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Current issues

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COVID-19—regulatory guidance

The Pensions Regulator has published several pieces of guidance indicating how it expects trustees, employers and administrators to respond to the current crisis.[1] Its later briefings focus in more detail on specific issues concerning defined contribution (DC) and defined benefit (DB) arrangements.

Initial guidance

The first instalment of guidance was published on 20 March 2020. It comprises a broad-ranging update for trustees, employers and administrators, plus specific guidance for DB scheme trustees whose sponsoring employers are in distress.[2] Generally, the Regulator asks the industry to prioritize continuity of benefit payments and contributions, remain alert to pension scams, and to support members so that they can make good decisions (rather, refrain from taking o'er hasty ones). It acknowledges that there is an increased risk of administrative breaches, and pledges to be '*proportionate and fair*' in its response.

Trustees

For trustees, the Regulator stresses the importance of risk management and business continuity planning. It advises them to hold discussions with their administrators and other service providers to determine how they will cope with spikes in workload or staff absences (or both), and to give them clear instruction about where their priorities ought to lie (paying pensions and death benefits, processing retirements).

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[1] <www.thepensionsregulator.gov.uk/en/covid-19-coronavirus-what-you-need-to-consider>.

[2] *COVID-19: an update for trustees, employers and administrators* <www.thepensionsregulator.gov.uk/en/covid-19-an-update-for-trustees-employers-and-administrators>, *Guidance for DB scheme trustees whose sponsoring employers are in corporate distress* <www.thepensionsregulator.gov.uk/en/covid-19-an-update-for-trustees-employers-and-administrators/guidance-for-db-scheme-trustees-whose-sponsoring-employers-are-in-corporate-distress>.

The Regulator also warns that worried members may become susceptible to the enticements of crooks operating transfer scams. Prospective transferors should be urged toward caution and the guidance available from ScamSmart[3] and the Money and Pensions Service[4].

The guidance on 'corporate distress' advises trustees of DB schemes that they will need access to information about the health of their sponsors, whilst recognizing that it may be hard for employers to predict the impacts of the crisis and that there will be competing demands for their time. It contains an extensive list of questions for trustees to put to sponsors about their analysis of the situation, covering continuity plans, and cashflow and financing issues.

This initial guidance accepts that it may be appropriate for trustees to allow scheme sponsors to defer deficit-reduction contributions (DRCs). The subsequently published, more-detailed advice on DB funding issues (see below) refers back to it. Trustees are encouraged to give careful consideration to employers' requests for remission, making sure that they understand exactly what is being asked of them, that they have sufficient information to make a decision, and that they resist being rushed into hasty agreement. The guidance lists several considerations that should be borne in mind: trustees' primary concern should be whether the scheme is being treated equitably compared with other creditors. They are also advised to explore the availability of other forms of support, such as contingent assets.

Administrators

As noted previously, the message is that precedence should be given to making payments as they fall due and managing retirement and death claims. Thereafter, the Regulator says that administrators' energies should be concentrated on the other activities that are necessary to ensure that benefits are correct—the example it gives is investment of [money purchase] contributions. There is acceptance that performance of other tasks may suffer as a result of the resource strains upon administrators during the pandemic.

Any concerns about the ability to make benefit payments should be brought to the Regulator's attention immediately. Other breaches are to be reported as usual; '*a pragmatic approach*' is promised.

Employers

The Regulator acknowledges the pressures on employers. Its enforcement decisions will be proportionate and risk-based and will try to support employers and get them '*back on track*' (whilst also pursuing the interests of scheme members).

Regulatory activity

The Regulator is halting its regulatory initiatives, and will be contacting participants to provide more information. It will, however, be maintaining its one-to-one supervision activities. It is delaying publication of various documents, including the planned consultation on the consolidation of its Codes of Practice. The timing of the current consultation on revision of the DB funding Code is to be reviewed, '*in the coming weeks*'.

Supplementary guidance

On the evening of Friday, 27 March 2020, the Regulator published additional guidance on DB funding (from both the trustee and employer perspective) and on DC investment issues.[5] It stresses in both documents that it is not authorizing, encouraging or compelling trustees to take any particular course of action, and that they are expected to do what is right for members in the circumstances.

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[3] <www.fca.org.uk/scamsmart>.

[4] <www.pensionsadvisoryservice.org.uk/about-pensions/when-things-change/coronavirus-how-will-this-affect-my-pension-or-investments>.

[5] *DB scheme funding and investment: COVID-19 guidance for trustees* <www.thepensionsregulator.gov.uk/en/covid-19-coronavirus-what-you-need-to-consider/db-scheme-funding-and-investment-covid-19-guidance-for-trustees>, *DB scheme funding: COVID-19 guidance for employers* <www.thepensionsregulator.gov.uk/en/covid-19-coronavirus-what-you-need-to-consider/db-scheme-funding-covid-19-guidance-for-employers>, *DC investment: COVID-19 guidance for trustees* <www.thepensionsregulator.gov.uk/en/covid-19-coronavirus-what-you-need-to-consider/dc-investment-and-transfer-values-covid-19-guidance-for-trustees>.

DB issues

The Regulator has no powers to waive disclosure and reporting requirements, but has indicated its willingness to apply several easements in response to the current crisis. The key points in connection with DB funding are as follows:

Valuations underway

- those who are close to finalizing valuations need not revisit their assumptions, or take into account events after the valuation date (other than when reflecting on the employer's ability to pay any agreed DRCs);
- there will be no enforcement action if valuation documents are submitted (up to three months) late;

Remission requests

- where appropriate, trustees can allow employers to reduce or suspend DRCs, temporarily;
- this should be for as short a period as is possible (no more than three months) unless they have sufficient covenant information and are presented with a good business case to support a longer-term relaxation (for example where refusal would restrict the assistance on offer from other creditors), and ideally with additional protections for the scheme put in place;
- as a condition of the trustees' agreement the employer should make a legally binding commitment to suspend dividends and other forms of 'value leakage'--although '*extraordinary and essential*' intra-group payments to support liquidity and preserve going-concern status may be permissible '*In exceptional circumstances*';
- the deferred contributions should generally be paid by the end of the existing recovery plan period;
- requests for suspension or reduction of future-service contributions should also be accommodated if reasonable, but there may be scheme-specific considerations;
- legal and actuarial advice will be needed both on whether it would be appropriate to accede to contribution-change requests and on the most appropriate means of giving effect to them;
- employer requests for the trustees to release security should be carefully considered in light of expert advice, but will have legal and financial implications that make it unlikely that they will be in members' best interests;
- however, the guidance for employers indicates that the Regulator is prepared to accept the need for additional debt to be secured over employer assets, where justified, and provided that the pension scheme is treated fairly and mitigation of detriment is properly considered;

Advice & governance

- trustees will need expert advice, possibly including specialist covenant advice;
- the urgency of matters may make it appropriate for advice to be delivered verbally and backed up (concisely) in writing later;
- decisions (including any decision not to take advice) should be fully documented, and complete audit trails retained in respect of requests for reduction or suspension of contributions;
- in a similar vein, employers are strongly advised to retain records of decisions about their DB schemes, in case the Regulator comes knocking at a later date;
- trustees may need to consider whether their conflicts-of-interest policies remain appropriate;

Investments

- expected cashflows should be reassessed in light of possible member movements and requests to reduce or suspend contributions;
- specific risks that may have arisen within portfolios or sponsor businesses (e.g. concentrations of risk or exposures to deteriorating sectors) will need to be managed;
- derivative positions and structures, collateral-management arrangements, and any previous decisions that are now scheduled for implementation (e.g. about asset transitions, and phased de-risking or strategy changes) will need to be reconsidered to ensure that they are still appropriate;
- trustees boards should ensure that they can continue to function under their current governance structures;
- trustees should also be mindful that market dislocations can present them with opportunities as well as risks;

Transfers

- the Regulator will not take enforcement action if transfer activity (quotations and payments) is suspended for the next three months whilst trustees review the terms on offer or prioritize other administrative activity (such as benefit payments); and
- if, at the end of that three-month period, they conclude that a transfer moratorium is still in members' best interests, they should notify the Regulator of their reasons for continuing.

The regulatory easements will remain in place until 30 June 2020, subject to review. The Regulator plans to issue more guidance (with particular focus on schemes with valuation dates between 22 September 2019 and 21 September 2020, and others that need to review their funding, investment and risk management strategies) in its Annual Funding Statement, which is scheduled for publication after Easter.

DC issues

The investment issues that the Regulator highlights for DC schemes echo many of those discussed in the DB context. So, for example, it recommends that trustees

- manage any specific risks that may have arisen within portfolios or sponsor businesses (e.g. concentrations of risk or exposures to deteriorating sectors);
- consider their exposure to particular counterparties;
- review the timings of scheduled asset transitions or fund switches;
- ensure that their current arrangements for governance and delegation of responsibilities will not be problematical in the event of trustee unavailability; and
- be mindful that market dislocations can also present opportunities.

In addition, trustees are encouraged to communicate with members to explain the implications of market volatility on those with different retirement horizons, emphasize the importance of care and advice before switching funds, and warn them about the growth in scam activity. There is also the suggestion that, in some cases, members might be better served in the longer term if their schemes were consolidated into larger arrangements.

Please visit our website to read some of our thoughts arising from the COVID-19 crisis, ranging from the need to protect our people and our planet, through business continuity planning for trustees, to actions for companies to consider—and, er, cannibalism (yes, you read that correctly).[6]

COVID-19—Emergency legislation (pensions aspects

The *Coronavirus Act 2020*, which was fast-tracked through Parliament and received Royal Assent in a break-neck six days, creates a new category of statutory leave for volunteers, and enables retired NHS workers to return to service or increase their commitments without having their pensions in payment reduced.[7]

The Act temporarily gives the authorities broad-ranging powers to enable them to respond to the epidemic. Many of its provisions can be suspended and reactivated as required, and come with an expiry date, though with numerous exceptions and the ability to defer their scheduled demise.

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It includes provision for a temporary new type of unpaid statutory leave, known as 'emergency volunteering leave'. Details of eligibility and procedure are beyond our remit, but from a pensions perspective the implications will be similar to those of the various forms of family leave. Employer contributions (in the case of money purchase

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[6] <www.hymans.co.uk>.

[7] <www.legislation.gov.uk/ukpga/2020/7/enacted> (see section 8 and paragraph 7 of Schedule 7, and sections 45 to 47).

arrangements) and benefit accrual (in DB contexts) must continue as if the member were working normally, whilst member contributions are based on any actual pay from the employer (there will be no statutory minimum pay for volunteers; instead, there will be a compensation fund from which they will be able to claim lost earnings, plus travel and subsistence expenses). The provisions in question require secondary legislation to bring them into force.

The Act also contains sections that will permit health workers who are in receipt of NHS pensions (whether because they have retired altogether, or just down-shifted to part-time work) to return to work or step up their commitments without having those pensions suspended or reduced (a practice known in the public-sector pensions world as 'abatement').

COVID-19—AE implications of the Job Retention Scheme

Her Majesty's Revenue and Customs (HMRC) has outlined details of the Government's Coronavirus Job Retention Scheme, including the implications for auto-enrolment contributions.[8]

Guidance on claims for wage costs under the Scheme touches on automatic-enrolment (AE) issues. In summary, for at least three months (starting on 1 March 2020) employers will be able to claim back part (the lesser of 80 per cent of regular salary, or £2,500 per month) of the wages of '*furloughed*' employees, plus the Employer National Insurance contributions and minimum AE employer contributions associated with the claimed wages. Any additional pay above the claimable amount and the contributions thereon will not be covered; nor will AE contributions above the minimum 3 per cent of qualifying earnings.

Further guidance on the calculation of claims is expected before the Scheme goes live, on 1 April 2020.

It is unclear at present what the implications of the claims limit are for employers that meet their AE obligations via defined benefit schemes or one of the alternative money purchase quality requirements (paying different minimum contributions based on a different definition of pensionable earnings). It seems as though employers that offer salary sacrifice will have claims limited by reference to post-sacrifice salaries.

Revising the DB Funding Code (phase one)

The Pensions Regulator has initiated the first phase of consultation on a revised Code of Practice for the funding of defined benefit (DB) schemes.[9] This phase solicits comments on TPR's proposed approach and underlying principles. The headlines are a twin-track route to valuation compliance, with the focus on a long-term objective. It puts the onus on trustees to demonstrate compliance and could lead to major overhauls in funding and recovery plans.

Consultation details

The Regulator is using a two-stage consultation process: the first (current) stage is about the approach to be taken and the principles to be applied. A draft Code will then be exposed at the second stage, which is likely to be held toward the end of 2020 (once the *Pension Schemes Act 2020* and supporting regulations are in place). The second phase will include the Regulator's plans for enforcement and keeping the Code up-to-date. Responses to the first consultation should be submitted by 2 June 2020.

Overarching principles

The Regulator puts forward a proposed list of principles that should underpin funding valuations:

- trustees and sponsors should understand their funding and investment risks and be able to demonstrate how they have been evaluated and managed;

[8] *Claim for your employee's wages through the Coronavirus Job Retention Scheme* <www.gov.uk/guidance/claim-for-wage-costs-through-the-coronavirus-job-retention-scheme>.

[9] <www.thepensionsregulator.gov.uk/en/document-library/consultations/defined-benefit-funding-code-of-practice-consultation>.

- trustees should be able to compare their risks to a 'tolerated risk position' (more on which later) and provide evidence of any risk-mitigation or support available to them;
- as a long-term objective (LTO), schemes are expected, by the time they are significantly mature, to have low levels of sponsor dependency and investment risk;
- trustees should have a plan for reaching their LTO;
- technical provisions (TPs—the amount, calculated as part of an actuarial valuation, to provide for a scheme's liabilities) should be clearly and explicitly linked to the LTO and converge upon it over time10;
- a scheme's investment strategy and asset allocation should (in the long run) be broadly aligned with its funding strategy;
- investment strategies should be tailored to the scheme's security, credit quality and liquidity needs (making reasonable allowance for unexpected cash flows when considering liquidity);
- the asset allocation at significant maturity should be highly resilient to risk, highly liquid, and have high average credit quality;
- schemes with stronger employer covenants can take more risk and assume higher returns (whilst still assuming that reliance on that covenant will decrease over time);
- non-cash forms of sponsor support can be taken into account in valuations so long as they support the level of risk being run, are appropriately valued, and are reliable (legally and with realizable values);
- valuation deficits should be eliminated as soon as possible without adversely affecting the sponsor's sustainable growth prospects; and
- benefits still building up in open schemes should be as secure as those in closed schemes.

Fast Track vs Bespoke

The Regulator says that a lack of clarity over the expected prudence of technical provisions and the appropriateness of recovery plans has permitted misuse of the flexibility in the scheme-specific funding regime. As a means of supplying clarity without losing that flexibility altogether, it proposes to establish a '*twin-track*' route to valuation compliance, allowing trustees to choose either the '*Fast Track*' or the '*Bespoke*' path for each valuation.

Fast Track is a more prescriptive, but less demanding route to compliance, as regards the requirement to provide supporting evidence and the expected level of regulatory scrutiny. Under it, the Regulator will set (and keep up to date with market changes) parameters for funding and investment features like the LTO, discount rates for technical provisions, recovery plan length and structure, investment risk, and future-service contribution rates in open schemes. These are essentially a series of pass/fail tests, tailored to a scheme based on its maturity levels and the strength of the sponsor's covenant. The appropriate balance between benefit security and costs—how high the Regulator 'sets the bar'—will be covered in the second consultation phase, whereas this phase is focused on the structure of the framework.

As the name suggest, the Bespoke route will permit more freedom to (for example) take additional, managed risks, but the *quid pro quo* will be a higher evidential burden and closer regulatory scrutiny. The Fast Track measures will be used to establish a benchmark for '*tolerated risk*', against which schemes using the Bespoke route will be assessed. TPR's starting point is to ask trustees using the Bespoke route to demonstrate how their strategy is equivalent to Fast Track; or if not, why not.

Long-term objective (LTO)

Trustees will be expected to formulate a LTO (a '*funding and investment strategy*', in *Pension Schemes Bill* parlance) by which they will aim to have reduced their dependence on the sponsor covenant and be invested in risk-resilient assets by the time their scheme reaches significant maturity. The Regulator gives its current thoughts on how '*low dependency*' and '*significant maturity*' might be defined in the context of the Fast Track route to compliance. Top billing goes to the potential Fast Track LTO discount rate in the range 'gilts+0.25%' to 'gilts+0.5%'.

[10] In the Regulator's analogy, '*the LTO is the destination, the TPs are the journey milestones, and the RP* [recovery plan] *is the corrective measure to get back on track.*'

Schemes are to target this when most or all of their members have retired (in technical terms, a remaining liability duration of 12-to-14 years, which is assumed to be 15-to-20 years away for typical schemes).

Technical Provisions

Under Fast Track, technical provisions could be set using a grid of percentages of LTO based on the scheme's maturity (dovetailing to 100 per cent of LTO over time). Stronger employers (using TPR's four covenant-assessment groups) will be allowed to take more risk and to set lower TPs than weaker employers. The Regulator is considering whether to set other assumptions too (such as longevity), but expresses a preference for leaving the responsibility with trustees.

Investments

The Regulator reassures readers that it is not trying to dictate how trustees invest; its interest is in ensuring that they take on an appropriate, and appropriately supported, level of investment risk. Fast Track includes a simple stress test to govern this.

Recovery plans

All other things being equal, schemes with stronger employers are expected to have shorter recovery plans. Fast Track could set maximum recovery periods ranging from 6-to-12 years. If the employer cannot afford the sort of recovery plan that the Regulator considers appropriate, supporting evidence is required and alternative methods of support must be explored.

Open schemes

Significant thought is devoted to how open schemes comply with the new Code without making future service unaffordable.

The new Code will not take effect until 2021 at the earliest. It is likely to be very different from the current document, but will encapsulate and amplify many of TPR's recent messages about good practice. The principles expounded are common practice for well-run schemes; however, the Regulator warns that '*there could be significant impact for some schemes, particularly those that have been running excessive and unjustifiable levels of risk.*'.

Budget 2020

Chancellor of the Exchequer Rishi Sunak's first Budget was understandably focused on the Government's response to the coronavirus outbreak. Despite that, he made time for one pensions-related announcement (alleviating the ill-effects of the tapered annual allowance), and there are other nuggets contained in the documents accompanying his Budget Statement.[11]

Tapered annual allowance

The Government plans to deal with the doctor-disincentivizing effects of the annual allowance taper by increasing threshold income (broadly, taxable income before taking into account tax-relieved pensions accrual) from £110,000 to £200,000, and adjusted income (taxable income plus pensions growth) from £150,000 to £240,000, effective from 6 April 2020. On the flip side, it will be possible for the taper to reduce a person's annual allowance to as low as £4,000 (in this respect the floor is currently £10,000). Although the changes were prompted by a crisis in the NHS, they will apply to everyone. The Government has shelved its plans to allow the senior NHS clinicians to receive higher pay in lieu of pensions accrual.

[11] A transcript of the Chancellor's speech can be read at <www.gov.uk/government/speeches/budget-speech-2020>; the full Budget document is available at <assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/871799/Budget_2020_Web_Accessible_Complete.pdf>.

Lifetime allowance

As a result of the indexation provisions introduced by the *Finance Act 2016*, the lifetime allowance for the tax year 2020/21 will increase (in line with the Consumer Prices Index) from £1,055,000 to £1,073,100.

Contributions tax relief quirk

The Conservative and Unionist Party promised, in its general election manifesto, to investigate ways of removing the anomaly in the treatment of non-taxpayers under the net-pay and relief-at-source systems for contributions tax relief. The Budget document says that it '*will shortly publish a call for evidence on pensions tax relief administration.*'

RPI reform

Also as promised, Her Majesty's Treasury and the UK Statistics Authority (UKSA) have published *A Consultation on the Reform to Retail Prices Index Methodology* to coincide with the Budget.[12] The UKSA continues to propose to make the RPI a virtual clone of the CPIH (the Consumer Prices Index variant that includes a measure of owner-occupiers' housing costs). It can do so unilaterally in 2030; the consultation document asks about the implications (especially for holders of index-linked gilts) of the Government allowing it to make the change earlier, at some point between 2025 and 2030, and seeks views on the UKSA's proposed technical approach.

The big news was the detail of the Government's (much-leaked) plan for the annual allowance taper. Its solution moves rather than *re*moves the problem: those with incomes under £200,000 will be safe, and the maximum reduction to the allowance will be experienced once taxable income plus pension accrual reaches £312,000.

Draft climate-risk governance guidance for trustees

The Department for Work and Pensions (DWP) is consulting on non-statutory guidance designed to help the trustees of private-sector occupational pension scheme to assess, manage and report upon climate-related risks, in line with recommendations from the Task-force on Climate-related Financial Disclosures (TCFD).[13] The guidance may also be of interest to those running funded public-sector pension schemes like the Local Government Pension Scheme (LGPS).

Background

The TCFD was established by the Financial Stability Board (an international organization concerned with the global financial system). Its remit is the development of recommendations for voluntary disclosures about climate-related financial risks and opportunities that can inform decision-making by investors (as well as insurers and lenders).[14] The UK Government's Green Finance Strategy contains an expectation that large asset owners (including pension schemes) will follow the TCFD's recommendations by 2022.

A clause inserted into the current *Pension Schemes Bill* would give the DWP powers to impose requirements for effective governance and reporting with respect to the effects of climate change. The intention is to ensure that occupational pension scheme trustees and managers act and report in line with the TCFD's recommendations.[15] It is expected that draft secondary legislation for the purpose will be published later this year (after the Bill becomes an Act).

However, in a preamble to the current consultation document, the Minister for Pensions and Financial Inclusion, Guy Opperman, expresses the belief that trustees should not wait for legislation before starting to manage their exposures to climate change in line with the TCFD recommendations. He challenges '*Progressive schemes*' to '*show leadership*', whilst reassuring others that, regardless of scheme size, they can manage their exposure to the

[12] <assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/871691/RPIM_final.pdf>.
[13] <www.gov.uk/government/consultations/aligning-your-pension-scheme-with-the-tcfd-recommendations>.
[14] <https://www.fsb-tcfd.org>.
[15] <https://publications.parliament.uk/pa/bills/lbill/58-01/004/5801004-DPM-Supplementary.pdf>.

risks (and opportunities) of climate change and a transition to a low-carbon economy. The draft guidance is intended to help them incorporate climate-change risk management into their governance activities.

The draft guidance

The guidance was produced by the Pensions Climate Risk Industry Group at the behest of the DWP and the Pensions Regulator. In an introductory section it explains the risks that climate change represents for pension schemes, as well as outlining trustees' legal obligations and the TCFD's recommendations. The guidance suggests that trustees concentrate on developing their governance procedures first, before tackling public disclosure (which it acknowledges will be a longer-term aspiration for some schemes).

It goes on in its second part to advise trustees on how to define their investment beliefs with respect to climate change, set investment strategies, choose and monitor fund managers and consultants, and on stewardship activities. There are chapters on special considerations for defined benefit (DB) schemes—discussing the climate-risk implications for the employer covenant assessment and funding—and on public reporting and member communications.

Part III of the guidance is a 'technical supplement'. It deals with the use of scenario analysis to test the resilience of schemes to possible climate developments, and ways to measure and manage climate-related risk exposure.

Consultation arrangements

Responses to the draft guidance should be submitted by 2 July 2020 (the deadline was initially 7 May 2020 but has been extended as a result of the current pandemic).

Disclosure is currently voluntary, so the draft guidance is styled as 'non-statutory', for now. The changes to the Pension Schemes Bill indicate that an element of compulsion will arrive sooner rather than later.

Government explores timing & effects of RPI change

Her Majesty's Treasury and the UK Statistics Authority (UKSA) published *A Consultation on the Reform to Retail Prices Index Methodology* to coincide with the Budget.[16] Although publication of the Retail Prices Index (RPI) will continue, the underlying calculations and data sources are likely to change, resulting in lower announced rates of inflation.

As noted previously, the UKSA proposes to make the RPI a virtual clone of the CPIH (the Consumer Prices Index variant that includes a measure of owner-occupiers' housing costs), which it can do unilaterally in 2030. The consultation document asks about the implications of the Government permitting the UKSA to make the change earlier, at some point between 2025 and 2030. It seeks views on whether the UKSA's plan for transitioning the RPI to the CPIH calculation method and data sources is '*statistically rigorous*', and on the likely effects of such a change on holders of index-linked gilts and the associated market. Once the change is made, it will take a year for RPI annual inflation to fall into line with that of the CPIH (the monthly rates of inflation on the two bases will become identical right away). The consultation document also enquires about current usage of specialized variations on the RPI, which are slated to be discontinued.

Responses to the consultation should be submitted by 22 April 2020. The Government says that it and the UKSA will announce the outcome before Parliament's summer recess (although that was before it went into full crisis-management mode on the SARS-CoV-2 pandemic).

Those who hoped for some hint that the Government is prepared to compensate RPI-linked asset holders for lower expected returns will be sorely disappointed. Pension schemes hedging CPI-linked liabilities with RPI-linked assets and pensioners with RPI-linked benefits will be amongst the biggest losers. The consultation document does, it is

[16] <assets.publishing.service.gov.uk/governmenhmtt/uploads/system/uploads/attachment_data/file/871691/RPIM_final.pdf>.

true, call for 'evidence on the use of RPI… to inform future policy decisions', so it is perhaps not a fait accompli—some may be disheartened, but others will see the call for input as a predictable and reasonable first step.

Some scheme sponsors that have been saddled with RPI-linked liabilities because of the drafting of their rules might be relieved to join those who were able to switch to the CPI. There is still likely to be lobbying from the groups that stand to lose out.

General Levy increase revoked

In light of the current COVID-19 crisis, the Department for Work and Pensions (DWP) has decided not to go ahead with its previously announced increase in the rates of the General Levy.[17]

The General Levy is paid by occupational and personal pension schemes to reimburse the DWP for its funding of the Pensions Regulator, some activities of the Money and Pensions Service, and the Pensions Ombudsman. The amount paid by each scheme is based on its membership numbers. For example, an occupational scheme with 100 members pays £290 at present, whereas the bill for a 10,000-member scheme is £12,300; the leviathans of the pensions world, those with 500,000+ members, currently pay at least £430,000.

The levy rates for most schemes have not changed since 2012/13 when the levy balance was in surplus. In October 2019, the DWP published a consultation document seeking views on four proposals to reduce the large deficit that has since emerged.[18]

At the beginning of March 2020, the DWP laid Regulations before Parliament that would have implemented its preferred option of increasing levy rates by ten per cent, for most occupational pension schemes, from 1 April 2020, with a wider review to determine future rates.[19] A one-off increase in the flat-rate levy paid by small schemes (those with between 2 and 11 members) was also set to take place. However, as a result of the '*unprecedented circumstances*' of the COVID-19 pandemic, the DWP has announced that it will not be going ahead with the increase in the levy from 1 April 2020. The Government is now to '*focus on reviewing the structure of the levy and will be engaging with industry over the course of the next few months.*'[20]

The decision not to go ahead with a ten per cent increase in the levy at the moment will be welcomed by trustees of schemes in these difficult economic times; however, the large deficit will still need to be addressed. It is likely that much higher increases will be required in future years.

[17] <www.gov.uk/government/consultations/the-occupational-and-personal-pension-schemes-general-levy-review-2019/outcome/government-response-the-occupational-and-personal-pension-schemes-general-levy-amendment-regulations-2020>.

[18] See *Current Issues* November 2019, *General Levy set to increase*, <www.hymans.co.uk/insights/research-and-publications/publication/pensions-investments-round-up-november-2019/>.

[19] <https://www.gov.uk/government/consultations/the-occupational-and-personal-pension-schemes-general-levy-review-2019/outcome/government-response-the-occupational-and-personal-pension-schemes-general-levy-amendment-regulations-2020>.

[20] <www.gov.uk/government/consultations/the-occupational-and-personal-pension-schemes-general-levy-review-2019>.

PASA COVID-19 activity

DB transfer guidance—consultation period extended

The Pensions Administration Standards Association (PASA) has extended the consultation period for its draft *Defined Benefit Transfers: Code of Good Practice.*[21]

The consultation period was initially from 11 February to 30 April 2020[22], however, the deadline for responses has been extended to 30 September 2020 due to the current pandemic. The publication of the Code is expected by the end of the year. In the meantime, the PASA says, last year's guidance should continue to be used.

Guidance for administrators

The PASA has also published guidance to support administrators during the COVID-19 crisis. [23] It urges administrators to focus on '*continuing to pay promised benefits, ensuring there are sufficient funds available and keeping accurate records of any work in progress*'.

Pension scam prevention initiatives

The Pension Scams Industry Group (PSIG) plans to create: an intelligence-sharing resource to tackle pension scams.[24]

The PSIG conducted a survey for pensions practitioners from January to 14 February 2020, to give it a better understanding of the current state of scams. It looked at the action the industry is taking to protect members and will be used to decide where resources should be focused in future.

The intelligence-sharing initiative is intended to build a shared network of open source information on '*potentially dodgy arrangements, gathered by many practitioners as part of their due diligence*'. The PSIG believes that such information sharing could help protect members, reduce administration costs and streamline reporting of suspicions schemes to Action Fraud. However, they acknowledge that they will first need to 'navigate the General Data Protection Regulation (GDPR)'.

Statutory instruments round-up

Section 148 Order

The earnings used in the calculation of the State additional pension are revalued in line with average earnings. This revaluation (known as 'section 148' revaluation in reference to the legislation under which the Government specifies the required increases) also applies to the earnings factored into the calculation of guaranteed minimum pensions (GMPs), as provided by occupational pension schemes to members who were contracted out of the State scheme from 1978 to 1997. Section 148 revaluation applies whilst the member is in contracted-out service and in the period between the end of such service and GMP payment age, unless another form of revaluation is used. The section 148 Order that will come into force on 6 April 2020 is based on an increase in average earnings of 4 per cent.[25]

GMP Increases

Whilst in payment, GMPs accrued for the tax years from 1988/89 onwards are increased annually by Order, in accordance with increases in the general level of prices, to a maximum of three per cent per annum. The price

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[21] <twitter.com/PASAtweets/status/1242797275258257408?s=20>.
[22] See *Current Issues* March 2020, *The PASA draft Transfer Code of Good Practice*, for details of the consultation.
[23] <www.pasa-uk.com/pasa-launches-covid-19-guidance-for-administrators/>.
[24] <https://blog.thepensionsregulator.gov.uk/2020/02/06/psig-needs-you-to-help-beat-pension-scams/>.
[25] The *Social Security Revaluation of Earnings Factors Order 2020* (SI 2020 No.193), <www.legislation.gov.uk/uksi/2020/193/made>.

inflation measure currently used by the Government is the Consumer Prices Index (CPI). The Order that will come into force on 6 April 2020 specifies an increase of 1.7 per cent.[26]

Public Sector pensions

The Order that increases 'official pensions' (broadly, public sector pensions) has been laid before Parliament.[27] It provides that pensions in payment before 8 April 2020 will increase by 1.7 per cent.

A separate Order fixes the revaluation of early leavers' benefits under the career average (CARE) schemes in the public sector. Revaluation for the period from 1 April 2019 to 31 March 2020 will (depending on the public-sector scheme) be set by reference to an increase in prices of 1.7 per cent or an increase in earnings of 4 per cent.[28]

HMRC updates

Her Majesty's Revenue and Customs (HMRC) has published two Pension Schemes Newsletters since the March edition of *Current Issues*.

Pension Schemes Newsletter 117 has sections for providers administering relief at source, and publicizes the Regulator's guidance on scam detection and HMRC's own recent GMP Equalization Newsletter.[29] *Pension Schemes Newsletter 118* has information on some process easements in light of the current crisis, and provides some sample wording for explaining the annual allowance taper changes to members.[30]

The temporary relaxations to the pensions processes include a facility for scheme administrators to apply to HMRC to for waiver of penalties and interest charged on the late submission of accounting for tax returns or late notifications of transfers to qualifying recognized overseas pension schemes (QROPS), where the usual deadlines are missed due to administrative issues caused by COVID-19. The changes will apply for three months, with HMRC providing an update in its June 2020 newsletter.

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[26] The *Guaranteed Minimum Pensions Increase Order 2020* (SI 2020 No. 235), <www.legislation.gov.uk/uksi/2020/235/made>.
[27] The *Pensions Increase (Review) Order 2020* (SI 2020 No. 290), <www.legislation.gov.uk/uksi/2020/290/made>.
[28] The *Public Service Pensions Revaluation Order 2020* (SI 2020 No. 230), <www.legislation.gov.uk/uksi/2020/230/made>.
[29] <www.gov.uk/government/publications/pension-schemes-newsletter-117-february-2020/pension-schemes-newsletter-117-february-2020>.
[30] <www.gov.uk/government/publications/pension-schemes-newsletter-118-march-2020/pension-schemes-newsletter-118-march-2020>.

And Finally…

AF has been practising social distancing since the early 1970s, but the current lockdown is nevertheless presenting challenges. Working from home would ordinarily involve sitting at the dining table, which affords inspirational views of the garden (as long as the required inspiration pertains to the pressing need to tame the shrubbery) and handy (perhaps too handy) proximity to the refrigerator. Since the school closures, however, the dining room has become the primary locus of DIY pedagogical activity, wherein his presence would be counterproductive for all concerned.

The lessons seem to be proceeding well: *AF*'s pre-school-age son now interrupts all disappointing responses with a stoic '*Ugh! I know: Because of the stupid coronavirus*', and will cheerfully inform random passers-by—from a distance of at least 2 metres, of course—that the infectious agent is so-named because of the crown-like appearance under microscopy of its surface proteins. Regrettably, the oft-repeated message that if mummy and daddy aren't allowed to sleep COVID-19 will be the least of their problems hasn't been absorbed quite so readily.

Banished thus from his usual makeshift office space, *AF* has been compelled to jury-rig a desk using a chest of drawers and a piece of lumber salvaged from the garage. The good news is that this apparatus transforms from a seated arrangement to a trendy standing desk by the simple expedient of balancing the plank on his open sock drawer rather than the one containing t-shirts.

Next month: how artfully shredded car tyres [*Well, you're not using them, are you?*] can make an acceptable substitute for hard-to-find pasta…

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