BRIEFING

TRAVERS SMITH

Pensions Radar

Pensions Radar is a quarterly listing of expected future changes in UK law affecting work-based pension schemes.

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Travers Smith Pensions Sector Group

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Legislative and regulatory developments

The following are forthcoming developments with known or expected dates:

KEY DATE

DB scheme funding and investment

Key date: Valuations with effective dates on and after 22 September 2024

DB schemes are required in connection with their next valuation to have a 'funding and investment strategy' for ensuring that benefits can be provided over the long term. After determining or revising such a strategy, trustees have to prepare a 'statement of strategy', to be agreed with the sponsoring employer. All valuations will have to be submitted to the Pensions Regulator, whether or not the scheme is in deficit. The new rules apply to a scheme when it has a valuation with an effective date on or after 22 September 2024. See WHiP Issues 97 and 108.

Complementing these changes is a Pensions Regulator DB funding code of practice and updated covenant guidance. The Regulator's final 'fast track' parameters have also been published: these will form part of forthcoming guidance on the Regulator's regulatory approach. The digital platform for submitting documents to the Regulator is not yet available. See WHiP Issues 99, 111 and 113.

Pensions Regulator general code of practice and own risk assessments

Key date: In force from 28 March 2024 but with a grace period of at least two years for producing the scheme's first own risk assessment

The Pensions Regulator has consolidated and updated ten of its codes of practice in a 'General code of practice'.

The General Code also includes new content on scheme governance: this relates to the broadening of internal controls requirements to require occupational pension schemes to "establish and operate an effective system of governance including internal controls", which must be "proportionate to the size, nature, scale and complexity of the activities of the occupational pension scheme". Schemes with 100 or more members also need to undertake an "own risk assessment" of their system of governance at least every three years.

See our briefing notes on the various aspects of the Code.

Pensions review

Key date: Spring 2025 for the final recommendations

A Government pensions review is considering how DC and Local Government Pension Scheme assets might be invested to benefit the UK economy to a greater extent. The interim report led to consultations on (1) measures designed to lead to consolidation in the master trust and group personal pension markets and (2) mandatory Local Government Pension Scheme asset pooling. See WHiP Issue 113.

Phase 2 of the review, on adequacy and outcomes, has been postponed indefinitely.

Pensions dashboards

Starting from 30 April 2025 (based on scheme type and number of non-pensioner members), with an ultimate statutory deadline of 31 October 2026

The Government has published guidance including a staged timetable for pension schemes and providers to connect to the pensions dashboards ecosystem and be in a position to process 'find' and 'view' requests. The guidance retains the original plan for staged connection dates, ahead of the legal deadline of 31 October 2026. Schemes are required to "have regard to" the guidance. Dates are determined based on scheme type and number of non-pensioner members. See WHiP Issues 105 and 108.

Schemes have been urged to prepare for connection in good time. See our article 10 actions for getting to grips with pensions dashboards.

Data transfers to the EU

June 2025

The European Commission's June 2021 adequacy statement regarding protections for personal data transferred from the EU to the UK expires after four years but can be renewed. See WHiP Issues 86 and 90.

Corporate directors / failure to prevent fraud / identity verification

From 1 September 2025 for the new offence; unknown for the ban on corporate directors

Company law statutes include provisions due to come into force which are of potential relevance to pension scheme trustee companies. These include a ban on corporate directors (i.e. a company acting as a director of another company) and a new offence of failure to prevent fraud. There are likely to be exemptions and transitional measures, details of which are awaited but which may help trustee companies. For example, a trustee (or other) company may be outside the corporate directors ban where it has a director which is a company (for example, an independent trustee firm) but the directors of that firm are all natural persons. See WHiP Issue 112 and 113.

Commencing in Autumn 2025 (date tbc)

The Economic Crime and Corporate Transparency Act 2023 (ECCTA) also includes new requirements for the identity verification of all directors, LLP members and 'people with significant control' of UK companies and LLPs. See our briefing New UK identity verification requirements under ECCTA.

Options for DB schemes and proposed public sector consolidator

2026

The last Government wanted more productive investment from DB schemes, including to assist with economic growth and infrastructure projects. It intended to relax rules on accessing surplus (having already reduced the tax charge) and facilitate more scheme consolidation. This would include a public sector consolidator, to be established by 2026 and run by the Pension Protection Fund. See WHiP Issue 107.

The new Government supports DB consolidation and investment for economic growth. There has been an indication of changes to give more flexibility to pay surplus to employers and on the investment of surplus funds but full details are to be published soon.

DC value for money

Mid-2020s

The last Government, Pensions Regulator and FCA confirmed the outline of a new framework on metrics, standards and disclosures for value for money assessments in DC occupational pension schemes and personal pensions. The new Government intends to continue this initiative and will include legislation in the forthcoming Pension Schemes Bill.

DC scheme trustees and independent governance committees of workplace personal pension schemes will be required to assess in detail, compare and disclose the value for money that their scheme provides. This will involve much more than consideration of just costs and charges. The Government and regulators aim to help trustees to make more informed investment and governance decisions and employers to compare options for pension provision, whilst also driving competition. This is expected to take effect in the "mid-2020s". An FCA consultation followed. See WHiP Issue 111.

Automatic enrolment extensions

Mid-2020s (?)

The last Government proposed significant changes to the scope of the automatic enrolment duties, including extending automatic enrolment to 18 - to 21 year-olds and removal of the lower pensionable pay threshold, subject to finding ways to make these changes affordable. A statute introduced powers to make the changes but there has been no recent indication as to the timing of implementation and the relevant part of the new Government's pensions review (see above) is on hold. See WHiP Issue 105.

DC asset allocation disclosure

2027 (1 December 2024 for LGPS funds)

Under a proposal of the last Government, DC schemes would need to disclose publicly certain information about their asset allocations, including the extent to which assets are invested in UK equities. This would take effect from 2027 but Local Government Pension Scheme funds are expected to use 'best endeavours' to do this for their 2023/24 annual reports. See WHiP Issue 108. We wait to hear whether or not the new Government will implement this proposal.

Inheritance tax on lump sum death benefits

6 April 2027

The Government has consulted on proposed mechanics for bringing most unused pension funds and death benefits into a person's estate for inheritance tax purposes. The outcome is awaited. See WHiP issue 113.

Normal minimum pension age to be raised to 57

6 April 2028

The normal minimum pension age for registered pension schemes will be 57 (rather than 55) with effect on and from 6 April 2028, with some protections for members with existing rights to draw benefits earlier. Trustees who have not already done so should inform members at the next opportunity of any change to the age from which they are able to access benefits under the scheme rules. See WHiP Issue 94.

Lifetime allowance statutory override ends

5 April 2029

A statutory override has the effect that scheme rule references to the lifetime allowance continue to have effect following and notwithstanding its abolition on 5 April 2024. This ceases to apply on 5 April 2029, so scheme rules may need to be amended before then, where possible. See WHiP Issue 108.

RPI reform

February 2030

The UK Statistics Authority is expected to align the Retail Prices Index with the Consumer Prices Index including owner-occupied housing costs (CPIH) when it is able to do so unilaterally, which is from February 2030. The last Government declined to consent to earlier reform and a judicial review challenge failed. See WHiP Issues 78, 81, 86 and 98.

Small DC pots

From 2030 (?)

The last Government settled on the 'multiple default consolidator' model for dealing with deferred DC pots of less than £1,000. A small number of authorised schemes, including master trusts, will act as consolidators. The last Government consulted on aspects of how this will operate. The Labour Government will include legislation on this in the forthcoming Pension Schemes Bill. See WHiP Issues 101, 104, 106 and the next issue.

Later, a 'lifetime provider' model may be introduced but the new Government's views on this are not known.

Ongoing and recurring events

The following are events that are ongoing or recurring:

Automatic re-enrolment

Every three years

Every three years, an employer must carry out an exercise to re-enrol, into an automatic enrolment scheme, eligible jobholders who opted out after they were automatically enrolled. This duty first arises three years from the employer's staging date, when automatic enrolment was first required, and there is a six-month window around that anniversary during which the exercise must be carried out. It must then be repeated every three years. See our briefing note Automatic re-enrolment.

State pension ages rising

Until 2046 (with implications already for schemes with bridging pensions or state pension offsets)

State pension age for both men and women is rising to age 68 by 2046 but this is due to be reviewed. See WHiP Issue 102. The increase from 66 to 67 has been brought forward by eight years, to take place between 2026 and 2028.

See our briefing note Bridging pensions – state pension age issues, on the issues that rising state pension ages can cause for schemes that attempt to integrate with the state pension.

Expected developments with no confirmed date

The following are expected legislative and regulatory developments for which there is no confirmed date:

Cases on section 37 / regulation 42 certificates

In a case involving a Virgin Media group pension scheme, the Court of Appeal ruled against the employer on the consequences of a deed amending a contracted-out pension scheme not having been accompanied by the actuary's confirmation required under section 37 of the Pension Schemes Act 1993. We await news of any Government intervention. See our news alert Court of Appeal upholds requirement for written actuarial confirmation when contracted-out benefits were changed and Q&As briefing.

In a separate case, *Verity Trustees Limited v Wood,* the High Court is considering (among other things) further questions in this area.

DB consolidator schemes

The last Government consulted on proposals for legislation on the authorisation and supervision of DB consolidator schemes, or "superfunds", which are intended to operate in some circumstances as an alternative to buy-out. Legislation was to be put forward including 'gateway' criteria for schemes to be able to access a consolidator scheme. In the meantime, Pensions Regulator guidance applies and guidance on alternative models is expected soon. See WHiP Issues 74, 82, 85, 88 and 104. The forthcoming Pension Schemes Bill, expected to be introduced in the first half of 2025, will implement this proposal.

Collective DC expansion

The Government has consulted on broadening collective money purchase pension provision beyond single or connected employer schemes. Draft regulations would allow multi-employer "whole-life" schemes (i.e. schemes providing accrual and paying benefits). Decumulation-only arrangements may be permitted in the future. See WHiP Issues 100, 104, 106 and 112.

DC decumulation help

The last Government intended to impose a duty on DC schemes to offer decumulation products or services meeting the needs of a generality of their members, to include a collective DC option (see above). This will now be implemented by the new Government under the forthcoming Pension Schemes Bill. Master trusts may be subject to the requirement first. The regulations which cover Nest need to be amended to allow it to offer a range of decumulation options. Pensions Regulator interim guidance is expected. See WHiP Issues 104 and 106.

DC chair's statements

The last Government was discussing potential improvements to the DC chair's governance statement requirements with the Pensions Regulator and industry representatives. The value for money framework proposals (see above) are, however, expected to result in the chair's statement requirements being phased out. The last Government was also considering giving the Regulator discretion over fines for non-compliance, which are currently mandatory. See WHiP Issue 88. We wait to see what happens to these initiatives under the new Government.

Trustee register

There is expected to be a register of trustees, to help the Pensions Regulator to communicate and collect information. See WHiP Issue 106.

GMPs and sex discrimination

Judgments in the *Lloyds Banking Group* case have provided some clarity about the need to equalise benefits to remove the discriminatory effects of GMPs and about the obligations on trustees as regards past transfers-out. See our briefing notes GMP equalisation: court ruling and GMP equalisation – where are we now?.

The Government previously stated its intention to legislate to remove the need for a claimant to point to a comparator of the opposite sex in order to establish unlawful discrimination. Implementation was delayed, however, pending the *Lloyds* litigation and consideration of a combined value-equalisation and GMP-conversion process. There has been no news on progress on this.

HMRC published newsletters in February 2020, July 2020, April 2022 and June 2022 on tax issues relating to GMP equalisation adjustments (respectively on: dual records adjustments to pension benefits; adjustments to lump sum payments; transfer corrections and GMP conversion; and tax on pension arrears and interest).

An industry group has been considering issues for trustees and administrators and has issued guidance notes on various aspects.

A statute on GMP conversion, intended to make it easier to use that facility alongside equalisation, was passed in 2022. The substantive legislative changes are left to regulations, for which no date has been indicated. See WHiP Issues 93 and 95.

Notifiable events

There had been expected to be a new, more extensive regime for certain notifiable events (i.e. events that have to be notified to the Pensions Regulator) that occur in relation to scheme employers but long delays have called this into question. The key detail will be in regulations, but new notifiable events may include the sale of a material proportion of the business or assets of a scheme employer which has funding responsibility for at least 20% of the scheme's liabilities and the granting of security on a debt with priority over debt to the scheme. Notifications under the new regime will also have to be given to the scheme trustees and may need to be given earlier than at present.

Regulations can impose the new duties on not just the scheme employer but also a person connected or associated with it, or any other specified person. Notifications will have to be accompanied by a statement. It is expected that this will need to set out the implications for the scheme of the proposed transaction (or other corporate activity) and how any risks will be mitigated.

See our briefing note 'Pension Schemes Act 2021: what happens next?' and WHiP Issue 91.

FOR FURTHER INFORMATION, PLEASE CONTACT

Susie Daykin
Partner, Head of Pensions
susie.daykin@traverssmith.com
+44 (0)20 7295 3247

Daniel Gerring
Partner
daniel.gerring@traverssmith.com
+44 (0)20 7295 3341

Niamh Hamlyn
Partner
niamh.hamlyn@traverssmith.com
+44 (0)20 7295 3287

David James
Partner
david.james@traverssmith.com
+44 (0)20 7295 3087

Chris Widdison
Partner
chris.widdison@traverssmith.com
+44 (0)20 7295 3604

Nick White
Knowledge Counsel
nick.white@traverssmith.com
+44 (0)20 7295 3472

10 Snow Hill | London EC1A 2AL | T: +44 (0)20 7295 3000 | F: +44 (0)20 7295 3500 | www.traverssmith.com