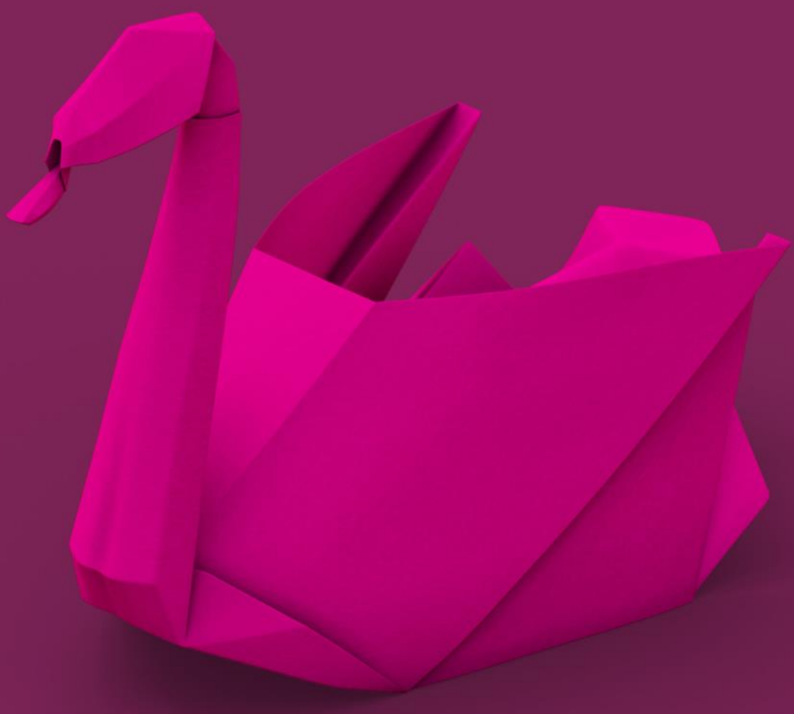
Your Quarterly Pensions Update

Dalriada Trustees – Industry Changes

Quarter 4 2019



Dalriada.
A better way

January 2020

Contents

Signatory of:

PRI Principles for Responsible Investment

PMI EXPERT PARTNER

PROFESSIONAL PENSIONS UK PENSIONS AWARDS 2019 FINALIST

PROFESSIONAL PENSIONS UK PENSIONS AWARDS 2018 FINALIST

PROFESSIONAL PENSIONS UK PENSIONS AWARDS 2017 FINALIST

bsi. ISO/IEC 27001 Information Security Management

bsi. CSA STAR Cloud Security

CYBER ESSENTIALS

01 Introduction

The purpose of this report is to provide an update for pension scheme sponsors and trustees on recent industry changes in the quarter

For your convenience, we have summarised the key developments and highlighted the necessary actions sponsors and trustees may need to take.

We also include links to further relevant information and any deadlines you should be aware of.

We trust you will find the update useful and informative. If you require further information about how any of the topics covered might impact on your scheme specifically, please get in touch with Adrian Kennett, adrian_kennett@dalriadatrustees.co.uk or your usual Dalriada contact.

NOTE

This document is aimed at providing you with generic information about recent developments in the pensions industry.

You should not take any action as a result of information included in this document without seeking specific advice in relation to the impact these matters might have on your scheme or company. Dalriada Trustees Limited accepts no liability for actions taken or not taken as a result of this document.

02 Investment Market Q4 Update

As 2019 came to a close, UK equities performed well over the final quarter of the year, driven by the Conservative Party winning a general election with their largest majority since 1987. The markets reacted well to the mandate given to Boris Johnson's government, as it finally gave some certainty to investors that Brexit would actually take place. With the opposition parties unable to halt the progress of Brexit any longer, the new government was able to use its majority to take the UK out of the EU by 31 January 2020. Sterling strengthened (clawing back losses it made earlier in the year) and UK domestically-focused small and mid-cap shares benefited as they responded favourably to the reduction in political uncertainty, even if only in the short-term.

US equities made strong gains over the quarter with a positive US and China trade deal announcement bringing a bit more certainty to the trading relationship (again, even if only in the short-term). At Hallowe'en the US Federal Reserve ("the Fed") cut interest rates for the third time in the space of four months, with a 0.25% reduction bringing the rate to a range of 1.50% to 1.75%. The Fed said the decrease (which was anticipated) was a cautionary measure following recent slow economic growth and that it did not expect to reduce rates further, unless there was a serious slowdown in economic activity or significant increase in inflation. With the pace of U.S. jobs gains increasing again (with the lowest unemployment rates in nearly 50 years),previous concerns about an imminent US recession were quelled, which contributed to the strong US year-end performance.

Gilts produced a negative return (i.e. yields rose) over Q4, as investors grew more confident that the decline in global growth was stabilising, prompting investors to sell safe-haven assets such as government bonds. The victory for the Conservative party and increased optimism around avoiding a No-Deal Brexit also contributed to the rise in gilt yields (i.e. causing prices to decline). It is also worth noting that following the government's recent indication that it was going to consult on abolishing RPI as an inflation measure (see our last Quarterly Report), there was a significant sell-off of index-linked gilts in September, with markets falling some 5%. While this has stabilised, we can expect to see more volatility as the government progresses its consultation on these proposals.

Most commodities performed well cover the quarter as global economic activity was stabilising due to better growth forecasts and progress on the US/China trade deal. Crude oil prices increased as tensions grew in the Middle East and OPEC+ announced further supply cuts to ease oversupply concerns. Russia and Colombia were the main beneficiaries of these increased oil prices, though the oil and gas sector itself did not see positive returns. Nickel was down 18% as previous export restrictions affecting Indonesia - the world's largest producer - were lifted for some companies.

The big winners over Q4 of 2019 were the emerging markets, with the easing tensions between the US and China filtering through to the economies of South Korea and Taiwan. The general relief at the avoidance of a No-Deal Brexit was also a factor here, with many markets welcoming the pause in political upheaval at Westminster.

ACTION

Despite the strong returns seen over 2019 in almost every asset class, trustees should continue to monitor their investments and speak with their advisors to ensure their investment strategy remains suitable.

03 The Pensions Ombudsman – Raising the Bar

The Pensions Ombudsman's rulings continue to drive for higher standards in pension administration, increasing the onus on schemes to do more than basic compliance. In a recent case, Mrs H transferred to a scam pension scheme and lost her benefits. The Ombudsman ruled that her Local Government Pension Scheme (Hampshire Pension Fund), which had already paid the transfer value as she requested, should now reinstate her benefits as well.

The Hampshire scheme paid a transfer of £26,234 to a fairly new scheme, when the member involved was approaching her Normal Retirement Age and lived hundreds of miles away from the sponsoring employer of this new occupational scheme. Incidentally, the member had also declined to join the Hampshire Pension Fund originally and then joined much later. The Ombudsman took this as evidence that she was not financially astute and, therefore, argued that the Trustees should have taken extra care to protect her. The transferring scheme did send her the Scorpion literature warning about pensions scams and she signed a form declaring that she had read the leaflet and understood it was entirely her own responsibility to make sure the benefits in her new scheme were appropriate.

The Hampshire scheme had believed that the member had a statutory right to a transfer to her new scheme but that was incorrect as she was not (and never had been) employed by the sponsoring employer of the receiving scheme. The Ombudsman says that Hampshire should have realised that it was a scam as they didn't check whether she worked for the new employer.

The receiving scheme had been approved by HMRC (albeit only recently), the Ombudsman fines schemes that don't transfer benefits promptly and the law requires trustees to make statutory transfers even if they are convinced it's a scam. However, the body now required to compensate the member is the scheme (and ultimately the employer) who had already paid out her full entitlement and had tried to protect her.

This ruling demonstrates once again that the Ombudsman can penalise schemes that haven't delivered a higher standard of care for members than anything required by legislation. These rulings sometimes appear to be made with the benefit of hindsight (and sometimes much later) and highlight the vital importance of running schemes well.

Further, in an example of 'damned if you do and damned if you don't', in another Ombudsman case, a scheme was ordered to compensate a member where a transfer was not made.

The member in this case had moved to Canada and asked for a transfer to a Canadian pension scheme which, at the time of the request, was a Qualifying Recognised Overseas Pension Scheme (QROPS) and so capable of receiving an authorised transfer. However, by the time the pension provider was ready to process the transfer, following its due diligence checks, the receiving scheme was removed from the QROPS list.

The member complained and the Ombudsman upheld the complaint, holding that the delays in paying the transfer constituted maladministration. The Ombudsman directed the provider to process the transfer and to pay any tax charges arising from the fact that the receiving scheme had lost its QROPS status.

These cases demonstrate the difficulties in balancing members rights, carrying out transfer due diligence and endeavouring to act in members best financial interests. The Pension Schemes Bill 2020 contains new powers to help combat pension scams. It remains to be seen whether these will make transfer procedures and decisions easier or harder for administrators and trustees.

Helpful Links:

Ombudsman's Determination

https://www.pensions-ombudsman.org.uk/determinations/2019/po-21489/local-government-pension-scheme-hampshire-pension-fund/

https://www.pensions-ombudsman.org.uk/wp-content/uploads/PO-22236.pdf

04 Developments in pensions law & practice: December 2019 / January 2020

Extending civil partnerships to opposite sex couples

New regulations are now in force that extend the option of civil partnerships to opposite sex couples in England and Wales. Whilst they do not alter the existing position in relation to the contracted-out pension rights that are payable to a surviving civil partner following the death of a member, pension scheme administration processes will need to incorporate the possibility of a member being survived by an opposite sex civil partner and benefits being due to that survivor.

New rules on investment consultancy and fiduciary management services

The Pensions Regulator has published guidance to help trustees comply with new duties imposed by the Competition and Markets Authority (CMA). This follows the CMA market investigation into the investment consultancy and fiduciary management services provided to trustees. Key topics in the guidance are choosing an investment governance model, tendering for fiduciary management services, tendering for investment consultancy services and setting objectives for investment consultants.

The new duties (*) came into effect on 10 December 2019 and the guidance should help trustees in complying with the requirements when working with providers of investment consultancy and fiduciary management services.

- Set strategic objectives for investment consultants by 10 December 2019
- Competitively tender fiduciary management contracts if 20%+ of assets (from 10 December, for new contracts and 1-5 years, for existing contracts - depending on how old)
- Prospectively report compliance by 7 January 2021, subject to final regulations

On a related investment note, the Financial Reporting Council (FRC) has recently published its revised UK Stewardship Code. This sets out new reporting requirements and greater expectations regarding investor stewardship. There is no legal requirement to be a signatory to the Code, but some pension schemes, especially larger ones, do decide to sign up.

Budget set for 11 March

The 2020 Budget will take place on 11 measure. Possible pension related measures include changes to the annual allowance and pensions taxation and changes to, or at least a consultation on changes to, the measure of price inflation used for pension increases (RPI / CPI).

Helpful Links:

http://www.legislation.gov.uk/uksi/2019/1458/introduction/made

https://www.thepensionsregulator.gov.uk/en/document-library/regulatory-guidance/tender-and-set-objectives-for-investment-service-providers

https://assets.publishing.service.gov.uk/media/5cfdfa86e5274a090f9eef8e/Order_investment_consultants.pdf

https://www.frc.org.uk/getattachment/5aae591d-d9d3-4cf4-814a-d14e156a1d87/Stewardship-Code_Final2.pdf

https://www.gov.uk/government/news/chancellor-launches-budget-process-to-usher-in-decade-of-renewal

05 HMRC Countdown Bulletins 49, 50, 51

With the drive to progressing Guaranteed Minimum Pension (GMP) equalisation projects, Trustees first need to ensure they understand the position of their scheme with regards to GMP reconciliation. In order to assist Trustees with this process, the latest HMRC Countdown Bulletins seek to clarify the services HMRC will provide going forward with regards to GMP.

Final Scheme Reconciliation Service (SRS) Output

HMRC advised in October 2019 that all schemes who had engaged with SRS will receive a final GMP data cut by the end of 2019, although they have recently clarified a delay to this original target. HMRC state that this final cut will be based on their records following the completion of SRS queries, and there will be no opportunity to query the information further. Importantly, because of HMRC's reconciliation process, the final output may contain some members for whom the administrators had not previously accepted liability.

Automatically allocating payments

HMRC have this month reviewed the proposed solution for automatically allocating payments received from pension schemes for individual members of their scheme, in cases where HMRC is unable to identify those individual members that the payment was in respect of. HMRC have confirmed that, in such scenarios, they will take advice from Pension Scheme Administrators, who will have the responsibility for identifying the individual members payment should be allocated to.

Administrators are advised that if payments have not been paid or not paid in full, then they should advise HMRC through the Shared Workspace. Details on the method of making the payment are provided in Countdown Bulletin 51. The deadline for this action is 13 March 2020.

The process administrators need to follow will be published shortly with a revised timescale for revised data cuts published in due course.

Scheme Contracted Out Numbers (SCONs)

HMRC state that the number of queries where HMRC has a SCON recorded for a member which does not match the administrator record is relatively small when compared to the number of successfully reconciled queries. HMRC reiterate that they will no longer amend their SCON record, where the GMP is correct and/or it is only the SCON that is not agreed. The importance of the SCON has therefore changed and the SCON is no longer definitive in identifying who holds liability for the members GMP. HMRC will only share the SCON they hold if the request is a Subject Access Request.

Incorrect GMP

Administrators are still able to view the GMP details held through the GMP Checker service. HMRC will still amend records if the GMP information is incorrect. However, such queries may only be sent to HMRC, if a 'life event' is occurring, by submitting a query using template in the Live Scheme Shared Workspace e-room.

Raising queries with HMRC

All GMP queries should be submitted to HMRC at a life event. Any query that fits within the HMRC services should be submitted via email to CRM.schemereconciliationservice@hmrc.gov.uk.

Helpful Links:

https://www.gov.uk/government/publications/countdown-bulletin-49-October-2019/countdown-bulletin-49-october-2019

https://www.gov.uk/government/publications/countdown-bulletin-50-december-2019

https://www.gov.uk/government/publications/countdown-bulletin-51-january-2020

06 Pension Schemes Bill 2020

A new Pension Schemes Bill was published on 8 January 2020.

This '2020 Bill' is the expected replacement for the '2019 Bill' that fell with the dissolution of Parliament last month and, whilst the substantive measures in the 2020 Bill are the same as those in the 2019 Bill, there are differences in the two Bills in terms of some of the detailed clauses.

The Pension Schemes Bill 2020 makes provision in four areas:

- Collective money purchase benefits
- The Pensions Regulator
- Pensions dashboards
- Further provision relating to pension schemes

Collective money purchase benefits

Over 40% of the Bill relates to 'Collective money purchase' (collective defined contribution, or "CDC", schemes, where contributions into the scheme are pooled and invested with a view to delivering an aspired benefit level). Contributions into the scheme are fixed, and the benefit level offered can only ever be a target or an estimate so benefits are not guaranteed by the employer. In other words collective money purchase benefits are, in law, a type of money purchase benefit.

The Bill provides the legislative framework to establish and operate CDC schemes. These schemes will be authorised and supervised by The Pensions Regulator and will be subject to requirements to disclose certain information to members to ensure that there is appropriate transparency about how they operate.

The Pensions Regulator's powers

The Bill builds on the Government commitment to tighten the rules of abuse against pension schemes by improving The Pensions Regulator's powers so that it can meet its aim of being "clearer, quicker and tougher". This will allow the Pensions Regulator to be more proactive when employers make changes which could impact schemes, to have the power to obtain information in a timely manner, to gain redress for a pension scheme when things go wrong and to deter reckless behaviours.

To support its enforcement role, the Regulator can impose criminal offences and financial penalties on sponsoring employers and other related entities who engage in wrongdoing. The measures in the Bill will, when enacted, strengthen the existing sanctions regime by introducing three new criminal offences, and a new power to issue civil penalties of up to £1 million.

Pensions Dashboards

Pensions dashboards are online services which will allow people to access their pension information in a clear and simple form. They will bring together an individual's savings from multiple pensions, including State Pension, in a single place online. The Money and Pensions Service (MaPS) will bring together industry to lead the development and delivery of dashboards and Government has committed to facilitate this. MaPS will also provide a non-commercial dashboard service. Under the Bill, provision of information by pension schemes in order to populate dashboards will, subject to regulations, be mandatory.

Further provision relating to pensions schemes

Scheme funding

The provisions in the Bill relating to the scheme funding regime for DB schemes:

- require trustees to have a scheme-specific funding and investment strategy, and for the Statutory Funding Objective to be achieved in the context of this strategy;
- require trustees to explain to the Regulator their approach to achieving the strategy in a statement of strategy;
- require the trustee board to appoint a Chair, who is responsible for signing the statement on behalf of the Board; and
- strengthen the Regulator's scheme funding enforcement powers.

Transfers

Clauses in the Bill relating to a member's right to a transfer value amend existing legislation to permit regulations to be made to stipulate the destinations and circumstances under which a pension scheme member will have a right to transfer their pension savings to another pension scheme. This is to protect members from pension scams.

Pension Protection Fund

A High Court ruling determined that where an individual has benefits derived from a fixed pension transfer, such benefits are not attributable to pensionable service and thus cannot be aggregated with the individual's other pension benefits for the purposes of applying the compensation cap. To ensure that the PPF could continue to administer the compensation regime as intended, PPF regulations were amended prospectively to enable a fixed pension to be treated as pensionable service for the purposes of calculating PPF compensation, except when aggregating benefits for the cap. The Bill provides for the above amendments to be treated as if they had always applied, so that the legislation supports the policy intent and past practice for PPF compensation.

Differences between the 2019 and 2020 Bills

Both Bills are largely the same and the changes almost exclusively relate to layout, styling, correction of typos, and some clarification revisions. The only difference worth noting is that the 2020 Bill makes it explicitly clear that measures relating to acts and failures by a person include those who knowingly assist in the acts or failures.

ACTION

As ever, a lot of the devil will be in the detail (i.e. regulations). For now, it is really a case of 'watch this space'. That said, however, trustees may want to consider some early discussions with advisers on the implications of the changes to the DB funding regime (taking into account the related new Scheme Funding Code, which The Pensions Regulator is expected to start consultation on this year, and has already indicated its direction of travel).

07 PPF Final Levy Determination for 2020/21, and ECJ ruling on PPF compensation

PPF Levy 2020/21

The PPF published its final 2020/21 Levy Determination and Policy Statement on 16 December. The documents confirm that the levy estimate for 2020/21 will be £620m. The Policy Statement also refers to the then imminent decision by the European Court of Justice (ECJ) in the Bauer case, which was published on 19 December (see below), stating that "The judgment could have a financial impact on the PPF". Key points to note from the determination are:

- The levy rules are broadly as expected following the consultation paper published in the autumn
- As well as the updated levy rules, the PPF has published revised guidance and updated certificates
- The rules are broadly unchanged from the consultation, but a few small changes have been made following consultation, mainly with regard to contingent assets
- The PPF also took the opportunity to reissue, with a few clarifying amendments, its information note on how GMP equalisation should be taken into account for section 179 valuations and deficit recovery contribution certificates.

It was noted as part of the consultation that some employers may experience a significant increase in levy due to the GMP equalisation accounting charge resulting in the accounts showing a loss, whereas a profit would have been disclosed absent this charge. This could generate a move of up to two levy bands. The PPF is expecting only a very small number of employers to be affected by this, but is allowing those that are to request an adjustment providing three conditions are met:

- a specific GMP equalisation charge can be identified in a set of accounts that is used to calculate the Monthly Scores
- removing this charge would result in the company reporting a profit rather than a loss…
- …and would result in an improvement to the Levy Band.

Requests for an adjustment should be made within 28 days of Mean Scores being published (expected to be in early July 2020).

Bauer

Very broadly, Mr Bauer suffered a reduction of around 7.5% in his pension benefits due to his employer's financial difficulties. Subsequently, the German courts asked the ECJ a number of questions, including whether an employee could be said to have suffered losses, as a result of the insolvency of his former employer, which are "manifestly disproportionate" even though those losses do not amount to more than 50% of his accrued pension benefits.

On 19 December, the ECJ ruled, amongst other things, that 50% compensation is not enough in cases where the member is below the 'at risk of poverty' income level as measured by Eurostat (in the UK, an income of £10,810 p.a. for a single person in 2018).

So, the Court ruling introduces a minimum income test for PPF compensation. In practical terms, the judgment could mean additional complexity, but the financial impact should not be material and, of course, there is the 'Brexit factor'.

In more detail, the Bauer judgment has the potential to affect the PPF (and the wider pensions industry) but, at this stage, taking into account the UK's expected departure from the EU possibly as early as next month, the actual impact is a 'known unknown'. As noted in the PPF Policy Statement, the published rules, for 2020/21, result in a levy estimate that is already pretty much as high as the PPF is allowed to collect (the PPF is permitted to increase its levy by up to 25% above the previous year's estimate – this year's increase is 24%). The PPF has release the following statement in response to the ECJ ruling in Bauer:

"The recent ECJ judgment in the case of PSV v Gunther Bauer has restated that, as a minimum, every individual must receive at least 50% of their accrued benefits.

"We consider that the implementation methodology we announced following the ECJ's judgment in Hampshire, which will make sure that all our members receive at least 50% of the value of their accrued benefits, meets this requirement.

There are other details of the judgment that we'll need to work through with the Department for Work and Pensions. In the meantime, we'll continue to make payments in line with the existing levels, and to assess and increase payment to those members affected by the Hampshire ruling."

ACTION

Trustees and employers should discuss the levy determination and Bauer case with their advisers considering, where applicable, possible levy reduction measures that might be open to them. Indicative levy estimates can now be provided on request. For those few schemes, where a GMP equalisation adjustment is possible, the deadline for seeking the adjustment should be duly noted.

08 Mortality

Trends in Mortality

The Continuous Mortality Investigation ("CMI") and Office for National Statistics ("ONS") both published results of recent mortality research in the later months of 2019. The key messages of each are set out below.

CMI Mortality Monitor

The CMI – the group of actuaries who are tasked with carrying out analysis into mortality rates and trends in the UK – published its quarterly Mortality Monitor, which provides an update on observed mortality rates in England and Wales. Its headline conclusion was that mortality rates observed in the 9 months to 27 September 2019 were relatively light when compared to the average of the mortality rates observed in the period 2009 to 2018. This is a continuation of a trend of lighter mortality rates observed since mid-2018.

If this trend is found to have continued to the end of 2019, then we would expect the next CMI projection model (CMI 2019, due to be published in March 2020) to produce higher life expectancies than those produced by the CMI2018 projection model, all else being equal. Given that life expectancies have consistently fallen with each iteration of the tables since the CMI 2014 were published, this would represent a real reversal. However, it is not certain that such a trend will have persisted during the final quarter of 2019, so it is a case of watch this space.

ONS Bulletin

The ONS recently published a bulletin entitled "Nation life tables, UK: 2016 to 2018" in which it set out the results of its analysis into average life expectancies of the UK population. It found that there were relatively low increases in life expectancy in the 3 years since 2016 for the UK population as a whole. This represents a continuation of a trend first observed in 2011, whereby the rate of increases in life expectancy has slowed down, relative to the pacier increases observed in the first decade of this century.

The key take-away from these two publications is that while improvements in life expectancy slowed down for the majority of the second decade of the century, there may be early signs of a reversal, with improvement rates increasing again going into the third decade.

With many pension schemes setting their technical provisions according to the latest available version of the CMI improvement tables, the next iteration of the model will likely see an increase in liabilities, other things being equal. Of course, whether the upturn in life expectancies persists into 2020 remains to be seen – the first Mortality Monitor report of 2020 will give us a good indication!

ACTION

Trustees and companies should continue to engage in discussion with their actuary to explore the appropriateness of their mortality assumptions and its impact on their scheme's reported liabilities. There may be adjustments that can be made for those schemes adopting the CMI model (such as the smoothing parameter), which the trustees should discuss with their actuary.

Helpful Links:

Link to CMI Mortality Monitor

Link to ONS Bulletin

09 Changes to the Statement of Investment Principles

On 6 June 2019, the Government published new pension regulations, which are intended to implement the aspects of Shareholder Rights Directive II relating to workplace pension scheme stewardship and governance. The policy objective is:

- to improve transparency of how trustees engage with asset managers, and
- allow members to understand how funds are being managed and invested, whilst trying to encourage schemes to take a long-term approach to investment.

The regulations will not affect public sector schemes or those with less than 100 members.

What the regulations cover

Trustees will need to set out their policy in relation to the scheme's arrangement with any asset manager or explain why they have omitted any of the following:

- how the trustees incentivise the fund manager to align its investment strategy and decisions with the trustees' policies;
- how the trustees incentivise the fund manager based on medium to long-term financial and non-financial performance of a company as well as engage with them;
- how the method and time horizon of the evaluation of the fund manager's performance and their remuneration are in line with the trustees' policies;
- how the trustees monitor portfolio turnover costs incurred, and how they define and monitor targeted portfolio turnover; and
- the duration of the arrangement.

Trustees will need to provide further information on stewardship, such as how they monitor the investee company on capital structure and how they manage conflicts of interest in relation to their engagement with companies.

These changes need to be in place by 1 October 2020.

Disclosure requirements

Defined benefit schemes will need to publish their Statement of Investment Principles (SIP) on a public website by 1 October 2020. The new policies will also need to be disclosed in the trustee's annual accounts on or after 1 October 2020.

Trustees must also produce an 'implementation statement' which:

- sets out how, and the extent to which, the policy required in relation to exercising voting rights has been followed during the year; and
- describes the voting behaviour by or on behalf of the trustees, during the year and state any use of the services of a proxy voter.

This statement will need to be produced and published on a public website by 1 October 2021. It will also need to be included in the trustee's annual accounts from 1 October 2020.

The rationale behind these additional regulations is to provide members with greater transparency, encourage trustees to engage further with asset managers and to take a longer-term view on their investment strategies.

Trustees should discuss the changes with service providers as soon as possible to ensure all requirements are complied with by the prescribed deadlines.

10 The Pensions Regulator Focus on Data

The Pensions Regulator ("TPR") issued a press release in October 2019 advising trustees they are going to be ordered (as a matter of urgency) to review their scheme's data. The press release follows on from a review of scheme returns by TPR, which focused on the quality of pension scheme data. This review illustrated that almost 25% of schemes have not measured the quality of their data in 3 years – clearly alarm bells rang with such a statistic, so TPR are taking action.

TPR has sent emails to the trustees of 400 schemes, instructing them to report on common and scheme specific data. Where schemes have failed to review their data in the last 3 years, the trustees must carry out a data review within 6 months. A report of the proportion of members for whom accurate common and specific data is held must then be made to the TPR.

Trustees who discover that the data held for their members is of poor quality will be expected to draw up an improvement plan to correct the problem. Those who fail to act will face consequences, which include an improvement notice about poor internal controls, fines of £5k for individual trustees and £50k for others.

TPR will also be contacting a total of 1,200 schemes to remind them to carry out data reviews of both common and specific data annually. This is all part of the move to improve standards of governance and administration across occupational pension schemes. TPR note that "accurate record keeping is vital to good governance and administration – without it trustees cannot ensure that savers will get accurate information or receive the pensions they are entitled to". This includes the ability to process financial transactions accurately or promptly, communicate with members, check employers are paying correct contributions or have confidence in the accuracy of scheme valuations without accurate records.

TPR are of the view that "requiring trustees to carry out reviews will force them to look closely at their data and administration and take appropriate action to bring their systems up to scratch". Accurate data will also be vital for the pension dashboards, so that savers to see the pension they have built up and be confident in making decisions about their future retirement provision.

ACTION

With scheme returns to be submitted in Q1 2020, trustees should liaise with their scheme administrators and review the quality of their common and scheme specific data.

11 Greenwashing

In recent years there has been a huge push for society, and fund managers, to consider environmental, social and governance ("ESG") factors. This has led to claims of what has been labelled, "greenwashing" - when a firm claims to have a greater ESG focus than they actually do.

Investment managers are seeing opportunities to capitalise on the changing sentiment by making their products appear greener. Since October 2019, trustees must now expressly set out how they take account of ESG issues in their Statement of Investment Principles ("SIP"). This has resulted in a frantic push from managers to make their funds meet the standards, and left some to resort to greenwashing. A key issue that has made it easier for managers to greenwash their funds, is the lack of clarity on what ESG factors are.

Pension schemes could have been affected by untrustworthy 'green' credentials from investment managers and may not realise it has happened, as it is difficult for trustees to scrutinise managers' ESG claims. A concern for trustees is that if they allocate to a manager based on their ESG values, the manager may not act as expected, creating a lack of trust with ESG investing.

Greenwashing could, therefore, destroy investors' confidence as they may lose faith in companies or fund managers that promote themselves as 'ESG focussed'. This could have a knock-on effect of slowing down the pace of ESG investing, which would be detrimental to the positive impact it is designed to have. Greenwashing also makes it harder to identify managers who are truly trying to make a difference, potentially reducing the pace of ESG innovation.

It is difficult for trustees to ensure that their investments are as environmentally responsible as managers claim. Trustees place a great deal of trust in their investment managers to act in their best interests, but it is hard for them to monitor these (somewhat) subjective factors effectively.

Often, the easiest way for trustees to be confident that their investments are environmentally responsible is to allocate to managers who have a genuine track record of integrating ESG into their philosophy and process, while avoiding those managers who have simply jumped on the bandwagon to include it. Trustees should look at managers' track record of stewardship and engagement with companies, and to the quality of their ESG team. They should also work with their investment consultants to help provide a deeper understanding of the managers' credentials.

ACTION

Trustees should work with their investment advisors to ensure their ESG values and beliefs are being incorporated and reflected through their investment managers.

12 Coming Up Next…

Well, what a difference a few months – and a general election – can make to the outlook. Boris Johnson's pre-Christmas landslide has delivered (some) certainty on the Brexit front and Westminster can now get back to legislating. Of course, parliamentary time might still be focused on Brexit related legislation, but we have already seen a glimmer of other activity in the early weeks of 2020. Not least, the Pensions Bill 2020 has been re-introduced and had its second reading in the House of Lords on 28 January 2020 – have your own second reading of our earlier article on the Bill!

For now, here are some of the events that we believe you should be looking out for in the coming months:

- The Pensions Regulator (TPR) are expected to launch a consultation on a revised **DB Funding Code** in February, with the most significant proposal likely to be the dual approach to DB funding assessments. In short, TPR may propose a prescribed valuation basis for schemes who want to "fast-track" their valuations, while other schemes who want to keep some flexibility can use their own basis. With the two paths likely to attract varying degrees of TPR scrutiny, it will be interesting to see the industry responses to these proposals.
- As our Coming Up Next article highlighted last quarter, the government consulted in November 2019 on a review of the **General Levy rate**. That consultation, as expected, has resulted in confirmation of an increase to the levy rate in order to deal with the higher costs of TPR and the government's pension advisory bodies. We expect confirmation of the increase, and whether it will be effective from April 2020, should be available imminently.
- In December the DWP's consultation on proposals for simpler **annual benefit statements** for workplace pensions closed. The consultation looked at how to deliver better annual statements that are shorter, simpler and have information that is easy to understand and will help members plan for the retirement they want. The Government is currently reviewing the responses and their views on how the proposals should be implemented are expected in the coming months.

Trustees and sponsoring employers alike should also be aware of the following key dates in 2020:

- **31 January 2020** – UK will leave the EU at 11:00pm.
- **11 February 2020** – PPF consultation on changes to Insolvency Risk assessment closes.
- **11 March 2020** – The Government and UK Statistics Authority to open consultation on the proposed alignment of RPI and CPI (and will close on 22 April 2020!).
- **11 March 2020** – The Chancellor of the Exchequer to deliver his 2020 Budget.
- **31 March 2020** – Submission of scheme returns and contingent asset certificates to TPR.
- **6 April 2020** – The "CMA Regulations", relating to the oversight of investment and fiduciary managers come into force.
- **30 April 2020** – Deficit Reduction Certificates to be submitted (by 5:00pm).
- **Early 2020** – TPR is due to consult on the Scheme Funding Code of Practice.
- **April/May 2020** – The High Court is to hear arguments on how past transfers out are to be treated following the original Lloyds Bank judgment on GMP equalisation.

After a period of almost 'planning blight' in terms of substantive new pensions law and policy, 2020 looks set to be a bumper year!

Dalriada.
A better way

Belfast

Linen Loft
27-37 Adelaide Street
Belfast
BT2 8FE

Birmingham

Edmund House
12-22 Newhall Street
Birmingham
B3 3AS

Bristol

Castlemead
Lower Castle Street
Bristol
BS1 3AG

Glasgow

The Culzean Building
36 Renfield Street
Glasgow
G2 1LU

Leeds

Princes Exchange
Princes Square
Leeds
LS1 4HY

London

46 New Broad Street
London
EC2M 1JH

Manchester

82 King Street
Manchester
M2 4WQ