Linklaters

Pensions in five: **Pension developments this month**

June | **2021**

Cash equivalent transfer values – empowering trustees and protecting members

The Government has consulted on draft regulations requiring trustees to ensure that at least one of four conditions is met before a transfer can proceed. The four conditions are:

- The trustees must confirm that the receiving scheme is one of those listed below, and has been authorised or established in accordance with the relevant requirements for that scheme:
  - a public service pension scheme;
  - an authorised master trust;
  - an authorised collective money purchase scheme; or
  - a pension scheme operated by an insurer that is registered and authorised by the FCA and authorised by the Prudential Regulatory Authority (or a subsidiary of such an insurer).
- The transfer is to an occupational pension scheme and the member has demonstrated an employment link with the receiving scheme.

- The transfer is to a Qualifying Recognised Overseas Pension Scheme and the member has demonstrated a residency link.
- The trustees must determine if a “red flag” or “amber flag” applies (see our client alert for further details). Where the flags are not present, this condition will be satisfied and the transfer will be able to proceed. It will also be possible to proceed where one or more of the amber flags are present but the member has taken scams guidance.

The consultation closed on 9 June 2021 and the regulations are expected to come into force in early autumn 2021.

Annual benefit statements

The Government has published a consultation on draft regulations and accompanying statutory guidance which will introduce simpler annual benefit statements for DC schemes used for auto-enrolment. The draft regulations require that the annual benefit statement provided to members in the accumulation stage does not exceed one double-sided sheet of A4 paper.

The consultation closes on 29 June 2021 and the regulations are expected to come into force on 6 April 2022.

Contribution notices

The Pensions Regulator has published a consultation on proposed changes to Code of Practice 12 relating to the new tests for issuing a contribution notice (the employer insolvency test and the employer resources test). Although the accompanying press release says that the Regulator does not expect the new tests to significantly shift its current approach to assessing potential CN cases, the updated code explains the circumstances in which the Regulator will consider issuing a CN on the basis of the new tests. The Regulator has also taken the opportunity to update and clarify the circumstances in the code, and corresponding examples in its guidance, based on its experience to date.

The consultation closes on 7 July 2021. The new tests are expected to take effect from this autumn and will not apply to acts taking place before then.

Climate change

The Government has published a response to its consultation on climate risk, together with revised draft regulations (here and here) and finalised statutory guidance. A number of changes have been made to the proposals in the January consultation including:

> **Trustee knowledge and understanding:** it has been clarified that trustees should have sufficient knowledge and understanding to enable them to meet the climate governance requirements in the regulations.

> **Governance:** the policy intention is for trustees to have in place processes to ensure that persons undertaking scheme governance activities only take adequate steps to identify, assess and manage any climate-related risks and opportunities which are relevant to the governance activities they are undertaking.

> **Risk Management:** amendments have been made to reflect the policy intention that trustees must ensure the processes for identification, assessment and management of climate-related risks are integrated into their overall risk management of the scheme.

> **Targets:** target setting must take place during the first scheme year for which the regulations apply – rather than on the first day on which the regulations apply – and performance must be measured in each scheme year, rather than annually.

The regulations are expected to come into force on 1 October 2021.

Pensions dashboards

The Pensions Dashboards Programme (PDP) has published a call for input on proposals for the staged compulsory connection of pension providers to the dashboards ecosystem. The PDP recommends that staging should comprise three waves:

- **Wave one:** largest schemes (1,000+ members).
- **Wave two:** medium schemes (100 to 999 members).
- **Wave three:** small and micro schemes (99 or fewer members).

The key wave will be the first, which the PDP estimates will cover 99% of members overall. The PDP recommends that this wave should start in April 2023 and run for up to two years.

Among other things, the call for input suggests that early staging of pension providers into the dashboard ecosystem on a voluntary basis would be helpful, particularly for enabling extensive user testing before dashboards become available for public use. The PDP emphasises that dashboards will not be launched to the public at the point that the staging process starts.

The call for input closes on 9 July 2021.

Annual funding statement

The Pensions Regulator has published its annual funding statement. The statement is particularly relevant for those schemes whose valuations have effective dates between 22 September 2020 and 21 September 2021, but it will also be of interest to other schemes. The statement sets out guidance on how to approach valuations under current conditions, what the Regulator expects of employers and trustees, and what they can expect from the Regulator.

Contacts

Claire Petheram
claire.petheram@linklaters.com

Rosalind Knowles
rosalind.knowles@linklaters.com

John Sheppard
john.sheppard@linklaters.com

Tim Cox
tim.cox@linklaters.com

Philip Goss
philip.goss@linklaters.com

Sarah Parkin
sarah.parkin@linklaters.com

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