



PENSIONS ROUND-UP

JUNE/JULY 2017

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INTRODUCTION

Welcome to the latest edition of DLA Piper's Pensions Round-Up newsletter in which we provide an overview of developments in pension legislation, case law and regulatory guidance.

In this edition we look at key developments from June 2017 and the first half of July 2017 including the following.

- **The Pensions Regulator:** compliance and enforcement bulletins about the actions taken by the Regulator in relation to failures to submit the scheme return and to produce the chair's annual statement; the Regulator's Annual Report and Accounts 2016/17; funding analysis in relation to Tranche 10 and Tranche 12 schemes; and an update on the Regulator's 'TPR Future' programme.
- **Automatic enrolment:** updates from the Regulator including in relation to spot checks and research into how UK employers are meeting their duties following the completion of their declaration of compliance. We also provide a reminder of issues to consider in relation to the phased increase of the statutory minimum DC contributions.
- **Consultations and legislation:** the publication of the Financial Guidance and Claims Bill; an update about the next Finance Bill; an announcement that, following the February 2017 Green Paper, a White Paper about DB schemes will be published later this year; the Government's responses to the consultations about early exit charges and member-borne commission and safeguarded-flexible benefits; and the coming into force of new anti-money laundering regulations.
- **Case law:** a judgment from the Supreme Court in relation to survivors' benefits for same-sex spouses and civil partners.
- **Other news:** two pension scheme newsletters from HMRC; the publication of the PPF's Annual Report and Accounts 2016/17 and Strategic Plan 2017-20; The Pensions Ombudsman's Annual Report and Accounts 2016/17; the Law Commission's final report on pension funds and social investment; and a number of publications from the FCA including the final report of its asset management market study and the interim report of the Retirement Outcomes Review.
- **On the Horizon:** a timeline of some of the key future developments in pensions to help employers and trustees plan ahead.

If you would like further information about any of the issues raised in this edition of Pensions Round-Up, please get in touch with Cathryn Everest or your usual DLA Piper pensions contact. Contact details are at the end of this newsletter.

THE PENSIONS REGULATOR

COMPLIANCE AND ENFORCEMENT BULLETINS

On 5 July the Regulator published two compliance and enforcement bulletins showing how it has used its powers to tackle non-compliance with the requirements to complete a scheme return and for trustees of DC schemes to produce a chair's annual statement.

In relation to scheme returns, the Regulator reports that: (i) it considers a failure to complete a scheme return to be a symptom of potential wider governance failings and is looking to take greater enforcement action against these in the future; (ii) it has issued a total of 88 fines across all scheme types; and (iii) compliance rates among DB and public service schemes are higher than for DC schemes, especially among those with fewer than 12 members.

In relation to the chair's annual statement, the Regulator reports that: (i) of the approximately 3,000 schemes offering money purchase benefits that were required to declare compliance as part of the 2016 scheme return, 85 failed to prepare a chair's statement and were subsequently fined; and (ii) a large proportion of the penalty notices issued have been against schemes with fewer than 100 members, although the Regulator has also fined professional trustees and master trusts.

ANNUAL REPORT AND ACCOUNTS

On 10 July the Regulator published its Annual Report and Accounts for 2016/17 which includes information about the Regulator's performance against its Key Performance Indicators (KPIs) and Key Outcome Indicators (KOIs). In relation to KPIs, the Regulator reports that it achieved 15 out of its 18 KPIs. Two of the KPIs were missed by a small margin, including that the proportion of employers who are aware of their automatic enrolment duties was 93% compared to a target of 95%. The other KPI missed by a small margin relates to availability and performance of online services although the Regulator notes that there was a change in methodology used by its independent assessor.

One KPI was missed significantly which was that 100% of public service schemes that require a record-keeping plan should have one in place, although the Regulator notes that this was an ambitious target and that, of the 13 schemes required to put a plan in place, it has evidence that 11 of these schemes have done so.

The Regulator also reports on the activities of its Determinations Panel including the number of times different powers were exercised by the Panel. These include: one use of the power to appoint an independent trustee; one vesting order; two skilled persons reports; three exercises of the power to prohibit trustees in relation to which eight trustees were prohibited in total; 33 cases of fines for non-compliance with the scheme return in which a total of 62 trustees were fined; one case of voiding a deed of amendment; and one extension of a CETV request.

PENSION SCAMS

On 14 July the Regulator issued a press release announcing that its industry liaison team is touring the country over the next three months meeting financial advisers to help them prevent their clients falling victim to fraudsters. The Regulator states that at each venue it will highlight the warning signs of scams, how advisers can ensure their clients don't fall victim to them and what to do if they think one of their clients has been scammed.

FAILURE TO PROVIDE INFORMATION

In April 2017 the Regulator issued press releases reporting on the first criminal convictions in relation to refusals to provide it with requested information. On 7 July the Regulator issued a press release reporting on the third criminal conviction in relation to such a refusal. This case concerned the former office manager of a company which is the subject of an investigation by the Regulator in connection with a suspected scam.

THE PENSIONS REGULATOR

SCHEME FUNDING ANALYSIS

Tranche 12 analysis

On 13 June the Regulator published analysis of Tranche 12 schemes (those with valuation dates between 22 September 2016 and 21 September 2017) which provides context to the annual funding statement published in May. Key points of the analysis include that: (i) although asset returns have been better than expected, generally this has not been enough to offset the increase in liabilities due to the change in market conditions, meaning overall deficits have increased and funding levels have fallen; (ii) about 50% of Tranche 12 schemes have the resilience to maintain the same pace of funding and many will be able to increase their contributions if the circumstances of the scheme require it; (iii) a further 37% have an employer covenant which the Regulator considers adequate to support the scheme but their current contribution and/or risk strategies pose unnecessary longer term risks; and (iv) for the group of FTSE350 companies who paid both deficit repair contributions (DRCs) and dividends in each of the previous six years, the ratio of DRCs to dividends declined from around 10% to around 7%.

It is also worth noting the comments in the accompanying press release from the Regulator's Executive Director for Regulatory Policy that ensuring DB schemes are properly funded is a key priority for the Regulator and so this year's annual funding statement *"takes a more directive approach than in previous years"*. He also states that: *"Having made our expectations so clear in this year's [statement], if we see a situation where we believe a scheme is not being treated fairly, we are likely to intervene"*.

Tranche 10 analysis

In June the Regulator published the 2017 update to its annual funding statistics based on Tranche 10 schemes (those with valuation dates between 22 September 2014 and 21 September 2015). Points made in the update

include the following: (i) the average ratio of assets to technical provisions for schemes in deficit and surplus is 88.7% which improved from Tranche 7 due to stronger growth in assets relative to liabilities; (ii) the average recovery plan length for schemes in deficit is 7.5 years; and (iii) nearly one fifth of Tranche 10 schemes have additional security in the form of one or more contingent assets which typically, but not always, takes the form of guarantees from a sponsor's parent or associated entity.

TPR FUTURE

In July the Regulator provided an update on its 'TPR Future' programme. TPR Future is about what the Regulator needs to do as an organisation to be ready to tackle the challenges it faces. The Regulator reports that it has completed the first phase of the programme and has identified five areas for change – identity, expectations, regulatory oversight, regulatory interventions, and efficiency and effectiveness – and that it is now undertaking the next phase to develop and pilot its new approaches and ways of working. The Regulator will provide an update on the progress it has made with its new approach in spring 2018.

PROFESSIONAL TRUSTEE SURVEY

As part of its 21st century trustee initiative, in July the Regulator published a report on the findings of a survey about professional trustees reporting on issues such as professional trustee services structures, organisation characteristics, schemes that engage professional trustees, additional services, time spent on each professional trustee position, and skills checks and training. The Regulator also reports that, since conducting this survey, it has partnered with representatives of the professional trustee industry and asked them to produce a set of quality standards and accreditation.

AUTOMATIC ENROLMENT

PUBLICATIONS FROM THE REGULATOR

In June and July there were a number of developments from the Regulator in relation to automatic enrolment including the following.

- The Regulator issued several press releases announcing that it has carried out spot checks in a number of areas (London, Greater Manchester, Birmingham, Sheffield and Edinburgh) to ensure that employers are complying with their automatic enrolment duties. The Regulator states that it will begin visiting other towns and cities across the UK in the coming weeks.
- On 30 June the Regulator issued a press release warning employers not to fall for a scam involving the sale of fake certificates that suggest they do not have workplace pension duties.
- On 7 July the Regulator published research into how employers are meeting their duties following the completion of their declaration of compliance. The research was carried out amongst a sample of employers who had staged between 1 January 2015 and 1 January 2016 and key findings included that: at least 92% of employers of all sizes were aware of each individual ongoing duty in relation to automatic enrolment; and most employers were aware that pension contributions will increase, but awareness of the level and date of the next increase was lower.

PHASING OF DC CONTRIBUTIONS

For a defined contribution scheme to be a qualifying scheme under the automatic enrolment legislation, the contributions that are payable to the scheme must meet a statutory minimum. Currently, the minimum is a total of 2% of qualifying earnings, at least 1% of which must be paid by the employer. On 6 April 2018 this increases to a total of 5%, at least 2% of which must be paid by the employer. On 6 April 2019 this increases again to a total of 8%, at least 3% of which must be paid by the employer. (It is worth noting that where an employer is paying contributions using a different measure of pensionable pay and therefore using the process of certification, different contribution rates may apply, but they are still subject to

increases on 6 April 2018 and 6 April 2019.) The increases in minimum contribution rates due to take place on 6 April 2018 and 6 April 2019 were originally scheduled to take place on 1 October 2017 and 1 October 2018.

Employers should consider whether they need to take any action in relation to the increases in minimum contributions. In April 2017 the Pensions Regulator updated its automatic enrolment guidance on this issue. It states that areas for employers to consider include: (i) whether the pension scheme rules, agreements or other governing documents need to be amended; (ii) whether pension legislation which requires a 60 day consultation to be completed before certain changes are made to a scheme will apply in relation to any increase to member contributions; (iii) ensuring payroll processes are updated; (iv) considering what information, if any, should be provided to make members aware of the changes; and (v) where the employer is using the process of certification, whether it will need to end the certification period early and put a new certificate in place reflecting the increase.

Points of particular note include that the Regulator states that employers will be subject to the 60 day consultation requirement in relation to increases in member contributions where: the employer wishes to amend the scheme rules after the date the employer first used the scheme to meet its duties; the employer is not otherwise exempt from the requirements; the proposed increase does not explicitly match the timing or rates of the statutory increases; and the proposed increase was not already part of the operation of the scheme at the time the employer first started to use the scheme to meet its duties.

Employers should consider seeking advice about the steps they need to take in relation to any increases, particularly where they are planning increases which do not explicitly match the timing or rates of the statutory increases, or where they had initially made provision to implement the increases in October 2017 and October 2018 but will now implement them in April 2018 and April 2019.

CONSULTATIONS AND LEGISLATION

QUEEN'S SPEECH

The Queen's Speech was delivered on 21 June and background briefing notes were also published. Whilst there was no mention of pensions in the speech itself, the following Bills mentioned in the notes will be of interest to pension schemes.

Financial Guidance and Claims Bill

The purposes of this Bill include to establish a new arm's length single financial guidance body that will replace the three existing providers of publicly funded financial guidance (the Money Advice Service, The Pensions Advisory Service and Pension Wise). The core functions of the body will include the provision of pensions guidance across the UK. The Bill was published on 22 June and includes provision in relation to the establishment, functions, objectives and funding of the single financial guidance body. During July the Bill started to progress through Parliament. Also in July the DWP and Treasury published the Government's response to the December 2016 consultation about the proposal to establish a single financial guidance body. It notes that, in light of responses to the consultation, the Government has developed the model further and provides further information about the model. In relation to pensions, points of note in the response include that: (i) the body will provide guidance and information on all matters relating to occupational and personal pensions including information and guidance to people with DC pension savings on the options available to them as a result of the pension freedoms; and (ii) the body will be funded in the same way that the Money Advice Service, The Pensions Advisory Service and Pension Wise have been funded, that is, from levies on the financial services industry and pension schemes.

Data Protection Bill

The notes state that this Bill will fulfil a manifesto commitment to ensure that the UK has a data protection regime that is fit for the 21st century and will implement the General Data Protection Regulation.

FINANCE BILL

On 13 July it was confirmed that a Finance Bill will be introduced as soon as possible after the summer recess which will legislate for all policies that were included in the pre-election Finance Bill and that all policies originally announced to start from April 2017 will be effective from that date.

The two pensions changes which had been included in the pre-election Finance Bill and were due to take effect from April 2017 are: (i) the reduction of the money purchase annual allowance to £4,000; and (ii) the introduction of a new income tax exemption for employer-arranged pensions advice. It can therefore be expected that these provisions will be included in the new Finance Bill and will be drafted to take effect from April 2017.

DB WHITE PAPER

In February the DWP published a Green Paper on the security and sustainability of defined benefit (DB) pension schemes. The Green Paper looked at funding and investment, employer contributions and affordability, member protection, and consolidation of schemes and the closing date for comments was 14 May. On 13 July the Secretary of State for Work and Pensions announced that, building on the Green Paper, the DWP intends to publish a White Paper later this year which will set out proposed next steps on what reform is needed to support the sector, address the commitments in the Government's manifesto in relation to the regulation and rules governing DB private pensions, and consider innovative delivery structures such as consolidation and measures to drive efficiency within the sector.

EARLY EXIT CHARGES AND MEMBER-BORNE COMMISSION

On 3 July the DWP published the response to its April consultation on draft regulations in relation to early exit charges and member-borne commission reporting that overall the responses agreed that the draft regulations met their intended purpose and that queries raised primarily

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related to drafting, minor technical points and requests for clarification. The final version of the regulations was laid before Parliament on 20 July and will come into force on 1 October 2017.

Early exit charges

Subject to limited exceptions, these provisions apply to occupational pension schemes that provide money purchase benefits and, in summary, impose: (i) a ban on early exit charges for members who join the scheme on or after 1 October 2017; and (ii) a cap on early exit charges for members who join the scheme before 1 October 2017 of the lower of 1% of the value of the benefits being taken, converted or transferred or such amount as was provided for under the scheme rules or a relevant contract as at 1 October 2017.

Member-borne commission charges

In April 2016 regulations implementing a ban on member-borne commission came into force which, subject to certain exceptions, apply to occupational pension schemes which provide money purchase benefits and are being used by an employer as a qualifying scheme for automatic enrolment in relation to at least one jobholder. This ban related to new commission arrangements entered into on or after 6 April 2016 and to existing arrangements renewed or varied on or after 6 April 2016. These new regulations will extend the ban to arrangements that were entered into before 6 April 2016 (and which were not renewed or varied after that date) and will prohibit charges being imposed on members in order to recoup the cost of commission payments made to advisers. However, the regulations do not prohibit charges being imposed on members in relation to payments made to advisers before 1 October 2017. The regulations allow service providers until 1 April 2018 to make any necessary changes to their systems and processes.

Trustees of DC schemes should check whether their schemes are caught by these new provisions and, if so, whether any charges are currently in place which will need to be changed before the regulations come into force.

SAFEGUARDED-FLEXIBLE BENEFITS

On 6 July the DWP published a response to its September 2016 consultation in relation to two changes to legislation in relation to “safeguarded-flexible benefits” (in summary, these are benefits which are defined contribution in nature but offer some form of guarantee in relation to the pension income that will be available to the member). The response confirms that the Government will proceed with the following two changes from 6 April 2018: (i) introducing a new requirement for schemes to send all members with safeguarded-flexible benefits information about the guarantees those benefits offer before they proceed to transfer, convert or flexibly access them; and (ii) providing a simpler process for trustees to value members’ safeguarded benefits which are not salary-related occupational benefits when determining whether the requirement to take financial advice before transferring or converting those benefits applies. In addition, and in light of responses to the consultation, a change will be made to the provisions on valuing safeguarded benefits for the purposes of the advice requirement so that trustees must disregard a legislative provision that allows schemes to calculate cash equivalents in any way approved by the trustees which can therefore afford members more generous valuations.

MONEY LAUNDERING REGULATIONS

On 26 June new anti-money laundering regulations came into force (replacing the 2007 regulations) in order to implement the Fourth Money Laundering Directive. The regulations include obligations on trustees in relation to beneficial ownership information including the following.

- A requirement to maintain accurate and up to date records in writing of all the “beneficial owners”. The beneficial owners include the settlor, the trustees, the beneficiaries and any individual who has control over the trust, with the definition of control for these purposes relating to powers under the trust instrument or by law. The information that must be held depends on whether the beneficial owner is an individual or a legal entity. Where the beneficial owners include a class of beneficiaries not all of whom have been determined, the information is a description of the class of persons who are beneficiaries or potential beneficiaries.

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- In the case of “taxable relevant trusts” (whether a trust falls into this definition depends on whether the trustees are liable to pay certain taxes in the UK in relation to the trust in the tax year), a requirement to provide certain information to HMRC about the trust and the beneficial owners on or before 31 January 2018. There are also obligations to notify HMRC whether or not there have been any changes to the information.
- A requirement that when entering into certain transactions with “relevant persons” (such as financial institutions, auditors and external accountants) the trustee must inform the relevant person that it is acting as a trustee and, on request, provide certain information about beneficial owners. There are also requirements on UK corporate bodies to provide certain information, including about their beneficial owners, on request when entering into such transactions.

The regulations do not provide any exemptions for trustees of occupational pension schemes but guidance has not yet been issued in relation to how the requirements will apply to such schemes. In particular, it is not clear whether the requirements on holding information and registering information with HMRC might simply require confirmation of the classes of beneficiaries or will require detailed information about all beneficial owners. At this stage trustees should therefore be aware of the requirements and the 31 January 2018 deadline. We will report again when guidance is issued.

As was the case with the 2007 regulations, the new regulations apply to “trust or company service providers” although HMRC’s guidance continues to provide that occupational pension schemes are low-risk trusts and therefore there is no need for those offering professional trustee services to such schemes to register with HMRC. In June HMRC updated its guidance for trust or company service providers about their obligations.

Professional trustees should consider taking this opportunity to review their processes.

CORPORATE TRUSTEES – PSC REGISTER

In April 2016 changes were made to the Companies Act 2006 requiring unlisted UK companies (which would include corporate trustees) to take reasonable steps to identify those people with significant control over them and to record their details in a new register called a PSC register. Regulations came into force on 26 June 2017 which amend the legislation to require companies to record changes to information on their PSC register within 14 days of obtaining the information and to file that information with Companies House within a further 14 days.

SUPREME COURT JUDGMENTS

On 12 July the Supreme Court issued two judgments in relation to the application of EU legislation to the calculation of pension benefits.

Survivors' benefits

The case of *Walker v Innospec* concerns the provision of survivors' benefits to civil partners and same sex spouses by occupational pension schemes. The Equality Act contains an exemption which provides that it is not unlawful discrimination relating to sexual orientation to prevent or restrict a person who is not married to a person of the opposite sex from accessing a benefit the right to which accrued before 5 December 2005 or which is payable in respect of periods of service before 5 December 2005. Some pension scheme rules mirror this exemption and limit pensions payable to surviving civil partners and same sex spouses to the member's period of service on and after 5 December 2005 (although contracted-out benefits have to be provided based on service on and after 6 April 1988). All of Mr Walker's service in the relevant scheme was prior to 5 December 2005 and therefore, on the basis of the exemption, his husband would be entitled to a pension of about £1,000 per annum (the contracted-out benefit) but if Mr Walker was married to a woman she would be entitled to a pension of about £45,700 per annum. Mr Walker's claim was upheld by the Employment Tribunal but this decision was overturned by the Employment Appeal Tribunal and his appeal to the Court of Appeal was rejected.

The question for the Supreme Court was whether the exemption in the Equality Act is compatible with a European Directive which established a general framework for equal treatment in employment and occupation. The Supreme Court concluded that, in so

far as it authorises a restriction of payment of benefits based on periods of service before 5 December 2005, it is incompatible and must be disapplied. The Supreme Court also made a declaration that Mr Walker's husband is entitled to a spouse's pension calculated on all the years of his service, provided they remain married at the date of Mr Walker's death.

Part-time workers

The case of *O'Brien v Ministry of Justice* concerns whether, when calculating a part-time judge's pension, account should be taken of the whole of his service since the beginning of his appointment in 1978 or only his service since 7 April 2000 (the deadline for transposing the relevant European Directive in relation to part-time workers). In this case, as the CJEU has not yet considered the argument that if a pension is deferred pay, the right to which is acquired at the time of the work, the Directive only applies to service after the date it came into force, the Supreme Court decided to refer the question of what service should be taken into account to the CJEU.

Whilst it remains to be seen whether the CJEU will comment more generally on the calculation of benefits in the *O'Brien* judgment, the Supreme Court's decision in the *Walker* case means that schemes which currently rely on the exemption in the Equality Act to restrict survivor benefits payable to civil partners and same sex spouses should amend their rules for future cases and consider reviewing past cases where, in reliance on the exemption, pensions have been refused or restricted. However, it should be noted that the judgment did not comment on the restriction of contracted-out rights to post-6 April 1988 service (which also applies to widowers of female members) and that legislation remains in force.

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HMRC – PENSION ADVICE ALLOWANCE

Schemes which are putting in place processes to allow members to take pension advice allowance payments from their DC pension pots may be interested to note that in its pension schemes newsletter published on 1 June HMRC reported that it has received queries from pension scheme administrators asking if their members can request such payments by email. HMRC notes that the legislation states that the request must be in writing, and states that it can confirm that the member can make this request by email but it is up to administrators to decide whether they will accept requests in this format.

In April 2017 HMRC made some updates to its Pensions Tax Manual in relation to the pension advice allowance, one of which related to the impact of use of the pension advice allowance on scheme specific lump sum protection. In July HMRC made some further updates to the Manual to correct its wording on this issue.

HMRC PENSION SCHEMES NEWSLETTERS

HMRC published two pension schemes newsletters in June. Points of note in these newsletters (in addition to the point set out above in relation to the pension advice allowance) include the following.

- HMRC states that it will reject any old APSS262 forms used to report transfers to QROPS made from 9 March 2017 because, following changes to the legislation, the old form does not contain additional information that administrators are now required to provide.
- HMRC reports that it has received a number of queries from administrators confusing the pension scheme return and the SA970 tax return for trustees of registered pension schemes and therefore provides a reminder that these are two different information returns as well as some further information about each return.

- An update is provided on HMRC's work in relation to Relief at Source schemes and the Scottish Rate of Income Tax including its work to develop a residency tax status look-up service for administrators and the new system to be introduced for submitting annual returns of individual information.

PENSION PROTECTION FUND

The PPF published the following in June and the first part of July.

- The PPF's Strategic Plan for 2017 to 2020 which, in relation to the levy, notes priorities including implementing changes for the third triennium, beginning work on developing its strategy for the fourth triennium and consulting on initial proposals, and exploring how it can continue to improve the service provided to levy payers and their advisers. The PPF also announces that, following work with the DWP to complete a review of the best approach to Financial Assistance Scheme (FAS) administration in the long-term, it has taken the decision to bring FAS member services in-house within the next three years.
- The PPF's Annual Report and Accounts 2016/17, with the accompanying news item on the PPF's website reporting that: the PPF's funding ratio has increased to 121.6% up from 116.3% last year; and the PPF's long-term risk model predicts that it will achieve financial self-sufficiency by 2030 in 93% of scenarios.
- Issue 9 of Technical News, the PPF's newsletter on topical issues including practical guidance for schemes in PPF assessment periods. Issues covered in this edition of the newsletter include dealing with stand alone lump sums, separate scheme lump sums and early retirement and GMPs during an assessment period.

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THE PENSIONS OMBUDSMAN

The Pensions Ombudsman (TPO) published its Annual Report and Accounts for 2016/17 on 10 July. Points of note in the Report include the following.

- TPO took on 1,333 cases for investigation (which is slightly less than in 2015/16) and completed 1,404 investigations (7% more than in 2015/16). Cases about the actions of the PPF continue to form a small part of TPO's work, with 17 new cases for investigation accepted in the year.
- In relation to completed cases: 42% were resolved or the complaint withdrawn (compared to 27% in 2015/16); in 23% of cases the Adjudicator's Opinion was accepted (22% in 2015/16); 27% of cases were ended by a Determination following an Adjudicator's Opinion (29% in 2015/16); 2% of cases resulted in a Determination following an Ombudsman's Preliminary Decision (8% in 2015/16); and 6% of complaints were discontinued (14% in 2015/16 which was an unusually high figure because a large number of complaints about pension liberation were closed in this way).
- In terms of the outcome of complaints determined by an Ombudsman: 67% were not upheld; 20% were upheld; and 13% were partly upheld.
- The top five subject matters of closed investigations were: failure to provide information/act on instructions (14%); misquote/misinformation (12%); pension liberation (12%); transfer: general (9%); and ill health (7%).
- The top five subject matters of new investigations were: failure to provide information/act on instructions (12.5%); transfer: general (10.5%); misquote/misinformation (10%); ill health (7.9%); and pension liberation (7.7%).

TPAS ANNUAL REPORT AND ACCOUNTS

Also on 10 July, The Pensions Advisory Service (TPAS) published its Annual Report and Accounts for 2016/17. The Report notes that there was a 1% increase in customers helped compared to 2015/16, a 9% increase in customers contacting TPAS, and a 23% increase in visits to the TPAS website. It also states that customer satisfaction increased to 98% compared to 97% in 2015/16.

GMP RECONCILIATION

On 7 June the Pensions Administration Standards Association (PASA) issued the third tranche of its guidance on GMP reconciliation which covers the approach to reconciliation for scheme members who have an entitlement to a GMP and were in active membership at the point contracting-out ceased. PASA states that it will continue to monitor issues in relation to GMP reconciliation and rectification and will publish further guidance on new developments or specific issues when relevant.

LAW COMMISSION REPORT

In November 2016 the then Minister for Civil Society asked the Law Commission to look at how far pension funds may or should consider issues of social impact when making investment decisions. In June the Law Commission published its final report. The Commission found that there are no legal or regulatory barriers to social investment but it has identified structural and behavioural barriers within the pensions industry which could explain the low levels of social investment by DC pension schemes.

The report sets out a number of recommendations where the Commission has identified that the law could be improved to reduce the impact of barriers. The recommendations include that the regulations in relation to investment and occupational pension schemes should be amended: (i) to require trustees to state their policies in relation to evaluating risks to an investment in the long term including risks relating to sustainability arising from corporate governance or from environmental or social impact, and considering and responding to members' ethical and other concerns; and (ii) to require the Statement of Investment Principles to state the trustees' policy (if any) on stewardship. The report also sets out a number of options for reform where the Commission has identified steps which could be taken by others to address barriers. The options cover the following three areas: (i) investment in social enterprises; (ii) investment in property and infrastructure (for example, the Government should consider whether a legal obligation should be introduced requiring trustees to determine on an annual basis whether their members are disadvantaged due to insufficient numbers of members or pooled assets); and (iii) encouraging savers to engage more actively with their

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pensions (for example, the Government should consider whether schemes should be required to ask their members periodically for their views on social investment and non-financial factors). The Government has not yet published a response to the report.

PUBLICATIONS FROM THE FCA

Recent publications from the Financial Conduct Authority relevant to pensions include the following.

- A consultation on new rules on advice relating to pension transfers where consumers have safeguarded benefits, primarily for transfers from DB to DC pension schemes. The consultation outlines the FCA's expectations of advisers and pension transfer specialists. It closes on 21 September 2017 and the FCA will publish its rules in a Policy Statement by early 2018.
- The final report of its asset management market study which confirms the findings set out in the interim report published in November 2016 and sets out a package of remedies which fall into three areas: (i) helping provide protection for investors who are not well placed to find better value for money; (ii) driving competitive pressure on asset managers; and (iii) helping improve the effectiveness of intermediaries. In relation to driving competitive pressure on asset managers, the remedies include that the FCA will support the disclosure of a single, all-in-fee to investors and the consistent and standardised disclosure of costs and charges to institutional investors.
- The interim findings of the Retirement Outcomes Review which looks at how the retirement income market is changing since the introduction of the pension freedoms. The FCA has identified a range of possible measures to address some of the emerging issues identified including: (i) gathering further evidence on consumer outcomes to assess whether additional protections should be put in place for consumers who buy drawdown without advice; (ii) steps to improve competition in non-advised drawdown; and (iii) tools and services to help consumers understand their options and improve trust in pensions. The closing date for feedback on the initial findings and recommendations is 15 September 2017 and the FCA intends to publish the final report in the first half of 2018.
- Following its April 2017 consultation, the FCA published a Policy Statement on its regulated fees and levies 2017/18 which includes confirmation of the pension guidance levies.

ON THE HORIZON

DATE	DEVELOPMENT
Unknown	The reforms in relation to Defined Ambition, Collective Benefits and automatic transfers of small DC pots will be revisited once the market has had time and space to adjust to other reforms.
	In March 2017 the Government published a response to its consultation on equalisation for the effect of GMPs noting that a number of issues will be considered with the industry working group. The date that any final form documents will be published is not known.
Second quarter of 2017	Following a consultation published in October 2016, the FCA is expected to publish rules aimed at standardising the disclosure of transaction costs incurred by pension investments.
Autumn 2017	A new Finance Bill , which will include the new tax exemption for employer-arranged pensions advice and the reduction in the money purchase annual allowance to £4,000, is expected to be introduced as soon as possible after the summer recess.
	A factsheet is expected to be published by the FCA and the Pensions Regulator in September 2017 about what help employers and trustees can provide on financial matters without being subject to regulation.
	In the Autumn the PPF is expected to publish a consultation setting out its conclusions in relation to the levy for the third triennium alongside a draft set of rules for 2018/19.
	Regulations in relation to the cap on early exit charges for occupational pension schemes and the extension of the ban on member-borne commission will come into force on 1 October 2017.
	Following a consultation issued in April 2017 amendments to the employer debt legislation are expected to come into force on 1 October 2017.
2017	The response to the December 2016 consultation about measures to tackle pension scams is expected to be published.
	Following the DB Green Paper published in February 2017, a White Paper setting out options for reform is expected to be published later in 2017.
	A review of automatic enrolment is taking place in 2017. A report setting out policy recommendations is expected towards the end of 2017.
	Following a December 2016 call for evidence, a consultation is expected on bulk transfers of DC pensions without member consent .
	The transitional period in which employers and schemes may continue to use the VAT treatment in VAT Notice 700/17 ends on 31 December 2017.
	The DWP is expected to consider further measures in relation to transfers of contracted-out rights to schemes that have never been contracted-out.
6 April 2018	The lifetime allowance is due to be indexed annually in line with CPI.
	Changes to the legislation on valuing safeguarded benefits for the purpose of the advice requirement and to require risk warnings to be given to members with safeguarded-flexible benefits are due to come into force on 6 April 2018.
May 2018	The new EU General Data Protection Regulation will apply.
2019	Member States must transpose the IORP II Directive into national law by 13 January 2019.
	The Government will ensure the industry designs, funds and launches a pensions dashboard by 2019.

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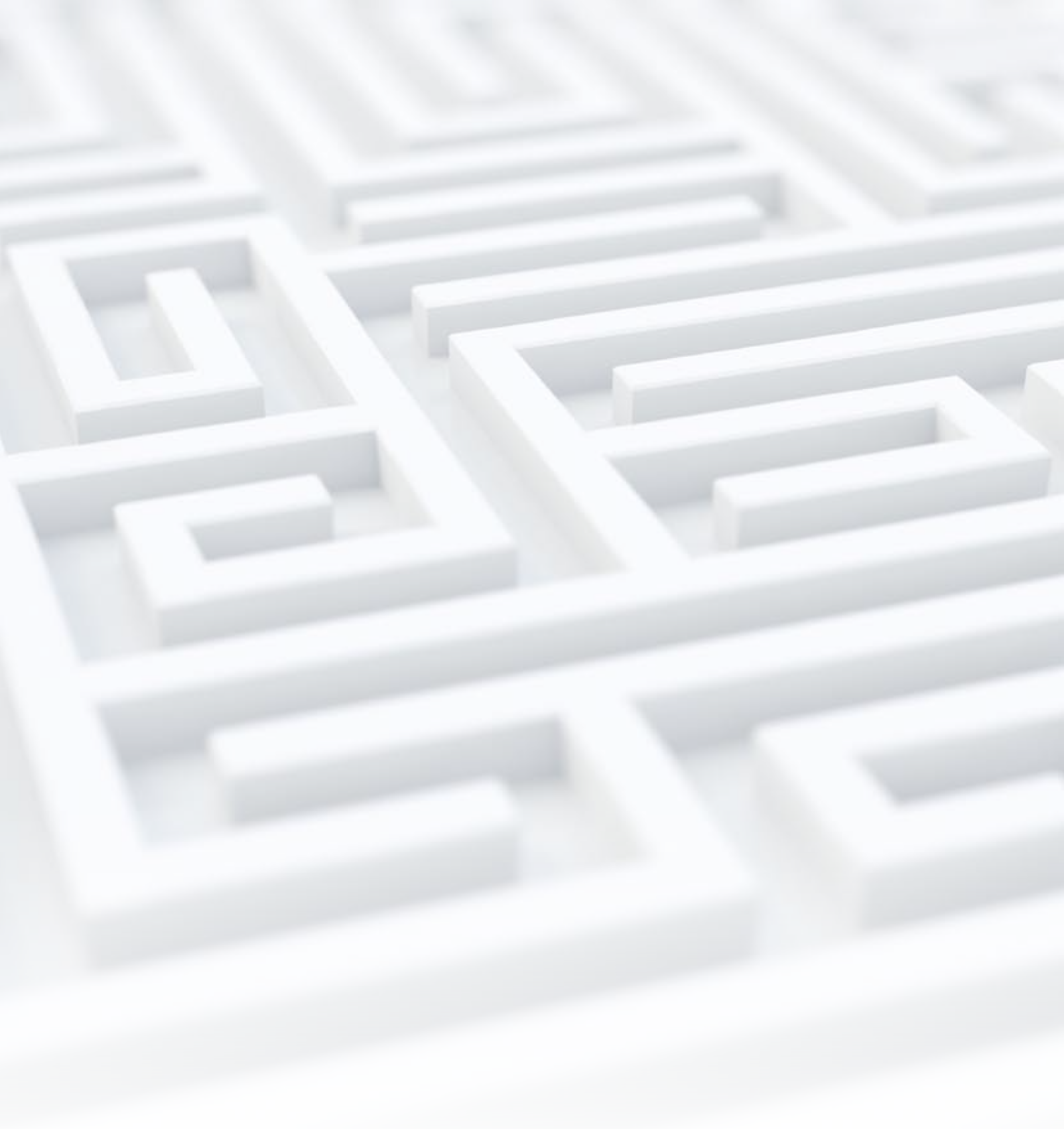
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