STEPHENSON HARWOOD

pensions law group

CLEAR VIEWS

Quarter two 2023 update

March 2023

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OVERVIEW

Priorities for trustees this quarter are to:

- Be aware of the changes introduced by the Spring Budget 2023 and understand the impact these will have on their scheme and membership;
- Consider their position regarding LDI in light of likely regulation in this area later this year;
- Consider the Pension Scams Industry Group Guide for practitioners on combating pension scams when considering transfers out, and in particular statutory transfers out. The guide provides useful steps that trustees and administrators should consider to help comply with the statutory transfer out requirements;
- Be aware that the deadline for connection to a pension dashboard will be delayed. Trustees should, however, make the most of this extra time to ensure they are connection ready by the revied date; and
- Be aware of the Pension Regulator's (**Regulator**) expectations for steps trustees should take if their sponsor is in difficulty.

In addition, trustees should be aware that:

- Guidance has been published by PASA setting out key steps trustees should consider taking with regards to their data before approaching the insurance market for a buy-in or buy-out of benefits; and
- There are numerous consultations underway that could introduce additional obligations on trustees of schemes with defined contribution benefits. This is likely to include requirements to:
    - Disclose their asset allocation in their chair's statement in respect of the assets in their default funds for the first scheme year which ends after 1 October 2023; and
    - State their policy in relation to illiquid assts in their default SIP the first time it is revised after 1 October 2023 and at the latest 1 October 2024.

KEY DEVELOPMENTS

Development	Date of change	Links to further information
The Spring Budget 2023 – impact on pension scheme members The key changes are: • the standard annual allowance (which is the maximum amount of tax-relieved contributions that can be made to a registered pension scheme in a year), will rise from £40,000 to £60,000; • the minimum tapered Annual Allowance (which applies to earners with taxable income over £240,000 (rising to £260,000)) and the Money Purchase Annual Allowance (which restricts the tax relief available once	6 April 2023	Further information on this topic can be found in our briefing [here]().

a person has accessed his or her pension savings) will both increase from £4,000 to £10,000; and • the tax charge for exceeding the standard lifetime allowance (which is the maximum amount of pension savings a person can build up across all of his or her registered pension schemes before a tax charge becomes due, and is currently £1,073,100) will be removed. The maximum tax-free cash lump sum (which is currently calculated by reference to the Lifetime Allowance) will remain at £268,275.		
Increased regulation of LDI? A speech made earlier this month by Andrew Hauser, Executive Director for Markets at the Bank of England, looked at the LDI crisis and lessons to be learned from it. Key concerns regarding pension schemes and the LDI crisis were identified as: • the growing use of LDI; • large leveraged holdings of longer-duration gilts or derivates; • liquidity buffers that had not been rigorously stress tested for more severe shocks; and • cumbersome recapitalisation processes that inhibited defined benefit schemes from being able to inject resources quickly enough into their LDI funds. There is a clear message from the Bank of England that public resources are not there to prop up private sector players who have failed to mitigate the risks they are subject to. Further developments in this area are expected sometime this year to improve the resilience and reduce reliance on public finances in the future. It is likely, therefore, that trustees of defined benefit pension schemes will have another set of regulations to consider in due course.	TBC	Further information can be found in our March snapshot here.
Pension dashboard delays The DWP has confirmed that there will be a delay to the connection deadlines for pension dashboards(the first deadline is currently 31 August 2023. This applies to master trust schemes that provide money purchase benefits with 20,000 or more relevant members). A revised timetable has not yet been announced but revised legislation will be made at the 'earliest opportunity.'	TBC	Further information can be found in our March snapshot here.

A practitioner's guide to combating pension scams The Pension Scams Industry Group has published a guide for practitioners on combating pension scams. The guide provides useful steps that trustees and administrators should take to ensure they comply with the statutory transfer out requirements. The guide also highlights some practical difficulties that may emerge due to the conflict between the current transfer out regulations and the policy intent behind the regime.	N/A	The guide can be found here. Further information can be found in our March snapshot here.
Trustees urged to engage promptly with the Regulator where sponsor is in difficulty In a recent blog, the Regulator emphasises that when trustees are faced with a struggling sponsor, they should ensure the following: • they have a comprehensive information sharing process in place. This should include detailed forward-looking forecasts and how these could vary. This should be assessed ideally quarterly by a covenant adviser; • they involve the Regulator at an early stage if it becomes clear that trading for a sponsor is challenged, if the viability of the sponsor is uncertain or if there are issues or defaults with key creditors; and • trustees must ensure they have the right skills to deal with distressed situations and have access to expert advisers.	N/A	Further information can be found in our March snapshot here.
Guidance on getting buy-in/buy out ready With increased demand for buy-ins/buy-outs, PASA has issued guidance on the importance of schemes ensuring their data is ready before approaching the insurance market. The benefits of this are not only saved time during the process but also more certainty on cost.	N/A	The guidance is available here.
Numerous consultations impacting occupational schemes with defined contribution benefits A number of pension consultations have been issued to try and address the pension inequality gap between those with defined benefit pension schemes and those with defined contribution pension schemes. These include: • Government response to consultation on investments in illiquid assets and scheme charge cap reforms Subject to Parliamentary approval, draft legislation will require trustees of schemes with defined contribution benefits schemes to:	In respect of the investment in illiquid assets and scheme charge cap reform (subject to Parliamentary approval): - disclose their asset allocation in their chair's statement for the first scheme year which ends after **1 October 2023**; and	Further information can be found in our March snapshot here.

▪ disclose their asset allocation in their chair's statement in respect of the assets in their default funds for the first scheme year which ends after 1 October 2023; and ▪ state their policy in relation to illiquid assts in their default SIP the first time it is revised after 1 October 2023 and at the latest 1 October 2024. • DWP launches consultation on consolidation solutions for deferred small pots The DWP has launched this consultation with the purpose of gathering evidence to support the development of policy options for large-scale automated consolidation solutions for deferred small pots in the automatic enrolment workplace. It also seeks views on two large-scale automated consolidation solutions. The aim is to improve efficiency and reduce the risk of members losing track of their pension pots. • Consultation on value for money framework Since the value for money (**VFM**) regime came into force, the DWP has expressed concern that the existing pensions market can make it difficult for DC schemes to assess the VFM that members receive and wants to redress this by the reporting of data around investment performance, costs and charges and the quality of services. The DWP is seeking views from the industry as to how the VFM framework is performing and how it interacts with the wider policy framework. • Consultation on extending collective defined contribution schemes The DWP has issued a consultation seeking views on a policy framework for extending collective defined contribution (**CDC**) schemes. The consultation seeks views on: ▪ a whole-life CDC scheme catering for multi-employer schemes; and ▪ decumulation-only arrangements.	- state their policy in relation to illiquid assets in their default SIP the first time it is revised after **1 October 2023 and at the latest 1 October 2024**. The consultations for the other proposals end on 27 March 2023.	

The Stephenson Harwood pensions law group has been promoted to tier 1 and tier 2 by the Legal 500 for pensions disputes and pensions advisory work. Please see the Legal 500 website here for more information.

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