

Legislation coming soon to a pension scheme near you

A significant Pensions Bill is expected this summer which will bring changes to many areas of current pensions legislation. It is likely to receive Royal Assent in 2020

What can we expect it to contain?

The Pensions Bill will bring together the Government's proposals from the White Paper, 'Protecting Defined Benefit Pension Schemes', published in March 2018, the 2018 Budget and various subsequent consultations.

✔ Commercial defined benefit (DB) consolidation schemes ('superfunds')*:

- the authorisation and supervision regime for superfunds, covering fitness and propriety, viability of the business model, effectiveness of procedures and financial sustainability; and
- a "regulatory gateway" that would prevent transfers into superfunds from schemes able to buy out their liabilities or with a realistic prospect of buying out within 5 years.

✔ New civil and criminal fines in relation to DB schemes:

- civil penalties of up to £1 million for 'serious breaches' such as failure to comply with the contribution and financial support notices or the notifiable events rules; and
- a criminal offence for company directors of 'wilful or reckless behaviour' carrying the possibility of an unlimited fine and/or up to seven years' imprisonment.

✔ The Pensions Regulator's new powers:

- amendments to legislation on contribution notices and financial support notices;
- extending the list of notifiable events to include the sale of a material proportion of a sponsoring employer and the granting of security over a debt giving a creditor higher priority over a scheme;
- employers will be obliged to make declarations of intent to cover details of any proposed transactions and plans to minimise harm to schemes; and
- boosted information-gathering powers, including requiring attendance for interview (subject to notice) and being able to inspect premises without notice.

✔ The Regulator's expectations for DB scheme funding:

- requiring compliance with (parts of) the revised Code of Practice; and
- requiring trustees to appoint a Chair and to produce a Chair's Statement for submission along with a scheme's triennial valuation.

✔ **Collective defined contribution (CDC) schemes:**

- an authorisation and supervision regime for CDC schemes, which pool together all employer and member contributions into one single pot which is then invested to give members a target benefit level;
- priority given to single-employer or corporate-group schemes (such as Royal Mail); with other models (e.g. master trusts and decumulation-only arrangements) to be considered later.

✔ **Changes to the Pensions Ombudsman's powers jurisdiction*:**

- provision for the early resolution of disputes following the transfer of this function from the Pensions Advisory Service (TPAS);
- allow an employer acting in its own right to make a complaint against a personal pension provider; and
- members referred to the appropriate organisation for help with disputes.

✔ **Pensions dashboards:**

- phased introduction of obligatory participation by pension providers to an online service enabling people to see information about all of their different pension entitlements in one place and in a consistent way;
- the Government foresees members having a choice of dashboards;
- industry-led project using data voluntarily supplied by largest defined contribution schemes could lead to the first dashboard being tested in 2019/20; and
- data from other schemes to be captured within 3 to 4 years.

✔ **GMP equalisation:**

- possible amendments to the GMP conversion legislation thrust back into the spotlight post Lloyds GMP equalisation ruling (and the publication of the guidance) to clarify the remaining areas of uncertainty.

*indicates awaiting outcome of consultation.

With all this change on the horizon, we predict trustees and employers will find managing this a key challenge in 2019 and beyond. 49% of trustees we surveyed said they think that keeping on top of regulatory requirements is the biggest challenge they will face over the next 12 months. Taking time to understand what's coming and the potential implications for your scheme is a good first step towards building this into your plans.

Please contact your usual Hymans Robertson consultant if you would like to discuss these issues further.