BARNETT WADDINGHAM
beyond the expected

WINTER 2021 NEWSLETTER

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The elements that you need to know

The last few months have been another busy period, particularly for climate change-related initiatives.

Trustee Elements

Forthcoming call for evidence on investment pathways

On 8 November 2021 Guy Opperman (Pensions and Financial Inclusion Minister) confirmed in a House of Commons Work and Pensions Committee hearing that a call for evidence would be launched around spring 2022 on the potential for investment pathways to apply for occupational schemes (as they do for contract-based schemes).

New transfer requirements

On 30 November 2021 new regulations came into force, prescribing the conditions for pension transfers and giving trustees the power to refuse transfers where there is a heightened risk they may be part of a scam. The conditions will apply where the transfer process was initiated on or after 30 November 2021.

The Pensions Regulator (TPR) has published guidance to help trustees understand their new powers. The guidance covers the collection of information, carrying out due diligence, directing members to guidance and refusing a transfer. The Pension Scams Industry Group (PSIG) plans to publish a revised version of its 'Combating Pension Scams: A Code of Good Practice' later this year, giving practical help on how to apply the new rules.

New code of practice

On 24 August 2021, TPR published an interim response to its proposed new code, including key issues raised and outlining the next steps. TPR does not expect to lay the code in Parliament before spring 2022, so it is therefore unlikely to come into force before summer 2022.

TPR noted that the greatest attention in consultation responses was on the new requirement for an Own Risk Assessment (ORA), and remained of the view that trustees should prepare their first ORA in a 'timely fashion'; i.e. taking the legislative timescales as a maximum.

In the meantime, trustees could be focussing on their Effective System of Governance (ESOG); i.e. bringing together their various policies and processes and assessing whether there are any gaps.

Long Term Asset Fund

On 25 October 2021 the Financial Conduct Authority (FCA) confirmed rules on the Long Term Asset Fund, a new type of investment fund that will help support investment in assets like infrastructure and private equity. It is envisaged that these assets will open up the universe of investment opportunities for long-term investors, including those saving through defined contribution (DC) pension schemes, as well as supporting the economic recovery from Covid-19 and improving financial stability.

On a connected note, on 27 October 2021 Rishi Sunak (Chancellor of the Exchequer) announced in the Autumn Budget and Spending Review 2021 that the Government will consult before the end of the year on further changes to the charge cap for auto-enrolment schemes. This will involve considering amendments to accommodate performance fees and enable access to illiquid investments.

Climate change activity

There has been much recent activity in relation to climate change. This includes the below.

- On 28 October 2021 TPR published its climate adaption report. This is its contribution towards the National Adaption Programme's drive to assess the resilience of the UK to climate change. The report covers the risks from climate change that are most relevant to occupational pension schemes and the policies and practices to address them. It also addresses the commitments of TPR as an organisation. TPR acknowledges that many schemes have considerable work to do, but also recognises that practices are rapidly evolving and trustees – and pension savers – are increasingly more engaged with the need to consider climate-related risks and opportunities.
- On 18 October 2021 HM Treasury, the Department for Work & Pensions (DWP) and the Department for Business, Energy & Industrial Strategy (BEIS) published Greening Finance: A Roadmap to Sustainable Investing. This sets out details of new Sustainability Disclosure Requirements (SDRs) that will apply to occupational pension schemes in addition to others; e.g. certain large businesses, asset managers and other asset owners. SDRs are intended to ensure investors have the information they need to make informed decisions about where to put their money. A consultation on a draft climate-related standard is expected in early 2022, before standards are expanded to broader environmental and sustainability factors.

- On 14 October 2021 the Pensions and Lifetime Savings Association (PLSA) published a guide, Towards a Greener Future, setting out case studies on how pension schemes and providers are putting their climate policies into action in practical terms. The guide is aimed at helping pension schemes and providers learn from others' experiences.
- On 1 October 2021 the following regulations came into force.
  - The Occupational Pension Schemes (Climate Change Governance and Reporting) Regulations 2021, requiring trustees to meet climate change governance requirements and to produce a report on how they have done so, and publish this on a publicly accessible website. Schemes in scope are those with assets of £5bn or more (from 1 October 2021) and those with assets of £1bn or more (from 1 October 2022).

    On 21 October 2021 the DWP published a consultation on proposals that these regulations be amended to require trustees to measure and report on the alignment of their investment portfolios with Paris Agreement targets, with effect from 1 October 2022. It also consults on new guidance that sets out voting, stewardship and environmental, social and corporate governance (ESG) best practice in relation to Statements of Investment Principles and Implementation Statements.
  - Associated regulations introduce new trustee knowledge and understanding requirements on the risks to, and opportunities for, occupational pension schemes relating to climate change. In addition, these make amendments to disclosures required in the scheme's annual report, summary funding statements and annual benefit statements, and adds to registrable information the website addresses of where the climate change report and charges and transaction costs and other relevant information are published.

TPR is expected to finalise its draft guidance on governance and reporting of climate-related risks and opportunities this year.

Other elements

Finance Bill 2022

On 4 November 2021 the draft Finance (No.2) Bill was published. This included the following.

- Legislation in respect of the change to Normal Minimum Pension Age (NMPA); i.e. the earliest age at which members can access their pensions without incurring an unauthorised payments tax charge. NMPA will rise from age 55 to 57 from 6 April 2028.
- Legislation to extend Scheme Pays reporting and payment deadlines. This will allow an individual to ask their pension scheme to settle their Annual Allowance tax charge of £2,000 or more from a previous tax year by reducing their future pension benefits. The changes will have effect from 6 April 2022.

More on the change to NMPA

Initial draft legislation proposed allowing individuals the opportunity to join a scheme on or before 5 April 2023 to gain a protected pension age (PPA) of age 55, provided the scheme's rules as at 11 February 2021 gave members the 'unqualified right' to take benefits at age 55; i.e. no consent required. References in rules to the NMPA, rather than a specific age of 55, will not benefit from protection.

> Amendments to the draft Finance Bill closed this window of opportunity early on 3 November 2021, following concerns that this could have resulted in scammers pressurising savers into rushed transfers. However, individuals who were in the process of transferring before 4 November 2021 may still receive the protection.

Other clarification changes were made, including the operation of block transfers from schemes with a PPA; these will maintain the PPA on the funds transferred and any new monies that are paid in. Individual transfers will also maintain the PPA, ring-fenced for the funds transferred only.

The PPA protection rules differ to previous increases to NMPA. Members with a previously awarded PPA of less than 50 or 55 will see no impact on their PPA.

Forthcoming guidance is expected from HMRC, including on transitional provisions, but with no date for this yet announced.

De minimis threshold to apply to flat fees

On 9 November 2021, the DWP published a press release outlining plans to introduce a de minimis threshold of £100, at and below which pension savings invested in the default arrangements of schemes used for auto-enrolment will be exempt from flat fees.

The change is designed to protect small pension pots from being eroded by charges and will be introduced by the Occupational Pension Schemes (Charges and Governance) (Amendment) Regulations 2021, which will come into force on 6 April 2022. Alongside the amending regulations, the Government will publish revised guidance describing how the de minimis will operate and giving examples.

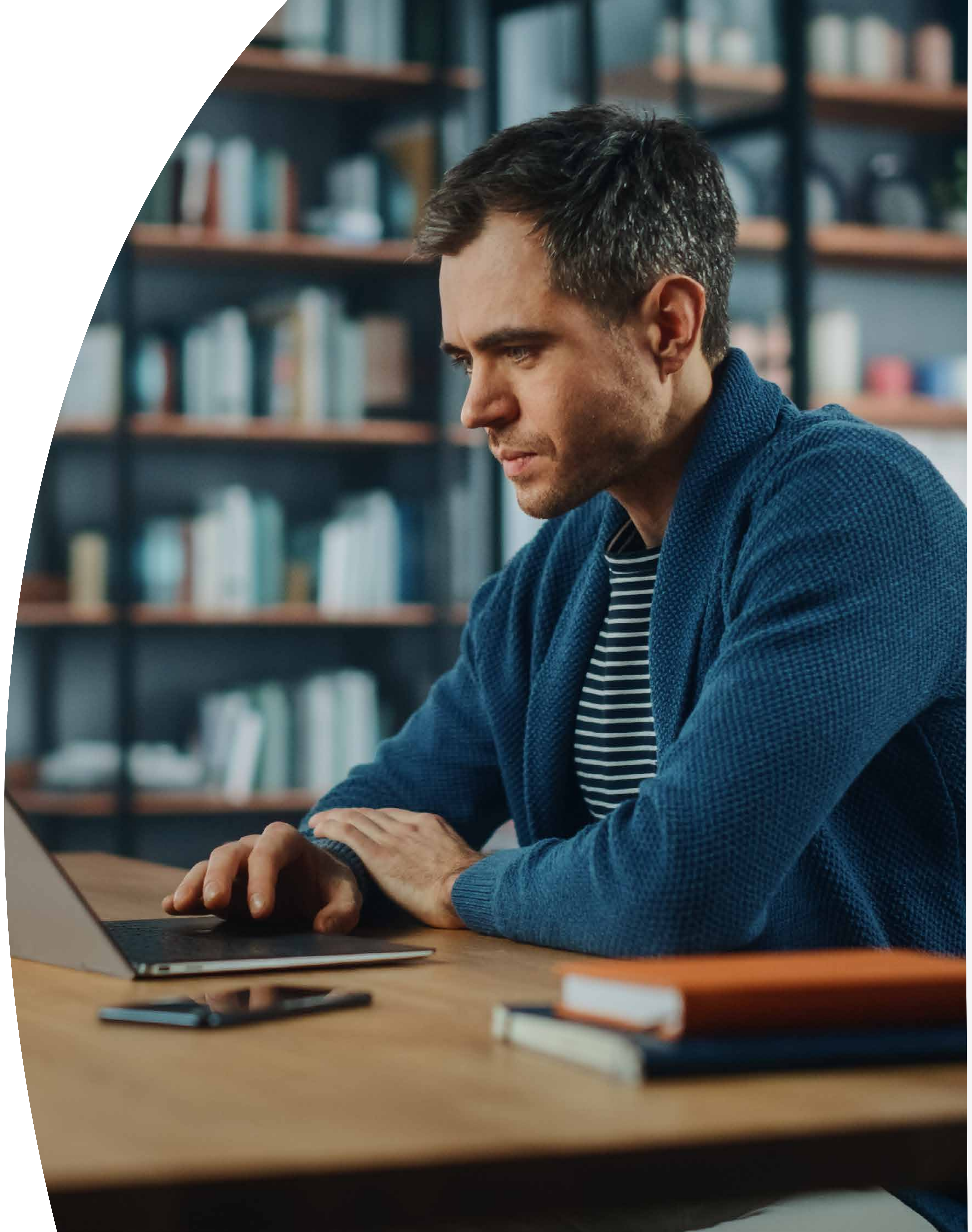
Regulatory Initiatives Grid

On 1 November 2021, the Financial Services Regulatory Initiatives Forum published the fourth edition of its Regulatory Initiatives Grid. The 'Pensions and retirement income' section contains 15 initiatives, including recent climate change-related additions.

Simpler annual benefit statements

On 19 October 2021 the DWP published its response on the consultation to introduce simpler annual statements for DC schemes used for auto-enrolment. On the same day, the DWP published statutory guidance on how the statement should be structured and the information be presented. Statements must not exceed one double-sided sheet of size A4 paper when issued in paper format and must not exceed the equivalent length when printed, if issued in an email or online. New regulations bring the requirements into force from 1 October 2022.

The Pensions Administration Standards Association (PASA) Benefit Statements Working Group is considering the proposed introduction of an annual benefit statement season. Its initial paper, published on 16 September 2021, considered two potential approaches: a common publication date and a common valuation date. The Benefit Statements Working Group support the concept of a statement season but believe further careful consideration is needed; e.g. working alongside technological enhancements, such as dashboards, to ensure longevity.



Value for money

On 4 October 2021 the FCA published its policy statement setting out new rules on how Independent Governance Committees (IGCs) and Governance Advisory Arrangements (GAAs) should assess value for money (VFM) in FCA regulated workplace pension schemes and pathway solutions. The rules come into force from 4 October 2021, with the next VFM reports needing to be published by 30 September 2022.

IGCs and GAAs are required to take into account three key elements: costs and charges; investment performance; and services provided (including member communications). They must assess and report on VFM, particularly through comparison with other options on the market, and consider whether other options would offer better VFM.

> The new rules are intended as a step towards a more systematic and transparent framework for assessing VFM. The policy statement noted the FCA's joint discussion paper with TPR, published on 16 September 2021, which proposed a common framework for VFM in DC pension schemes, initially focusing on VFM in 'accumulation'.

As a reminder, regulations came into force from 1 October 2021 requiring trustees of 'smaller' schemes (less than £100 million in assets) to follow a more prescribed VFM assessment method for scheme year-ends after 31 December 2021. To prepare for this, TPR has updated its VFM guide and its chair's statement quick guide.

Investment governance guidance updated

On 4 October 2021 TPR updated its DC investment governance guidance with a new section on scenarios in which the temporary closure of funds may result in the creation of default arrangements. Careful consideration is important, as default arrangements are subject to additional governance requirements. The content of the new section was previously included in TPR's Covid-19 guidance.

Tax relief alignment for low earners

On 27 October 2021 Rishi Sunak announced in the Autumn Budget and Spending Review 2021 that the Government will introduce a system to make top-up payments for individuals whose earnings fall below the personal tax threshold and who save into a pension scheme using a Net Pay arrangement. The aim is to help align outcomes with savers using Relief at Source arrangements. It is intended that changes be introduced in the 2025/26 tax year, in respect of contributions made from the 2024/25 tax year onwards.

Guidance on starting conversations about pensions

On 15 September 2021 the PLSA published guidance to help pension schemes and employers support savers' financial wellbeing by starting a conversation about their workplace pension. This acknowledges prior TPR/FCA guidance to employers and trustees on providing support to employees and scheme members with financial matters published in March 2021 as a step in the right direction, but not far enough.

The PLSA guidance aims to highlight the ways in which employers and schemes can support their members throughout their pensions journey, increasing their understanding of both the need to save and the retirement choices available. The guidance addresses some commonly held myths and includes case studies from the PLSA's membership.

Progress report on 'small pots'

On 30 September 2021 the Small Pots Cross-Industry Co-Ordination Group published a progress report looking at work undertaken to date and the expected next phases. The Group's purpose is to look to reduce the future proliferation of small DC pension pots with their detrimental effect on member value for money and to reduce the existing stock of such small pots that has already been built up

The report acknowledges that there are arguments for some members maintaining some small pots, e.g. flexibility at retirement and special guarantees, but suggests these are relatively minor subsets of the small pots universe that can be ring-fenced and protected.

The report states that there is general acceptance that the industry may only be able to go so far without regulatory intervention, but that it is important that the process be started and that the changes needed be clearly articulated.

Workplace pension participation and savings trends

On 21 September 2021, the DWP published its latest release of statistics on Workplace pension participation and savings trends between 2009 and 2020. The statistics show that after years of growth in participation during the roll-out of auto-enrolment, participation rates have stabilised, and have remained relatively stable during the Covid-19 period within scope.

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Please contact your Barnett Waddingham consultant if you would like to discuss any of the above topics in more detail. Alternatively contact Mark Futcher, Partner and Head of DC, via the following:

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