

# Cooling down for autumn

## UK Pensions Agenda

October 2018

**1 Signposting to TPAS** — Trustees must notify those using a scheme's IDRPs that the Pensions Advisory Service (TPAS) can help and provide contact details. However, the dispute functions of TPAS have transferred to the Pensions Ombudsman and, until legislation is amended, the Pensions Regulator **says** there would be no purpose in applying penalties *"where signposting... clearly reflect[s]... that disputes and complaints should be referred to [the Ombudsman], and general requests for information or guidance to TPAS"*. The Ombudsman has provided **templates** to do this.

**Action** — Review existing information provided to those using the scheme's IDRPs and consider whether the wording in the Ombudsman's templates should be used.

**2 Auto-enrolment** — Until April this year, the **required auto-enrolment contributions** were 1% from employers with a minimum total contribution of 2%. They rose in April to a minimum of 2% from employers and 5% overall and will rise again on 6 April 2019 to a minimum of 3% from employers and 8% overall.

**Action** — Ensure where a scheme is used for auto-enrolment, that the rules allow for the increase in contributions due in April 2019 and that any other necessary steps are taken to implement it.

**3 Contingent assets** — The PPF has issued its **draft levy determination** for 2019/20. Little has changed from the previous year, but there is confirmation that schemes that have contingent assets which include a fixed cap will need to ensure that they are re-executed on the PPF's **new standard forms** and submitted to it by 5pm on 29 March 2019.

**Action** — Identify whether there are any PPF contingent assets in place which will need to be re-documented and start the process early. There is more detail on the draft levy determination in our **speedbrief**.

**4 Investment** — From October 2019, trustees will need to **update** their Statement of Investment Principles (SIP) to explain how financial considerations (including environmental, social and governance factors) are taken into account, the extent to which non-financial matters are considered and their policies in relation to stewardship. In addition, DC trustees (subject to some exceptions) will need to publish their SIP on a website together with (from October 2020) a statement of how they complied with it.

**Action** — Consider what changes need to be made to SIPs in advance of October 2019 and where a scheme has DC benefits (other than AVCs), ensure there is a suitable website to put the SIP on. DWP has issued **guidance** on publishing the required information.

**5 Pensions Regulator's new approach** — The Regulator has **said** that there will be dedicated, one-to-one supervision for 25 of the biggest schemes and more in the future. For other schemes, it intends to intervene more to address specific regulatory risks.

**Action** — Watch out for increased activity from the Regulator and a greater willingness to intervene where it has concerns.





**6 PPF** — The European court has **decided** that PPF compensation for each individual must be “at least 50% of the value of his accrued entitlement” and promised pension increases should be taken into account. The PPF is contacting members who might be affected and has an **interim solution** to increase compensation pending legislation to address the issue.

**Action** — The PPF does not think that significant numbers of members are affected by this decision, but be aware of it particularly if buying-out with benefits near PPF levels. Watch out for more from the PPF. There is further information in our **speedbrief**.

**7 Master trusts** — The new regime for the supervision and authorisation of master trusts came into force on 1 October 2018 and master trusts must apply for authorisation by 1 April 2019 or cease operating. The Pensions Regulator has issued a **code of practice** and a number of **checklists** to help with the authorisation process.

**Action** — The definition of master trusts is wider than might be expected and could catch unsuspecting occupational pension schemes, particularly where a scheme has multiple employers or there are multiple schemes in the same group. Check if the regime might apply. There is more detail in our **speedbrief**.

**8 Pensions liberation** — The Pensions Ombudsman has issued a **determination** suggesting that trustees may have to do more to protect members than just sending them the **Regulator’s guidance** on scams (which has recently been updated). In this case, the trustees needed to ensure that “*appropriate due diligence was carried out, any warnings or concerns identified and brought to the attention of the member*”.

**Action** — Make sure that appropriate processes are in place to deal with transfer requests, identify potential liberation vehicles and warn members accordingly.

**9 Guidance on conflicts and meetings** — As part of its 21st century trusteeship campaign, the Pensions Regulator has issued guidance on **managing conflicts of interest** and **meetings and decision making**. In particular the guidance contains suggestions about what should usually be on the agenda at trustee meetings.

**Action** — Consider the guidance and check whether any changes should be made to existing processes in light of it.

**10 Corporate governance** — The Government has **responded to the consultation** on the current corporate governance regime and confirmed that there will be no automatic bar on paying dividends where a company has a DB scheme in deficit. However, there will be **fining or disqualification** for directors who dissolve companies to avoid paying pensions.

**Action** — Although there will be no bar on paying dividends, the Pensions Regulator has emphasised the importance of considering them and how they might impact on covenant strength in funding negotiations.

**11 Pensions Ombudsman awards** — The Ombudsman has **introduced** fixed amounts for ‘distress and inconvenience’ awards. An award will now usually fall into one of five categories: nominal (£0), significant (£500), serious (£1,000), severe (£2,000) and exceptional (over £2,000). Guidance is given as to when a case would fall into each category.

**Action** — If a member is considering complaining to the Ombudsman, consider the likely level of award they might be entitled to.

**12 Other things to keep on agenda** — The budget will be out on 29 October 2018 and may contain provisions on pensions tax relief. The Lloyds Bank decision on equalising for the effect of GMPs should also be with us soon. As Brexit is not now that far away, more should be coming on the implications of that too.

**Action** — Keep an eye on the pensions press and our future speedbriefs as these issues could have significant implications for schemes and sponsors over the coming months.

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For more details on these or any other issues, speak to your usual Eversheds Sutherland adviser or email **François Barker, Head of Pensions**

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