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NORTON ROSE FULBRIGHT

Essential pensions news

Updater

November 2018

Introduction

Essential pensions news covers the latest pensions developments each month.

Action stations for GMP equalisation – *Lloyds Banking Group* judgment

In a judgment that will have significant financial implications for defined benefit schemes which were contracted out between 1990 and 1997, the High Court has ruled that scheme benefits in excess of the guaranteed minimum pension must be adjusted so that the overall benefits received by men and women are equal.

Morgan J confirmed that

- Trustees and employers cannot justify the differential caused by GMPs so they must correct it via the main scheme benefits.
- Trustees can (and must) change the scheme rules to comply, but can only do so without employer consent if they do the minimum necessary to comply.
- If there is a choice of ways to deliver equalised benefits (as there was for Lloyds Banking Group), the trustees can select only the option that interferes least with the employer's funding obligations, unless the employer agrees.
- Three methods were identified that correctly delivered equalisation for the past, with a further option of conversion of benefits available for the future (if the employer consents).
- Arrears of underpaid pension must be paid (subject to any limits on back-payments in the scheme rules) and will carry simple interest at one per cent above base rate while they remain unpaid.

In addition, the period for which beneficiaries are entitled to receive back payments is governed by the scheme rules. There is no limitation period in relation to such claims under the Limitation Act 1980. Furthermore, section 134 of the Equality Act 2010 is not effective to impose a limitation period of six years in relation to proceedings by beneficiaries to recover arrears of payments where the trustee is in possession of trust assets, as it offends the principle of equivalence.

A second hearing in the *Lloyds* case, possibly early next year, will need to address some outstanding issues

- Approach to be taken where the actual change in benefits after equalisation might be insignificant. Morgan J confirmed that administrative costs are not a consideration in choosing an equalisation method, but there may still be a case for some rounding off.
- Treatment of transfers in and out. The judge suggested that receiving schemes should be responsible for transfers in, but parked the question of possible residual liability for transfers out.

The tax treatment of arrears is a separate issue and it is expected that HMRC will have to change its approach to ensure all benefit corrections are authorised payments.

For details of our suggested actions to be taken by administrators, trustees and employers, both immediately and in the medium and longer term, please see our recent GMP alert.

Whilst it is possible that the Lloyds case might be appealed, we think this is unlikely.

A quieter Budget for pensions

Although rumours were rife before the Chancellor delivered his Autumn 2018 Budget on October 29, pensions escaped without any reduction of tax relief or tax free allowances.

In fact, pensions were not mentioned by the Chancellor in his speech, and those few pensions-related announcements confirmed in the Budget document related to matters already announced, or in progress. These included

Pensions dashboard
£5 million has been allocated for the development of the pensions dashboard in 2019–20, and the DWP will consult “later this year on the detailed design” that will allow individuals to see the specifics of their pension entitlements, including the state pension.

Pension scheme investment
The Financial Conduct Authority will, “by the end of 2018” publish a discussion paper on the permitted links rules to allow unit-linked funds to invest in an appropriate range of “patient” capital (which means, broadly, medium or long-term investment illiquid assets).

Charge cap
In 2019, the DWP will consult on the operation of the cap to ensure that it does not “unduly restrict” the use of performance fees within default arrangements in DC schemes.

Cold-calling
The Budget document confirmed that the consultation response on the cold-calling ban was imminent, and it was in fact published just after the Chancellor's speech. A new draft version of the cold-calling regulations has been laid before Parliament, which corrects errors in the previous version.

The Privacy and Electronic Communications (Amendment) (No.2) Regulations 2018 now

- Ban pensions cold-calling to individuals unless
  - The caller is an authorised person or the trustee or manager of an occupational or personal pension scheme.
  - There has been previous notification of consent for such calls given by the individual.

or

- The caller is an authorised person or the trustee or manager of an occupational or personal pension scheme.
- The recipient has an existing client relationship with the caller such that he might reasonably expect unsolicited calls relating to pensions.
- The recipient has been given a simple means of refusing the use of his contact details for such direct marketing.

There is no ban on pension cold calls to businesses and the consultation response states this was always the intention.

Pensions and the self-employed
In winter 2019, the DWP is due to publish a paper setting out the Government's approach to increasing "pension participation and savings persistency among the self-employed".

Lifetime allowance
As expected, the lifetime allowance for pension savings will increase in line with CPI for 2019–20, rising to £1,055,000.

HMRC to rank ahead of pension scheme in company insolvency
The detail of the Budget document reveals that, from April 6, 2020, when a business enters insolvency, any tax held for HMRC will need to be paid over before debts to unsecured creditors are considered. The taxes affected are VAT, PAYE Income Tax, employee NICs, and Construction Industry Scheme deductions. The rules will remain unchanged for taxes owed by businesses themselves, such as Corporation Tax and employer NICs. The change will affect pension schemes, which are unsecured creditors, and may have an impact on covenant strength.

Comment
There had been expectations that the pensions tax regime could be changed, or that there would be a reduction in current reliefs but the pensions areas addressed by the Chancellor were actually uncontroversial.

It is possible that potentially significant changes may come from the pension investment aspects of the "patient capital" proposals, but immediate change is unlikely. The issue of performance fees has been raised in the past by many scheme trustees and a review of the charge cap components will be welcomed. So too will the proposed consultation on the inclusion of the self-employed in the pension savings regime.

The cold-calling ban is to be implemented as soon as the regulations have Parliamentary approval, and is aimed at reducing the number of scheme members falling victim to scammers and losing their pension savings. There are limits to the ban though, as cold-calling from overseas is not caught.

The impact of certain taxes owed to HMRC being considered ahead of pension scheme debt on an employer's insolvency could have a significant effect on schemes, and will need to be taken into account in future covenant assessment exercises.

The Pensions Regulator updates its DC investment guidance

TPR has updated its guide to investment governance for trustees of defined contribution pensions schemes, to accompany TPR's DC code of practice no.13.

Two new sections are included

- One on social impact investment states that when making investments for social impact alongside a financial return, trustees need to have good reason to think scheme members share their view and there is no risk of significant financial detriment to the fund.

- A second on patient capital. Noting that such investments are typically illiquid, TPR states that they would represent a small proportion of a pension fund's overall asset allocation. Trustees considering patient capital investment should complete sufficient due diligence to understand the main drivers of the expected return and how risks are managed and mitigated. They should also consider the suitability of the scale, expected time horizon and illiquidity of the investment in the context of the scheme's objectives and member profile.

The updated guidance reflects the Chancellor's statement in the 2018 Budget that the Financial Conduct Authority would publish a discussion paper on the permitted rules to allow unit-linked funds to invest in patient capital "by the end of 2018".

Auto-enrolment detailed guidance note 8 (safeguarding individuals) updated

TPR has updated example 4 in its automatic enrolment detailed guidance note 8, safeguarding individuals. The note includes examples of TPR's approach when applying the "sole or main purpose" test in relation to establishing whether a particular action would be regarded as an inducement to opt out.

Example 4 relates to circumstances where the employer offers staff the option of making pension contributions at a lower rate (which involves them moving to a non-qualifying scheme) and the employer puts forward a legitimate purpose for this. TPR states that although not necessarily completing an opt out form, the jobholder is still giving up membership of a qualifying scheme. The employer must therefore still be confident that they can demonstrate that their sole or main purpose is not to induce individuals to leave the qualifying scheme.

Contribution rates from *April 6, 2019*, are due to increase to the "steady state levels" of three per cent from the employer (currently two per cent) and eight per cent (currently five per cent) total from the employer, jobholder and tax relief.

Pension Protection Fund – update on implementation of ECJ Hampshire ruling

As we have reported previously, the ECJ has confirmed that members are entitled to an "individual minimum guarantee" of 50 per cent of the value of their former scheme benefits, rather than an average level of pension protection under the PPF. Currently, PPF compensation is capped and some members could have received considerably lower pensions in the PPF than under their original scheme.

The PPF has now published an update about the its actions to implement the ECJ ruling. First, it is identifying "capped pensioners" who may be due a compensation uplift, although the PPF expects the number to be very small. Letters are being sent to such individuals so the necessary data can be collated to calculate the uplift. Once existing capped members have been identified, the PPF will start identifying members of schemes in assessment periods and those approaching retirement that it believes may be subject to the cap as UK law currently stands.

Pending legislative changes which the PPF is discussing with the DWP, the approach involves comparing the value of the PPF compensation due to a member at their scheme's PPF assessment date with the value of the benefits the member would have expected to receive from their scheme at the same date. Where the former is less than 50 per cent of the latter, the PPF plans a one-off increase to the headline level of compensation so its total value is at least 50 per cent of the expected scheme pension. Once the uplifted amount is established, existing PPF rules relating to revaluation and indexation will apply, and arrears and interest will be paid.

A similar exercise will be undertaken in relation to the Financial Assistance Scheme.

Comment

Affected pensioners will be pleased that the PPF is addressing this issue without delay, as the legislative changes could take some time to be implemented. However, the PPF stresses that this is an interim measure while new legislation is awaited. Everyone involved will hope that the PPF's proposed solution will not need changing again at a later date to comply with the new law.

QROPS: HMRC publishes draft regulations on repayment of overseas transfer charge

HMRC has published draft regulations on the repayment of the overseas transfer charge for a technical consultation. The consultation period ends on *December 7, 2018*.

The overseas transfer charge applies on a recognised transfer to a qualifying recognised overseas pension scheme (QROPS) that was requested on or after *March 9, 2017*, or on an onward transfer on or after *April 6, 2017* from one QROPS to another within *five years* of the original transfer date, unless the transfer is excluded.

If the overseas charge applies on a transfer, but the member's circumstances change within the period of five years after the transfer so that the charge would not now apply, the member can claim a repayment.

The explanatory memorandum published alongside the draft regulations states that both instruments will have effect from *April 24, 2019*.

View the consultation and draft regulations.

FCA publishes discussion paper on climate change and green finance

The FCA has published a discussion paper on climate change and green finance (DP18/8), in which it addresses the recommendations of the Law Commission's June 2017 report on pension funds and social investment, one of which was seeking views on introducing a new requirement for financial services firms to report publicly on how they manage climate risks to their customers and operations.

The deadline for responses to DP18/8 is *January 31, 2019*. The areas covered in DP18/8 are still evolving and the FCA will continue to revise its approach following the discussion and feedback generated.

Comment

We reported in our September 2018 update that the DWP had dropped its proposed requirement for a "statement on member views" in relation to environmental, social and governance (ESG) issues to be included in (mainly) occupational DC schemes' Statements of Investment Principles (SIPs). Instead, new requirements include a duty to take into account "financially material considerations" which include ESG issues, such as climate change. The FCA consultation reflects a parallel approach on proposed requirements for similar matters to be considered in relation to contract-based pension schemes when making investment decisions.

DWP consults on delivering collective defined contribution pension schemes

The Government has published a consultation paper outlining its initial proposals for introducing collective defined contribution schemes (CDC), and the consultation period ends on *January 16, 2019*.

CDC schemes would establish a third benefit option to DC and DB schemes while combining elements of both. Such schemes have been used in the Netherlands and Denmark, and recently the Royal Mail has announced it is developing a CDC scheme as an option for its employees.

There are various forms of CDC scheme but the main premise is that the employer and employee pay set contributions and the employee is given a target level of benefits those contributions will purchase. Whereas in a DB scheme the employer bears the funding risk, and in a DC scheme this risk falls on the employee, the risks in a CDC scheme are shared. The level of pension can be higher than the target level if investments out-perform expectations. Conversely, if the investments underperform, pension increases can be reduced or pension benefits could even be cut. There is no requirement for the employer to make additional funding contributions if the target level of benefits looks unlikely to be met.

The consultation acknowledges the changes that will need to be made to existing legislation to accommodate the unique nature of CDC schemes. For example, although they would be classified as money purchase, they will be required to appoint a scheme actuary. The DWP proposes that authorised CDC schemes should have annual actuarial valuations on a "best estimate" basis to ensure member protections. There are no proposals to have "buffer funds" to support a certain level of benefits as CDCs have in some European countries, so thought would have to be given on communicating the associated risks to members, including the risk-pooling aspects, as well as the potential future reduction in benefits.

CDCs are to be sponsored by a single employer, or a group of associated employers, so such schemes will not overlap with master trust arrangements.

Comment

There is a lot of work to be done before CDC schemes are available as an option for the wider pension savings population. However, after years of discussing alternatives to DB and DC schemes, it seems that the legislation to pave the way for CDC schemes could finally be introduced.

However, the proposal not to follow the overseas CDC model and to instead implement CDCs without buffer funds may prove a challenge. The potential to reduce benefits in times of low investment returns could be a hard sell and may undermine any early member confidence in the new arrangements.

It will be interesting to see more details of the Royal Mail CDC scheme when they are available.

Pension scheme newsletter no. 104

In the latest edition of its pension schemes newsletter published on *October 31, 2018*, HMRC highlights several administrative issues.

A brief summary of the contents is below.

Autumn Budget 2018
Confirmation of the increase in the LTA for 2019/20 to £1,055,000.

Pension flexibility statistics
Total value repaid over £38 million.

Registration statistics
923 applications for new scheme registration, of which about eight per cent were refused by HMRC.

Manage and Register Pension Scheme service
HMRC seeks user input on the development and design of proposed new features to be added in 2019.

Reporting of non-taxable death benefits
The Real Time Information (RTI) service has been updated to prevent incorrect coding notices being issued to beneficiaries in the receipt of death benefits that are entirely non-taxable. Updated guidance is provided.

Relief at source
A reminder to administrators to complete their enrolment on the Secure Data Exchange Service. There is also a note clarifying the scope of Welsh rates of income tax.

Non-statutory clearances
A reminder on how to make enquires of HMRC in relation to queries on pension tax rules where HMRC's guidance is unclear.

Applications to register a pension scheme
Reminders of the process.

Transfers between registered pension schemes
A reminder that HMRC should be contacted only where there are scheme status concerns.

Reporting overseas transfer charges
A reminder on accurate QROPS transfer reporting and some common problems identified by HMRC.

Master trusts
A reminder about the authorisation requirements and links to various documents published by TPR.

Operating PAYE on pension payments
A link to the guidance and a reminder that the tax code from the payment quarter should be used.

View the Newsletter.

Countdown Bulletin no. 38

In the latest edition of the bulletin for formerly contracted-out schemes published on *November 2, 2018*, HMRC addresses several queries raised in relation to its Scheme Reconciliation Service.

A brief summary of the contents is below.

Scheme Reconciliation Service (SRS)
Examples of “stalemate” queries.

Phase 7 automated rerun plan
Answers to several queries regarding clerical response dates.

Scheme Financial Reconciliation (SFR)
Clarification of the process for HMRC’s refunding of surplus and billing outstanding debt via an automated solution in April 2019 and an update on SFR generally.

Contribution adjustment action
Confirmation that volumes are insufficient to justify an automated process.

Requests for SRS data
Administrators may submit requests for fresh cuts of data up to and including *January 31, 2019*.

Scheme cessation
The cut-off date for submission of queries is *December 31, 2018*.

View the Bulletin.

Barnardo’s case – Supreme Court denies RPI to CPI indexation swap

Background
After three years of hearings, in a judgment handed down on November 7, 2018, the Supreme Court has unanimously denied Barnardo’s permission to switch from the Retail Prices Index to the generally lower Consumer Prices Index as its measure for calculating benefit increases.

The case centred on the precise definition of RPI in the scheme rules and whether it amounted to a “single step” that would allow the trustees to choose another index as a replacement for RPI, whether or not RPI continued to be published.

Many final salary schemes have sought to adopt CPI in order to reduce funding deficits and Barnardo’s was no exception. The ruling maintains the status quo such that each scheme will need to seek advice to confirm it can substitute CPI for RPI.

For further detail, please see our pensions alert on the case.

What this means for other schemes
It should be emphasised that Barnardo’s RPI definition was unusual. In what is a disappointing judgment for the charity, the scheme deficit (which stands at about £130 million) cannot be reduced by adopting CPI.

The starting point for other schemes in deciding whether to move to a new index is their own rules, and the powers and discretions available to the trustee or employer. If the construction of the rules permits a switch from RPI to CPI, this change will not infringe section 67, as there is no accrued right to payment until the index has been selected.

Cases such as Barnardo's highlight the constraints that may arise from specific historic drafting. Employers' attempts to adopt CPI may encounter problems which need to be examined on a case-by-case basis where the scheme has retained an RPI link.

Court of Appeal finds tax due on DB to DC transfer and failure to take pension before death – *Commissioners of HMRC v Parry and Others* [2018]

In a decision which has potential tax implications for transfers from some defined benefits to defined contribution schemes, the Court of Appeal has ruled in favour of HMRC.

In a complex judgment, the Court confirmed that that an inheritance tax (IHT) charge arose as the transferring DB scheme had a binding nomination rule for death benefits, rather than paying them under discretionary trusts, as provided under the rules of the receiving DC scheme (and most workplace pension schemes). In addition, failure to take a pension from the DC scheme before death was a further "transfer of value" and subject to IHT.

Background

The case concerned decisions made in 2006 by a member (Mrs S), when she was terminally ill. A little over a month before her death, Mrs S transferred her pension from a DB scheme into a new DC personal pension scheme. She also omitted to take any pension benefits from the new scheme prior to her death. HMRC sought to charge both events to tax, on the basis that both the DB to DC transfer and the omission to take a pension were transfers of value under the Inheritance Tax Act 1984 (IHTA 1984).

One feature of the DB scheme was that any surplus could potentially pass back to a company which Mrs S had built up with her ex-husband when they were together, and outcome Mrs S wished to avoid.

Mrs S died six weeks later. HMRC then issued IHT demands on Mrs S's personal representatives, and on her two sons (together the Taxpayers), who were the beneficiaries under the discretionary trusts of the new DC scheme.

After conflicting decisions in both the First Tier Tribunal and the Upper Tier Tribunal, the case ended up in the Court of Appeal.

The Court of Appeal decision

The Court considered what it described as "the associated operations" of the DB-DC transfer and Mrs S's failure to take pension benefits. What was crucial was not whether the sons' position was *in fact* improved, but whether Mrs S *intended* that outcome. The Court held that Mrs S made the transfer out of a joint desire to sever ties with her ex-husband's company and to pass the death benefits to her sons via the DC scheme, thus avoiding the binding nomination under the DB scheme which would have made the death benefits subject to IHT. It held that the failure to take pension benefits and the transfer were both motivated by a desire on Mrs S's part that her sons should have all the death benefits that would be payable if she did not draw a pension.

The Court also agreed with HMRC that Mrs S's omission to take her pension resulted directly in the increase of her sons' estates. The Taxpayers had argued that the exercise of the administrator's discretion to award death benefits in the receiving DC scheme had broken the chain of causation between Mrs S's decisions regarding her benefits and the receipt of the monies by the sons. The Court disagreed and held that the chain of causation was uninterrupted. It began with the failure to take a pension and ended with the receipt by the sons.

Mrs S had made a disposition in relation to the pension which did not come within the exemption under the IHTA 1984, as it was made within the period of two years ending with the date of death and Mrs S had reason to believe that she would die within two years.

The CA ruled that HMRC succeeded on both points. The failure to take pension benefits and the transfer to the DC scheme were intended to confer gratuitous benefits on the sons and IHT therefore applied.

Comment

This decision highlights the risk of making DB to DC transfers where the transferring scheme has a binding nomination rule for death benefits, but the receiving scheme makes such decisions under discretionary trusts. However, discretionary trusts provisions apply in the vast majority of workplace pension schemes.

Members in serious ill-health should beware of potential IHT implications where they transfer their benefits, or delay taking a pension, and do not survive for two more years. Where a member is terminally ill and is considering making a transfer, tax advice should be sought so that the beneficiaries do not eventually receive an unexpected demand for IHT on an inheritance they may have presumed was tax free.

Mrs L (PO-18412 and PO-18521): no employer duty to inform terminally ill member of death in deferment benefits

The Pensions Ombudsman (TPO) has given his determination in a complaint by Mrs L against the Royal Bank of Scotland Group PLC and RBS Pension Trustee Limited (RBS).

Mrs L brought two complaints

- The first, on behalf of her late husband's estate, that
  - Delays in providing information to Mr L about his options as a deferred member and about cash equivalent details between the diagnosis of pancreatic cancer in April 2014 and his death in October 2015 amounted to maladministration.
  - Mr L had not been informed about how his death benefits might be affected by his decision to defer his pension.

Mrs L claimed that the Trustee and employer, being aware that Mr L was suffering from a terminal condition, were under an enhanced duty of care to provide relevant information.

- The second, in her own name, that the wording in a benefit statement was misleading in relation to the five-year guarantee.

The determination

Complaint by Mrs L on behalf of Mr L's estate

TPO upheld Mrs L's complaint against the Trustee on behalf of the estate. The Trustee's delays amounted to maladministration: it issued the 2015 Statement nearly six months after Mr L left service, it did not meet its service standard for sending the transfer value and it issued its dispute resolution second stage letter later than it should have done.

TPO did not however agree that the respondents had failed to provide Mr L with sufficient information enabling him to make sound decisions on his benefit options.

The *Scally* principle

TPO applied the principles in *Scally v Southern Health and Social Services Board* [1992]. The *Scally* duty was limited to circumstances where "the employee cannot, in all the circumstances, reasonably be expected to be aware of the term unless it is drawn to their attention". TPO considered that Mr L was aware of the possibility of obtaining pension value information and it was not the case that he could not have reasonably acted without it being brought to his attention.

Neither RBS nor the Trustee had a duty to provide information on which option was most financially advantageous for Mr L or to provide him with details about death in deferment benefits. There was no evidence that he had asked specifically about death benefits or provided any details outside of his redundancy that ought to have placed either RBS or the Trustee under an enhanced duty.

Maladministration

TPO considered that the maladministration in this instance was serious, for which his award would usually be £1,000. Given that the Trustee had offered Mrs L £1,600, which was higher than TPO would award, he did not make an additional award.

Complaint by Mrs L in her own name

Mrs L's second complaint was not upheld as she was receiving the correct benefits under the scheme's rules. TPO did not consider the wording in the 2015 Statement on the five-year guarantee was misleading as it was implicit from the words "the balance of" that the pension must be in payment for the guarantee to apply. In any event, were there ambiguity, the scheme's rules would prevail.

How does this decision compare to that of *Estate of Mr R* (PO-17639)?

In the case of the *Estate of Mr R*, on which we reported in our September 2018 update, TPO recently upheld a complaint where the scheme's administrator failed to inform a terminally ill deferred member that the retirement options presented to him were only available if taken prior to his death. Here, TPO determined that the trustees had a fiduciary duty to provide Mr R with all the relevant information for him to make a fully informed decision about his options. This duty had been breached, since despite being aware that the member had a terminal illness, the trustees had failed to mention that the benefits were dependent on the member making a choice in his lifetime. TPO also stated that in situations where options were conditional, the trustees should inform the member about the relevant conditions.

TPO determined that the member's lack of action was because he was unaware that this compromed his wife's future retirement benefits. If there had been greater clarity and urgency, it was more likely than not that the member would have acted to his (and his eventual widow's) financial advantage.

In *Mr R's* case, TPO directed the trustees to calculate the amount of lump sum the member's estate would have received had he applied for the more advantageous option in his lifetime and pay this to the estate directly. The trustees were also directed to calculate the difference in spouse's pension his widow was receiving and what she would have received had the member applied for the same option in his lifetime and pay this to his widow. In addition, the trustees were directed to pay Mrs R £500 for the distress and inconvenience suffered.

Comment

In the case of *Estate of Mr R,* the trustees were found to have breached their fiduciary duty in not having provided the member with all relevant information to ensure he made an informed decision, and significant compensation was awarded to his estate as a result. However, that does not to appear to have been the case in *Mrs L's* complaint, where TPO found that the trustee and the employer had provided sufficient information to enable the member to make sound decisions about his benefit options. The only breach was found to be the severe delays in response to the member's queries, which amounted to serious maladministration.

TPO is usually reluctant to rule that the *Scally* duty has been breached, generally because the conditions that need to be met are very specific and often hard to satisfy in practice.

In broad terms, it seems from these cases that employers are not obliged to advise members about options relating to their pension rights, or highlight potentially detrimental decisions, or to inform members of how best to exercise their choices under a scheme's rules. The only requirement is for employers and trustees to make sufficient information available to the member. There is no enhanced duty when a member is terminally ill. However, employers and trustees must avoid giving anything that might constitute "financial advice" as they will not normally be authorised to do so under the relevant FCA rules.

Nevertheless, employers should be aware that TPO has found maladministration on more than one occasion where employers have failed to follow good practice. With this in mind, employers should always seek to provide members with full details of a scheme's benefit structure, ensure that these details are clear, and ultimately suggest that members seek independent advice before making financial decisions.

Pension developments in the pipeline

Below is a summary of pension changes expected in the near future in addition to those outlined above. Changes since the last update are italicised.

DB consolidation and superfunds
Pensions Minister, Guy Opperman, has confirmed there will be an "imminent consultation".

Pensions dashboard
The Government has confirmed "tremendous progress" is being made.

Pensions Regulator's powers
Government response to the consultation is expected "towards the end of the year".

A new Pensions Bill is due in Summer 2019 covering "multiple areas of pensions law", including DB consolidation and CDCs.

Steria (Pension Plan) Trustees Ltd v Sopra Steria Ltd and others
High Court claim seeking declaration regarding the requirement to obtain a section 37 certificate. The case was heard on May 22, 2017. The claim was stayed until June 18, 2018, with both parties having been ordered to update the court before April 5, 2018.

Clarification of trustees' fiduciary duties in relation to longer term investment risks
The DWP has published its full response to the 2017 Law Commission report, *Pension funds and social investment*. The FCA intends to consult in the first quarter of 2019 on a single package of amended rules reflecting the Government's suggested changes.

EMIR
New requirements to the exchange variation margin relating to derivatives applied from March 1, 2017. A further EMIR temporary exemption extension for pension scheme arrangements applied to August 16, 2018 and has now expired. In the absence of a further temporary exemption, ESMA expects national competence authorities not to prioritise their supervisory actions towards entities that are expected to be exempted again relatively shortly.

The DC scheme Chair's annual governance statement
Must be completed within seven months of the end of the scheme year. For example, schemes with a March 31 year end should have submitted the statement by October 31, 2018. TPR issued trustee guidance on the statement in November 2017 and the guidance was updated in June 2018 and further in September 2018.

IORP II
The expected transposition date is January 12, 2019. The DWP is shortly expected to provide more detail on how it intends to implement the Directive. Brexit should be achieved by March 29, 2019. The UK will then leave the EU from the effective date of withdrawal agreement or, failing that, two years after giving Article 50 notice unless European Council and UK unanimously decide to extend period.

New regulations
the Occupational Pension Schemes (Administration and Disclosure) (Amendment) Regulations 2018 came into force April 6, 2018, setting out new requirements to improve *transparency on DC benefit costs and charges to members*. They do not apply to DB schemes providing only DC AVCs. Members must be provided with access to information via a website with seven months of the scheme's year-end date – meaning the earliest date was November 6, 2018, for schemes with year-end April 6, 2018.

VAT
HMRC's existing practice on VAT and pension schemes is to continue indefinitely. Employers should consider taking steps to preserve (or enhance) their pensions-related VAT cover.

Auto-enrolment
Cyclical re-enrolment now applies within a six-month window related to the employer's staging date. e.g. employers with a July 1, 2015, staging date must complete the cyclical re-enrolment process between April 1, 2018, and September 30, 2018. Total minimum contributions were increased to five per cent (of which minimum employer contribution of two per cent) from April 6, 2018. Total minimum contributions will increase to eight per cent (of which minimum employer contribution of three per cent) from April 6, 2019.

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- Energy
- Infrastructure, mining and commodities
- Transport
- Technology and innovation
- Life sciences and healthcare

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- Istanbul
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- Milan
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- Moscow
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- Warsaw

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- Melbourne
- Port Moresby (Papua New Guinea)
- Perth
- Shanghai
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- Dar es Salaam
- Durban
- Harare[3]
- Johannesburg
- Kampala[3]
- Nairobi[3]

Middle East

- Bahrain
- Dubai
- Riyadh[2]

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