code and consider if they wish to sign up to it – if so, they should take steps to ensure that they are in a position to do so.

Other news from the Pensions Regulator

Extra checks for DB to DC transfers

The Pensions Regulator has updated its guidance on DB to DC transfers and conversions to take account of recent changes to the FCA's certification regime. Trustees will need to carry out extra checks when members apply to transfer or convert safeguarded (broadly DB) benefits worth £30,000 or more.

Before these benefits can be transferred or converted, the trustees must check that the member has received appropriate independent advice from a suitable adviser. Schemes use the FCA's Financial Services Register to verify that a member has received suitable advice – however, from 9 December 2019 many individuals no longer appear on the Register or their records may be out of date. The guidance explains that trustees should continue to check the Register for details of the firm providing the advice, but they will also now need to contact that firm to confirm that the relevant individual works for them or check an appropriate third-party directory. A new FCA Directory of certified individuals is due to be released in December 2020.

Action

Trustees should confirm that their scheme's administration processes reflect the updated guidance.

Trustees urged to engage early

Trustees have been urged to engage early with the Pensions Regulator on corporate transactions and to be transparent to protect savers. This follows the Regulator's latest quarterly compliance and enforcement bulletin, which highlights how it responds to events that pose increased risks to schemes.

The bulletin includes a case study in which a UK employer with an international parent company announced that it was closing its UK operations. The Regulator contacted the trustees on the day that the closure was announced and worked with them to help challenge the employer's proposals for the pension scheme.

Future of trusteeship and governance

We understand that the Regulator's formal response to its consultation on the *Future of trusteeship and governance* (on which we reported in the August edition of In Sight) is due in February. This is expected to make several recommendations, including on trustee board diversity.

Pension costs and transparency

CTI publishes top tips for trustees

The Cost Transparency Initiative (CTI) has published a two-page summary of top tips that aim to help trustees use and understand its tools and guidance.

Last year the CTI launched a set of templates designed to allow asset managers to report costs and charges in a standardised format so that trustees could make clear comparisons across their investment managers and asset classes. This new note entitled *Easy steps to understanding your costs* covers: the CTI's role; understanding the three different templates; deciding how and when to use the tools, including the use of professional advisers; and how to interpret the data provided.

The CTI expects asset managers to be in a position to report against December 2019 and April 2020 year-ends using the tools.

Action

Unless suitable tools (meeting the latest best practice) are already in place for schemes to collate and effectively report on costs and charges, trustees should review these CTI tips. If necessary, trustees should also engage with their investment and/or DC advisers and check that their asset managers are prepared.

Future work on costs and transparency

The government is actively considering a consultation on regulations to encourage use of the CTI disclosure templates. This follows the Work and Pensions Committee's inquiry into pension costs and transparency (as reported in our November edition), which recommended that it should be mandatory for DC and DB schemes to disclose costs and charges in a set format.

In its response to the Committee's recommendations, the government also confirmed that a review of the level and scope of the charge cap, as well as permitted charging structures, will take place in 2020. However, it said that the timing is not yet right to review the initial impact of requiring occupational DC schemes to publish their assessment of value for members.

DC news

Consultation on simpler annual benefit statements

The Department for Work and Pensions (DWP) has been consulting on how to deliver annual money purchase benefit statements that are shorter, simpler and easier to understand.

The consultation is structured around three main issues:

- How greater standardisation of the structure, design and content of benefit statements could help improve member engagement. Three options are put forward: a simpler statement template, a design-principles based approach, or the use of a set of descriptors. The DWP asks whether a voluntary approach would work, or if regulation is needed.
- A proposal for relevant schemes to include member level charges and transaction cost information in pounds and pence on the benefit statement. Currently schemes providing money purchase benefits are required to signpost members to published information on costs and charges, but the DWP recognises that only engaged members will access this detailed information.
- A more standardised approach to the underlying assumptions used to produce Statutory Money Purchase Illustrations (SMPIs) to develop simpler, consistent and more stable projected numbers to help members make comparisons.

The consultation also considers the relationship of simpler statements with innovative communication tools, including pension dashboards, and how to encourage members to open their statements.

The consultation closed on 20 December 2019 and the DWP will consult further on the detail of any such changes and on any statutory guidance that might be required.

Consultation expected on DC consolidation and performance fees

It has been reported that the government is planning to consult on legislative changes to help facilitate consolidation of DC schemes, and to address how the charge cap works where there is a performance-related fee. We understand the aim is for the amendments to take effect by October 2020.

FCA extends the remit of IGCs

Following consultation, the Financial Conduct Authority has published new rules that will extend the remit of independent governance committees (IGCs) of contract-based schemes from 6 April 2020. The rules introduce a duty for IGCs to report on their firm's ESG policies and to oversee the value for money presented by their firm's investment pathway solutions (which are being introduced in relation to pension drawdown from 1 August 2020).

PLSA Retirement living standards

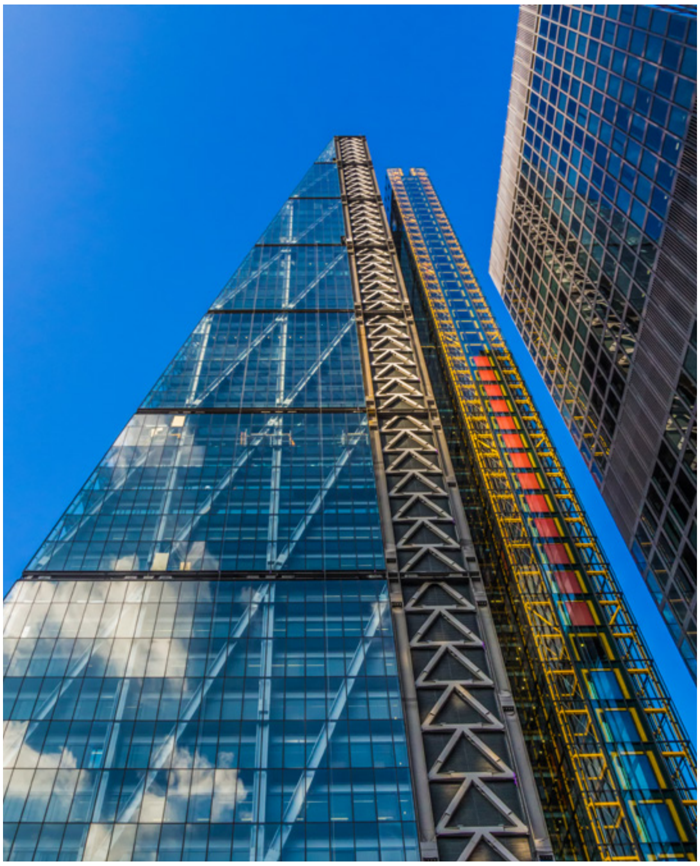
The Pensions & Lifetime Savings Association (PLSA) recently launched its Retirement Living Standards, designed to help members understand how much money they will need to live the lifestyle they would like in retirement.

The standards provide a benchmark level of annual income to fund three different standards of living – minimum, moderate and comfortable – which aim to provide a rule of thumb guide based on common costs for many people.

The PLSA's target is for 90% of active members to use the standards and for them to be used in member communications, including annual benefit statements. It is working with the Money and Pensions Service and the Pensions Dashboard Delivery Group to make the standards part of their work.

Action

Given our expectation that the PLSA standards will eventually become widely adopted, and our own work in this area, trustees should discuss the standards with their DC consultant to understand how they can be used to improve member retirement outcomes.



News round-up

Civil partnerships extended

Opposite-sex couples are now able to become civil partners in England and Wales. This right was introduced from 2 December 2019, following a Supreme Court decision that the UK's law on civil partnerships was incompatible with the European Convention on Human Rights. Broadly, opposite-sex civil partners must be provided with the same survivors' benefits as same-sex civil partners.

Similar regulations for opposite-sex civil partnerships in Northern Ireland came into force on 13 January 2020. Legislation to permit opposite-sex civil partnerships in Scotland is progressing through the Scottish parliament.

Action

Trustees should ensure that references to civil partnerships and survivor benefits in scheme rules and member communications remain accurate.

Budget date and RPI reforms

The Chancellor has announced that the Budget will take place on Wednesday 11 March. He has also said that HM Treasury's consultation on changes to the Retail Prices Index (RPI) will now be published with the Budget, rather than in January as previously planned.

As reported in our November edition, the consultation arises from the UK Statistics Authority's (UKSA) concerns about the shortcomings of RPI and its proposal to address this by adopting the methods of the CPIH (a variant of the Consumer Prices Index including the owner occupiers' housing costs). The consultation will consider whether the proposed change in RPI should be made before 2030 (although not before 2025) and, if so, when this would happen.

Ruling on retrospective equalisation

The European Court of Justice (ECJ) has ruled that equalising benefits retrospectively is contrary to EU law, even if permitted under a scheme's rules. The Safeway case considered whether the pension scheme's equalisation of retirement ages was effective when the trustees wrote to members in 1991, even though the rules were not formally amended until 1996. The judgment does say that retrospective amendments could be justified in exceptional circumstances; the ECJ suggested there were no such circumstances in the Safeway case, but this will be an issue for the UK courts to confirm.

Stock lending

In October, the Court of Appeal published its judgment in the case of *HMRC v Coal Staff Superannuation Scheme Trustees*. The scheme took part in stock lending for many years. Dividends were payable to the borrower, as owner of the shares at the time. The agreements provided for the lender (the scheme) to be paid equivalent amounts by the borrower, in the form of 'manufactured dividends' on UK shares and 'manufactured overseas dividends' (MODs) on overseas shares.

Under tax rules in place until 1 January 2014, HMRC imposed withholding taxes totalling £8.8 million on the MODs received by the scheme between 2002 and 2008. No tax was charged, however, on manufactured dividends on UK shares. The Court of Appeal found that these MOD tax rules were a restriction on the free movement of capital and were not justified. The trustees were therefore entitled to recover the tax paid.

The impact of this test case on other schemes is not yet clear. We do not know whether HMRC will appeal to the Supreme Court.

Pension Schemes Bill reintroduced

As confirmed in the Queen's speech, the government has reintroduced the Pension Schemes Bill to Parliament. The Bill covers the same measures as the October version (on which we reported in the last edition of In Sight) with a few refinements, most of which are intended to improve drafting or rectify drafting errors.

The new Pension Schemes Bill includes:

- Changes to the Pensions Regulator's powers and sanctions.
- A requirement for trustees of defined benefit schemes to produce a statement on their long-term funding and investment strategy (the first stage of the Pensions Regulator's related two-part consultation process on a revised scheme funding code of practice is expected in March).
- Provisions allowing for restrictions on statutory transfer rights, to help prevent pension scams.
- A framework for collective money purchase schemes.
- Provisions to support pensions dashboards.

We can expect amendments to be made as the Bill proceeds through Parliament. The anticipated timescale for the Bill to receive royal assent, and for measures to come into force, has not yet been confirmed.

On the horizon

Here are some key future developments likely to affect pensions:

March 2020

- Consultations on revised funding framework and RPI due

April 2020

- Regulations expected to transpose CMA requirements into pensions law

Spring 2020

- Further hearing scheduled in Lloyds bank GMP equalisation case

Late 2020

- Part two of consultation on revised DB funding code

October 2020

- Changes to SIPs and related disclosure requirements
- State pension age reaches 66 for men and women

Training and events

Dates scheduled for our pensions training seminars are set out below. Unless it says otherwise, all courses and events take place in central London.

You can find a copy of our training brochure and also book online at **aon.com/pensionstraining**

Pensions training courses	Dates
Defined Benefit — part 1 (one day)	17 March, 6 May (Birmingham), 16 September, 17 November
Defined Benefit – part 2 (one day)	4 March, 13 May, 10 September (Birmingham), 8 December
Defined Benefit Trustee Essentials (two days)	1-2 July, 7-8 October
Defined Contribution (one day)	24 March, 17 June, 25 November
Pension Governance Committee (half day)	26 February, 30 September

Pension conferences 2020: Clarity of vision

The Aon Pension Conferences are designed for trustees of pension schemes and pensions, HR and finance professionals who make decisions about their company's pension scheme.

Attendance will offer delegates the opportunity to hear experts' views and ideas on how to manage DB and DC pension schemes and provides a platform to learn from and network with peers.

To register or find out more, go to:
www.aon.com/unitedkingdom/events/default.jsp

4 February – Manchester
25 February – London
3 March – Bristol
10 March – Edinburgh
17 March – Leeds
24 March – Birmingham
31 March – London

Other events

Aon participates in a variety of sector-specific conferences and exhibitions as well as holding regular seminars, webinars, conferences and events focusing on key issues of client interest.

To find out more about our events, go to:
http://www.aon.com/unitedkingdom/events

Contacts

If you have any questions on In Sight, please speak to your usual Aon consultant or contact:

Helen-Mary Finney
+44 (0)1252 768 392
helen-mary.finney@aon.com

About Aon

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