

What to watch in 2024 - Our predictions for pension developments

January 2024

Overview

We are expecting 2024 to be another busy year for developments in the pensions world. The Mansion House reforms and Autumn Statement last year demonstrate that pensions are firmly on the government's agenda. There is a clear focus on utilising the investment potential of pension schemes. Alongside this, we have seen increased emphasis by the Pensions Regulator (**Regulator**) on trustees ensuring they have investment expertise on their boards. Unsurprisingly, therefore, a number of expected developments this year have pension scheme investments at their core.

Predictions

Defined Benefit (DB) Schemes

The new DB funding regime

The draft Occupational Pension Schemes (Funding and Investment Strategy and Amendment) Regulations 2023 set out the details of a new DB funding regime. We are still awaiting the final version of these regulations and we expect these to reflect the recommendations for the Regulator to take into account financial stability following the liability driven investments (**LDI**) crisis, together with provision in the new DB funding regime for open schemes. The new funding regulations will go hand in hand with a revised DB funding code issued by the Regulator. The final version of this has, perhaps unsurprisingly given the LDI crisis, been delayed.

We are now expecting the new regulations and DB code to be in place by April 2024 and operational for schemes which have actuarial valuations from Autumn 2024.

Further information on the draft regulations can be found in our [July 2022 briefing](#) and on the Regulator's new draft DB code can be found in our [January 2023](#) briefing.

Utilisation of investment potential of defined benefit schemes?

One theme emerging from the Autumn Statement 2023 was making it more attractive for employers to run-off their defined benefit schemes rather than moving to buyout, where appropriate. A related action is to make it easier and more attractive for employers to access any surplus in their schemes. From April 2024, the tax charge on surplus refunds will reduce from 35% to 25%.

The Regulator also appears keen to support developments of innovative investment opportunities for trustees, provided these do not compromise member benefits. It has recently issued guidance for trustees considering capital backed journey plans; that is, where scheme assets are invested in assets that provide a higher-than-expected return with a third-party funder providing

additional capital to support the higher risks. The Regulator has stated that trustees must contact the Regulator in advance of entering into such arrangements and the arrangement will then be assessed by the Regulator.

It's clear that the government is promoting the investment of schemes in productive finance. We expect the government to provide further detail this year on how it will do this, with one suggestion being a 100% PPF underpin option as a safety net to promote this type of investment, as well as further discussion on how accessing surplus can be made easier for employers. We also expect the Regulator to issue guidance early this year to help trustees and employers to navigate alternative investment arrangements. We are already seeing market innovation in this area and expect this to continue, but this is also likely to result in an increased supervisory role of the Regulator around alternative investment arrangements.

Further information on the proposals from the Autumn Statement can be found in our briefing [here](#).

Liability Driven Investments

The Regulator has issued recent guidance to trustees on practical steps they should be taking to manage risks when using leveraged LDI, including the minimum market stress buffer that any LDI arrangement they invest in should have. In November, the government issued a [response](#) to recommendations made by the House of Commons Work and Pensions Committee. In it, the government confirms that the Regulator will be monitoring compliance with its LDI guidance and adding additional questions to the annual scheme return relating to asset liquidity outside LDI mandates. The Regulator will use a range of sources to monitor whether LDI resilience is being maintained, including data collected by the FCA from LDI managers and data from trustees on liquidity levels and governance mechanisms. Depending upon the Regulator's findings on the compliance with resilience standards, the DWP may consider legislating in the area of LDI.

We can therefore expect the Regulator to take a more active role in ensuring its LDI guidance is being complied with. The industry should pay attention to whether the DWP goes further by legislating in this area.

Further information on the Regulator's guidance is available in our [May 2023 snapshot](#).

Notifiable events framework?

It was expected that 2022 would see the new notifiable events framework come into force. In September 2021 the government consulted on new draft regulations which would extend the notifiable events framework to cover (i) an asset sale; and (ii) the granting or extending of certain security by the employer. It would also have required notification of certain events much earlier in the transaction; as soon as a 'decision in principle' was made regarding them. In addition, further detailed information regarding the transaction, together with its impact on the pension scheme, would be required.

It was expected that these regulations would come into force in April 2022, but this did not materialise. The draft regulations attracted some criticism; both over the impact they could have on corporate activity as well as whether the Regulator could manage the increased flow of information that would result.

There has been very little from the DWP in terms of updates on this. The industry is still waiting for sight of the final version of the draft regulations. We are expecting the final regulations in "due course". It could be controversial were the Regulator to miss

an intervention opportunity through being unaware of a transaction which would have been notified had the regulations been put in place.

Further information on the draft new notifiable events framework can be found in our briefing [here](#).

Occupational defined contribution (DC) schemes

Decumulation

In the Autumn Statement, it was made clear that additional duties will be placed upon DC trustees requiring them to offer a range of decumulation services to members. Trustees must also have a default decumulation option appropriate for their scheme and member profile for those members who do not actively choose a decumulation option.

We are expecting the DWP, "at the earliest opportunity", to introduce legislation setting out this new obligation. Trustees should, however, start to consider now what decumulation options will be provided as well as the appropriate default option for the member profile of their schemes. Legislation may not be imminent, but it seems there is a clear intention that the Regulator will issue guidance in the meantime encouraging compliance before legislation is in place. Trustees will also be expected to have in place appropriate member communication and guidance.

Occupational and personal pension schemes

The Regulator's General Code

The Regulator finally published its long-awaited General Code of Practice (**Code**) in January.

As expected, the final Code does not contain significant changes to the draft. There is a greater emphasis throughout the Code that a scheme's approach to compliance should be proportionate to the scheme's size and complexity. There have also been some more specific changes to the Own Risk Assessment (**ORA**) and the remuneration policy, in particular, which were modules that attracted a lot of comment at the consultation phase.

The Regulator has announced that it expects the Code to come into force on 27 March 2024. We therefore expect trustees to continue with their Code compliance project early this year with attention then being shifted towards a scheme's first ORA. At Stephenson Harwood we have a specialist Code compliance team who would be happy to assist.

For more information on the Code, please see our briefing [here](#).

Abolition of the Lifetime Allowance

The government has announced that the Lifetime Allowance (the "**LTA**") will be abolished from 6 April 2024. Key to these changes is the introduction of two new lump sum allowances: the "**lump sum allowance**" and the "**lump sum and death benefit allowance**", together referred to as the "**Lump Sum Allowances**". The purpose of the Lump Sum Allowances is to control the level of tax-free cash that an individual or their beneficiaries can receive from registered pension scheme arrangements.

The standard lump sum allowance will be 25% of the current LTA, which is £268,275. Anyone with LTA protection or lump sum protection will, however, benefit from an increased lump sum allowance.

The standard lump sum and death benefit allowance will be the current LTA, which is £1,073,100. Again, though, anyone with LTA protection will have a lump sum and death benefit allowance that reflects this personalised protection.

Any lump sum paid in excess of an individual's Lump Sum Allowance will be subject to income tax at his or her marginal rate. This reflects the LTA regime under which benefits paid in excess of the LTA were subject to a tax charge.

Given the imminent changes in this area, we expect trustees to be taking the following key action points ahead of the 6 April 2024 change as follows:

- 1. Check that the scheme administrator is fully prepared for the changes.**
- 2. Check the scheme trust deed and rules for explicit references to the LTA and to determine whether any changes need to be made.**
- 3. Consider member communications and booklets which may need updating to reflect the changes.**

However, it is widely anticipated that there will be a General Election by Autumn of this year. The Labour party has previously announced that it would re-instate the Lifetime Allowance and we could, therefore, see both the abolition and re-instatement of this provision in the space of a few months. This should be taken into account in any updates to pension scheme rules and member communications, and makes decision-making around when and how to communicate these changes a tricky business for trustees.

Comment

These are just a handful of the main developments we expect to see throughout this year. What is certain is that this will be another very busy year for trustees. There will be increased scrutiny on governance as well as investment performance. Trustees need to ensure that they have the appropriate expertise on their boards, as well as trusted advisers in place, to assist them in navigating this rapidly changing environment.

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