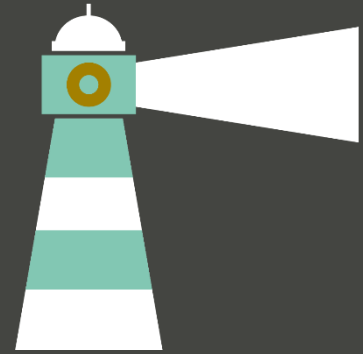


# What's Happening in Pensions



Issue 81 – April 2020

## In this issue:

**Coronavirus - Pensions Regulator guidance:** The Pensions Regulator has published several pieces of guidance for trustees, employers and administrators on issues arising from the coronavirus pandemic.

**Coronavirus Job Retention scheme:** The government's Coronavirus Job Retention Scheme allows employers to make limited claims for minimum automatic enrolment pension contributions alongside salary claims.

**Coronavirus – Pensions Ombudsman:** The Pensions Ombudsman has made an announcement about its services during the coronavirus disruption and confirmed that it will have regard to Pensions Regulator guidance when considering relevant complaints.

**Coronavirus – FCA:** The FCA has delayed its proposals on further regulating DB pension transfer advice, potentially including a ban on contingent charging by advisers, and on drawdown investment pathway options.

**Coronavirus – data protection:** The Information Commissioner's Office has published a statement on its regulatory approach to data protection matters during the coronavirus disruption.

**Pensions Regulator DB funding consultation:** The Pensions Regulator is consulting on a new framework for the regulation of DB scheme funding. The consultation period has been extended to end on 21 August 2020.

**Budget:** The Spring Budget documents included measures concerning the tapered annual allowance and a consultation on aspects of RPI reform.

**VAT – DC management services:** A new statutory instrument aligns UK law with EU law regarding VAT on the supply of fund management services to DC occupational pension schemes. It provides that all such services are exempt from VAT from 1 April 2020.

**GMP reconciliation:** HMRC Countdown Bulletin 52 announced a delay to the final cuts of GMP reconciliation data.

**GMP equalisation/rectification:** The PASA-led GMP Equalisation Working Group has issued guidance on 'When to Rectify'. This concerns the timing of adjusting benefits following a GMP reconciliation exercise.

**Climate risk guidance:** The Pensions Climate Risk Industry Group has published a consultation on guidance for occupational pension schemes on assessing, managing and reporting climate-related risks. The deadline for responding has been extended to 2 July 2020.

**PPF – 2021/22 levy insolvency risk scores:** The PPF has confirmed changes to the calculation of insolvency risk scores for the purposes of calculating the pension protection levy for the 2021/22 levy year onwards. This affects scores starting from April 2020. The changes are expected to result in schemes of larger employers paying higher levies.

**General levy:** Following consultation, the government decided to increase rates for the general levy on occupational and personal pension schemes from April 2020, with increases from April 2021 to be informed by a wider review of the levy. The 2020 increases were, however, later cancelled.

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**Financial support directions – Box Clever:** The Pensions Regulator has issued financial support directions against five ITV companies after the Supreme Court refused ITV permission to appeal.

**Investment consultancy/fiduciary management:** The government has confirmed to us that its regulations reflecting the Competition and Markets Authority order with regard to the engagement of providers of investment consultancy and/or fiduciary management services are not likely to come into force until April 2021 at the earliest.

**IR35 – off-payroll working:** The government announced that the reforms to the off-payroll tax rules for services provided by individuals via personal service companies, due to come into effect this April, will be delayed by one year as part of a package of measures announced by the Treasury to ease pressure on businesses.

**Parental bereavement leave:** Various sets of regulations to introduce parental bereavement leave rights, including limited rights to pay and benefits including pension contributions and accrual, took effect from 6 April 2020.

## Coronavirus – Pensions Regulator guidance

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The Pensions Regulator has published [several pieces of guidance](#) for trustees, employers and administrators on coronavirus related issues. Our updated summaries of the guidance are published [here](#) (and see the Appendix to this briefing for the current list).

The Regulator is generally taking a proportionate and risk-based approach to enforcement in light of the challenging situation. Regulatory easements, where granted, are typically in force until 30 June 2020. The Regulator says that the Pensions Ombudsman will take into account the Regulator's guidance when considering complaints about delays – see below for the Ombudsman's own statement.

See also our updated coronavirus checklist for trustees [here](#).

## Coronavirus Job Retention Scheme

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The Coronavirus Job Retention Scheme (CJRS) is a government-funded scheme that provides a contribution towards wage costs for employers who stand staff down as a result of the COVID-19 crisis. Where, by reason of circumstances arising as a result of the coronavirus, the employer instructs an employee to cease all work in relation to their employment for 21 days or more, the employer can make them a "furloughed worker". If the employer does this, the government will contribute 80% of that employee's salary (subject to a cap of £2,500 per month), plus employers' national insurance contributions and the minimum automatic enrolment employer pension contributions on the reduced salary (as to which, see below).

The CJRS is open to all organisations, regardless of size, and all employees employed as at 19 March 2020 (originally 28 February but the CJRS was extended on 15 April). It will initially be open for three months (extended on 17 April to four months) from 1 March. Employers are required to pay salary and pension contributions in the usual way and claim reimbursement under the CJRS. See our Employment department's [client guide](#) for more detail of the CJRS.

What furlough could mean for pension contributions and benefits will depend on what type of pension arrangement is provided by the employer, the specific rules of that arrangement and what changes the employer might be making to pay and benefits during that period. There are a number of potential pitfalls and complexities. Salary sacrifice arrangements can further complicate the position. Please see [our guide to the pension aspects of the CJRS](#).

The pensions and salary sacrifice content of the [government's CJRS guidance](#) is as follows:

***"How much you can claim***

*You'll need to claim for:*

...

*Employer pension contributions that are paid on the subsidised furlough pay, up to the level of the minimum automatic enrolment employer contribution. The maximum level of grant for employer pension contributions on subsidised furlough pay is set in line with the minimum automatic enrolment employer contribution of 3% on*

qualifying earnings. Grants for pension contributions can be claimed up to this cap provided the employer will pay the whole amount claimed to a pension scheme for the employee as an employer contribution.

...

**Benefits in Kind and Salary Sacrifice Schemes**

The reference salary should not include the cost of non-monetary benefits provided to employees, including taxable Benefits in Kind. Similarly, benefits provided through salary sacrifice schemes (including pension contributions) that reduce an employee's taxable pay should also not be included in the reference salary.

All the grant received to cover an employee's subsidised furlough pay must be paid to them in the form of money. No part of the grant should be netted off to pay for the provision of benefits or a salary sacrifice scheme.

Where the employer provides benefits to furloughed employees, including through a salary sacrifice scheme, these benefits should be in addition to the wages that must be paid under the terms of the Job Retention Scheme.

Normally, an employee cannot switch freely out of a salary sacrifice scheme unless there is a life event. HMRC agrees that COVID-19 counts as a life event that could warrant changes to salary sacrifice arrangements, if the relevant employment contract is updated accordingly."

This new "life event" may not increase the salary claimable under the CJRS, given that there cannot be a retrospective opt-out of salary sacrifice effective before the 19 March (previously 28 February) 2020 date as at which furlough/CJRS pay is assessed but it may increase the pay the employer must pay to the employee.

On 15 April, the Chancellor of the Exchequer signed a [direction](#) to HMRC including the following definitive specification of the amounts employers can claim in respect of pension contributions for furloughed employees. Note that this applies regardless of the employer's basis of complying with the DC requirements and would seem to apply in respect of DB members too.

- "8.9 The amount allowable as a CJRS claimable pension contribution under paragraph 8.1(c) is the lower of-
- (a) the contribution payable by the employer in respect of the employee to the registered pension scheme for the relevant CJRS period, and
  - (b) 3% of the part of the gross earnings paid to an employee in a pay reference period as applicable to the employee of 12 months that are-
    - (i) more than the lower limit for qualifying earnings in that pay reference period (as set out in section 13(1)(a) of the Pensions Act 2008), and
    - (ii) not more than the amount claimable by the employer under CJRS in respect of an amount of gross earnings as described in paragraph 8.1(a) in the same pay reference period."

See the Appendix for the 17 April Pensions Regulator guidance on CJRS pension contribution claims where there is a salary sacrifice arrangement and/or certification of DC contributions.

## Coronavirus – Pensions Ombudsman

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The Pensions Ombudsman made the following [announcement](#) in relation to issues caused by the coronavirus:

*"One of the outcomes of the new lockdown measures is that we can no longer collect and deal with our post. This creates difficulties for us in processing any new enquiries or complaints whether received by post or by email. While the current situation continues, we will be focusing on existing enquiries and complaints only. This will be reviewed on a fortnightly basis.*

*This means that any post or emails received after today will not be dealt with and you will need to re-submit your correspondence (by post or email) once we are in a position to restore full service. We would like to reassure you that, wherever possible, we will be using our discretion to expand our time limit of three years for those new applicants affected by this period of restricted service.*

*We have been following Government guidelines to protect our staff. All our staff will continue to work from home on existing cases, so if you have already submitted a complaint or written to us, your case will be*

*progressed as normal. We are extremely fortunate that our IT systems greatly support our staff working from home so we can continue to prioritise investigating existing enquiries and complaints.*

*We will continue to work with key stakeholders to provide a coordinated approach to our work. Given the additional pressures we are all facing, we will be flexible in our approach to existing pension complaints, whenever possible. We will continue to take into account the latest guidance from The Pensions Regulator to allow for the possible effects that the current crisis is having on our stakeholders and customers. In particular, we will take every step to ensure that our work does not place unnecessary demands on the NHS or other care providers at this crucial time.*

*Please be assured we are doing everything we can to keep any disruption to an absolute minimum. We will carefully monitor the ongoing situation and hope to be able to restore full service as quickly as possible. Regular updates will be posted here to keep you informed of the changing situation.*

*Thank you for your patience in these difficult times."*

## **Coronavirus – FCA**

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The FCA [has delayed](#) its proposals on further regulating DB pension transfer advice, potentially including a ban on contingent charging by advisers (see [WHiP Issue 77](#)). A policy statement is now expected in the second or third quarter of 2020.

Implementation of requirements for DC drawdown investment pathway options for non-advised consumers has been [put back](#) by six months, from 1 August 2020 to 1 February 2021.

## **Coronavirus – data protection**

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The Information Commissioner's Office has published a [statement](#) on its regulatory approach to data protection (and freedom of information) matters during the coronavirus disruption.

## **Pensions Regulator DB funding consultation**

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The Pensions Regulator [has launched](#) its [consultation](#) on a new framework for the regulation of DB scheme funding.

The Regulator proposes overarching funding principles based on its existing focus on integrated risk management and long-term planning. It will introduce a new "fast track" valuation approach with fixed parameters (a large part of the consultation focuses on the details for this): schemes adopting this approach can expect minimal funding scrutiny. The alternative, equally acceptable, "bespoke" approach will allow schemes to deviate from the fast track parameters without regulatory intervention on funding if they can explain and evidence their decisions to the satisfaction of the regulator, including how risk is being managed.

This regime will be introduced by a replacement DB funding code of practice, alongside the requirement due to be introduced by the pension schemes bill for schemes to have a "funding and investment strategy" and a "statement of strategy" document with prescribed content.

This consultation was originally due to run until 2 June 2020 but the consultation period has been extended to 2 September 2020 in light of the coronavirus disruption. The Regulator will publish a further consultation on the text of the new DB funding code of practice later. It expects the code to come into force at the end of 2021.

For more detail, see our [briefing note](#).

## **Budget**

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The Spring [Budget](#) documents included measures concerning the tapered annual allowance and (as expected) a consultation on aspects of RPI reform. This was followed by a [Finance Bill](#) (see clause 21 for the tapered annual allowance provisions).

## **Tapered annual allowance**

It was [announced](#) that the income levels for the tapered annual allowance are all being raised from 6 April 2020 but the annual allowance is being reduced for the very highest earners. The increased thresholds are intended to ease NHS senior clinician staffing issues but are applicable to all, including members of private sector registered pension schemes.

- The 'adjusted income' level will be £240,000 rather than the current £150,000. Adjusted income is, for the vast majority of taxpayers, their income from all sources (before deducting any pension contributions they make) plus the value of their employer-funded pension input. Individuals with income above this level have a reduced annual allowance.
- The 'threshold income' level will be £200,000 rather than £110,000. Threshold income is, very broadly, taxable income from all sources less employee pension contributions (but with anti-avoidance measures) and without adding employer-funded pension input. Individuals with a threshold income of less than £200,000 are not subject to the tapered annual allowance provisions.
- The full taper, with a reduced annual allowance of £4,000 rather than the current £10,000, will apply to those with adjusted income over £312,000 (rather than the current £210,000). The annual allowance will taper down from £40,000 to £4,000, by £1 for every £2 of adjusted income above £240,000.

Other annual allowance rules, including carry forward and the 'money purchase annual allowance', continue to apply.

Employers with capped contribution or accrual arrangements for high earners should note that the reduction of the minimum tapered annual allowance from £10,000 to £4,000 may necessitate a review of those arrangements.

## **RPI**

The government and the UK Statistics Authority (UKSA) [are consulting](#) on proposals for reform of the Retail Prices Index (RPI), potentially before 2030.

For context, the UKSA had proposed that publication of RPI be stopped and that in the meantime it should be changed so that it is aligned with the Consumer Prices Index including owner-occupied housing costs (CPIH). Under current legislation, the UKSA is able to make this change to RPI unilaterally from 2030, when the last "relevant" index-linked gilts mature; before then, the Chancellor's consent is needed because such a step would (as confirmed by the Bank of England in accordance with a statutory requirement) be both "fundamental and materially detrimental" to the holders of those index-linked gilts. The government agreed that reform is needed. It rejected the UKSA's proposal that publication of RPI be stopped. As regards the proposed alignment of RPI with the CPIH formula, the government took the view that this could not be done soon due to the impact on gilt holders and the gilt market. See [WHiP Issue 78](#) for more background.

The consultation now announced is on whether the Chancellor should consent to the change before 2030, though not before 2025, and on technical issues about the transition to the new methodology. It also asks about wider consequences for RPI users to inform "future policy", though these cannot be considered by the Chancellor when deciding whether or not to consent to the alignment change being made earlier than 2030. There is no mention of compensation for adversely affected parties.

The government said previously that it has no current plans to stop issuing gilts linked to RPI (or, by implication, to start issuing gilts linked to CPI or CPIH).

The original consultation period was extended and now closes on 21 August 2020.

## **Other**

There will be a call for evidence on the net pay/relief at source issue that affects low paid workers but we do not know when. It was a Conservative manifesto promise to conduct a review of this issue.

The elevation of HMRC to preferential creditor status in a company insolvency has been delayed from the originally announced 6 April to 1 December 2020. This change may affect covenant advice.

## **VAT – DC management services**

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[The Value Added Tax \(Finance\) Order 2020](#) aligns UK law with EU law regarding VAT on the supply of fund management services to DC occupational pension schemes, following the 2014 CJEU decision in the *ATP* case. It provides that such services are exempt from VAT from 1 April 2020.

Such an exemption can already be claimed under directly applicable EU law but, because of what UK law said until now, did not have to be (eg, if this input VAT is set off against output VAT); from 1 April there is no choice – the supply is exempt. Note that many DC fund management arrangements are provided under an insurance wrapper, to which a VAT exemption applied before (and after) the *ATP* case: this development is therefore not relevant to them.

Since the European Court decision in *ATP* in March 2014 (see [WHiP Issue 45](#)), management services supplied to a DC pension scheme are capable of falling within the VAT exemption for management of a "special investment fund".

In its [guidance](#) issued after the judgment (see [WHiP Issue 49](#)), HMRC accepted this outcome and set out four criteria that needed to be met by a pension scheme in order to qualify, as follows (our understanding is that most DC schemes meet these):

- They are solely funded (directly or indirectly) by the beneficiaries that will receive the retirement benefits to be paid under the scheme.
- The beneficiaries bear the investment risk.
- The fund contains the pooled contributions of several beneficiaries.
- The risk borne by the beneficiaries is spread over a range of securities (or "investments" in the words of the new regulations).

The alignment might have ramifications as follows:

- DC pension schemes should no longer be paying VAT on supplies of management services they receive and might not realise that that is the case.
- External managers of DC pension schemes will need to exempt their supplies, which is likely to have a negative knock-on effect on their VAT recovery position.
- Managers might therefore wish to consider whether their own suppliers should be exempting their supplies to the manager (on the basis that those supplies amount to "management" of the DC scheme, notwithstanding that the supplies are not made directly to the scheme – the case law is clear that this is possible).

## GMP reconciliation

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HMRC [Countdown Bulletin 52](#) says, regarding GMP reconciliation data checks:

*"HMRC must now extend the deadline for the issue of final data cuts while we reprioritise our work in response to the Coronavirus outbreak. We are still working on the issue of final data cuts but we expect the work to take longer.*

*We are now aiming to publish a final timeline by the end of April 2020."*

## GMP equalisation/rectification

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The PASA-led GMP Equalisation Working Group has issued [guidance](#) on 'When to Rectify'. This concerns the timing of adjusting benefits following a GMP reconciliation exercise.

The Guidance recommends four steps for trustees, to ensure they make the right decision for their scheme:

- "Understand the data: the number of members requiring rectification and how this population overlaps with those in scope for GMP equalisation;
- Understand the nature and timing of the task: when to rectify benefits, the potential approaches available and how the rectification project dovetails with the work required for GMP equalisation;
- Consider the impact on members: who are in scope for GMP rectification of any delay whilst finalising the equalisation project;
- Document and consider the scheme's position: This focusses on the factors that will influence the decision about when to undertake rectification for those also impacted by equalisation."

## Climate risk guidance

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The Pensions Climate Risk Industry Group (PCRIG) has published a [consultation](#) for occupational pension scheme trustees on "Aligning your Pension Scheme with the TCFD Recommendations". The consultation is on non-statutory guidance on assessing, managing and reporting climate-related risks.

There is also a "[quick start guide](#)" for trustees on the Task Force on Climate-related Financial Disclosures.

The guidance follows the inclusion by the government of new climate change risk governance requirements for pension schemes in the Pension Schemes Bill (see [WHiP Issue 80](#)).

The consultation is taking place on a DWP online portal. It was originally due to close on 7 May 2020 but the DWP [announced](#) an extension until 2 July 2020. The PCRIG aims to publish final guidance in Autumn 2020.

## PPF – 2021/22 levy insolvency risk scores

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The PPF [has broadly confirmed](#) changes to the calculation of insolvency risk scores for the purposes of calculating the pension protection levy for the 2021/22 levy year onwards. This affects scores starting from April 2020. The changes are expected to result in schemes of larger employers paying higher levies.

Dun & Bradstreet (D&B) has replaced Experian as provider of insolvency risk services to the PPF. D&B will use largely the same approach as Experian to calculating insolvency risk scores but scores will be recalibrated to reflect experience of insolvencies in practice.

Schemes of the largest employers are expected to be particularly adversely affected. The PPF earlier said:

*"In terms of levy impact ... a third of schemes see a similar amount of levy with almost a half of schemes seeing a lower levy. One in five of schemes see an increase in particular schemes with employers on scorecard 1. Currently, seven per cent seeing an increase of over 50 per cent – although some of these increases will reflect Experian having self-submitted data D&B don't yet have." (sic)*

## General levy

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Following its recent [consultation](#) (see [WHiP issue 78](#)), the government decided to increase rates for the general levy on occupational and personal pension schemes by 10% from 1 April 2020 for schemes with more than 11 members (with different increases for smaller schemes). Increases from April 2021 would be informed by a wider review of the levy. That decision was, however, later cancelled to help schemes and employers through the coronavirus disruption.

The government will now focus on reviewing the structure of the levy for the longer term and will be engaging with industry over the course of the next few months. the levy is intended to cover the costs of the Pensions Regulator, Pensions Ombudsman and the pensions activities of the Money and Pensions Service.

## Financial support directions – Box Clever

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The Pensions Regulator [has issued](#) financial support directions (FSDs) against five ITV companies after the Supreme Court refused ITV permission to appeal.

In June 2019, the Court of Appeal upheld the Upper Tribunal's confirmation of the Pensions Regulator's Determinations Panel's 2011 decision to issue FSDs to the ITV companies in relation to the Box Clever Group Pension Scheme (see [WHiP Issue 76](#)). This relates to ITV's leveraged joint venture with Thorn which went insolvent in 2003 (which was, importantly - but ultimately irrelevantly, before the FSD legislation was in force).

ITV has six months (unless an extension is granted) to put in place financial support acceptable to the Regulator.

## **Investment consultancy/fiduciary management**

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The government has confirmed to us that its regulations reflecting the Competition and Markets Authority (CMA) order with regard to the engagement of providers of investment consultancy and/or fiduciary management services are not likely to come into force until April 2021 at the earliest. They had originally been intended to come into force in April 2020.

The draft regulations are different from the CMA order in some respects: see our briefing note "[Investment consultancy and fiduciary management: a dose of CMA medicine](#)". The CMA order remains in force, so schemes will need to report compliance with the order again in December 2020/January 2021.

## **IR35 – off-payroll working**

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The government [announced](#) that the reforms to the off-payroll tax rules for services provided by individuals via personal service companies, due to come into effect this April, will be delayed by one year as part of a package of measures announced by the Treasury to ease pressure on businesses in light of the coronavirus outbreak. This was followed by a Treasury [announcement](#).

See our Employment department's briefing [here](#).

## **Parental bereavement leave**

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[Various sets of regulations](#) to introduce parental bereavement leave rights, including limited rights to pay and benefits including pension contributions and accrual, have been made and took effect from 6 April 2020.



## Appendix – current Pensions Regulator guidance on coronavirus related issues

These summaries are very abbreviated and intended as an indication of the content of the guidance. They are not a substitute for looking at the guidance itself.

- **COVID-19: an update for trustees, employers and administrators (20 March)**

This initial guidance told trustees, employers and administrators to focus their activities on key risks to pension savers, including the payment of benefits, minimising the risk from scams, and continuing contributions. Trustees were told to assess their business continuity plan and to contact their administrator regarding theirs and to prioritise activities.

Trustees are told to tell members asking about transferring-out to exercise extreme caution and visit the [ScamSmart website](#). They should also signpost members to the [Money and Pensions Service \(MaPS\) website](#).

Reports to the Regulator should continue as normal but the Regulator will be pragmatic. Trustees and administrators are told to report immediately if they believe they will be unable to pay members' benefits.

The Regulator's regulatory initiatives are suspended but one-to-one and relationship supervision will continue. The DB funding code framework consultation deadline is extended by three months to 2 September 2020.

- **Guidance for DB scheme trustees whose sponsoring employers are in corporate distress (20 March)**

This says that trustees should be kept informed by sponsoring employers with the best available information but also accept that this will not be as robust as it would normally be. It lists questions for trustees to ask the sponsor to help them to assess its covenant. Trustees should consider the Regulator's integrated risk management guidance, the possibility of provision of contingent assets and whether the scheme is being treated fairly in comparison to other creditors, shareholders and associated companies.

It also lists key principles to underpin consideration of employer requests to delay paying deficit repair contributions (DRCs). Where timescales are very short, any concessions should be short term deferrals to enable information to be provided later for a more considered decision.

- **DB scheme funding: guidance for employers (27 March)**

This says that employers should give trustees regular updates on employer outlook and contingency planning and should make all reasonable endeavours to provide trustees with the information they need to assess the impact on employer covenant and the affordability of DRCs.

The Regulator's now imminent annual funding statement will say that the Regulator will be pragmatic where trustees are being asked to agree to DRC reductions or suspensions or additional debt being secured over employer assets, provided that certain criteria are met, including a cessation of dividends.

- **DB scheme funding and investment: guidance for trustees (27 March)**

Trustees who are close to completing valuations are not expected to revisit their assumptions and are not required to take into account post-valuation date experience (except when considering DRCs). Recovery plan submission (ie, including valuation completion) can be delayed by up to three months if trustees need more time to assess the situation.

Trustees should be open to requests to reduce or suspend DRCs in line with the Regulator's 20 March principles (see above). Where sufficient information is not available to make a fully informed decision, trustees should, where appropriate, agree to requests to suspend or reduce DRCs for as limited a period as possible while appropriate information is being provided. Particular care needs to be taken if there is an imminent large contribution. This should not be longer than three months if the trustees are not able to fully assess the employer's position. A condition should be full and ongoing provision of information so that trustees can monitor the employer covenant. In agreeing DRC waivers, trustees should ensure that banks and other funders are being supportive and that no dividends or other distributions are being made (which should be underpinned by legally binding commitments).

Requests to suspend or reduce future service contributions, for the employers and possibly members, should be treated in the same manner as requests to suspend or reduce DRCs. Legal issues may arise.

An employer's request that trustees release security is likely to have significant legal and financial implications, compromising the security of members' benefits. Trustees should take specialist advice.

Trustees should consider whether real time, specialist advice is required and should continue to continue fully to document their decisions.

Regarding investments, trustees should: review their scheme's cashflow requirements; review and manage specific risks which may now exist within their portfolios or within their sponsoring employer's business; review any previously agreed investment and risk management decisions due to be implemented in the future; review their investment governance structures and delegations to ensure they can continue to function and make decisions; and assess, following the recent performance of their scheme, whether they should make any changes to their investment and risk management governance framework.

Trustees may decide to suspend cash equivalent transfer value (CETV) quotations and payments to give themselves time to review CETV terms and/or to assess the administrative impact of any increase in demand for quotations. This may mean a breach of disclosure requirements but the Regulator will not take regulatory action in the next three months. Thereafter, trustees may decide to continue with the CETV suspension or delayed quotation if this is still in the best interests of their members but they should be clear on the reasons and should notify the Regulator. Trustees should also give greater attention to the heightened risk of members being targeted by scams.

Please also see our new briefing "[Investment Insights for Pension Funds](#)".

- **[DC investment: guidance for trustees \(27 March\)](#)**

This says that: trustees should consider how members might react to headline market/fund value falls or reduction/loss in earnings – eg, making inappropriate decisions, crystallising losses or being exploited by scams; trustees should review and manage specific risks that may now exist within their portfolios or with their service providers; trustees should review any previously agreed investment and risk management decisions to be implemented in the future; trustees should review their investment governance structures and delegations to ensure they can continue to function and make decisions; and trustees should assess, following the recent performance of their scheme, whether any changes to their governance framework or provider arrangements should be made at an opportune time.

- **[COVID-19: savers - stay calm and don't rush financial decisions \(1 April\)](#)**

This is a press release quoting the Regulator, the FCA and MaPS, urging individuals to keep calm and not rush into any decisions about their pension. It warns about scams and pensions being a long-term investment.

- **[Scheme administration: guidance for trustees and public service \(2 April\)](#)**

This tells trustees to work with their administrators to make sure they can deliver critical processes and core functions. It notes what some of these might be and says that new or updated process should be in line with [PASA's COVID-19 guidance for administrators](#). Trustees are again told to contact the Regulator if they believe they will be unable to pay benefits on time.

- **[Automatic enrolment and pension contributions: guidance for employers \(9 April, amended 17 April\)](#)**

This says that automatic enrolment, automatic re-enrolment and payments of contributions should continue in line with existing requirements. Employers who think they may not be able to make their pension contributions are told that they should contact their pension provider in the first instance to explore whether there is flexibility to change the due dates.

It also clarifies that the employer contribution claim that can be made under the Coronavirus Job Retention Scheme (see below) for 3% of qualifying earnings is regardless of the basis on which DC contributions are paid to the scheme. On 17 April, it was amended to state that where the employer pays contributions for a furloughed worker of less than the automatic enrolment minimum, it can only claim based on what it actually pays.

Regarding the Pensions Act 2004 "listed change" consultation requirement for employers with 50 or more employees who (among other things) wish to reduce the employer contribution rate, it says that the Regulator will not take regulatory action "in respect of a failure to consult for the full 60 days" in specified circumstances, including where only furloughed staff are affected and the employer has written to affected staff and their representatives. Employers are encouraged to carry out as much consultation as they can.

- **[Late payment reporting: information for providers \(9 April\)](#)**

In this very short piece, the Regulator asks scheme providers to report late contribution payments (to members as well as to the Regulator) at 150 days late, rather than the 90 days set out in code of practice 5 for occupational

pension schemes and code 6 for personal pension schemes. (This change was reported in the pensions press on 27 March, apparently based on letters to providers, but was not announced publicly by the Regulator until it issued this guidance on 9 April. We note that there is currently no similar public statement addressed to trustees or employers.) NB See the guidance immediately above regarding the Regulator's expectations about the ongoing payment of contributions.

- **COVID-19: an update on reporting duties and enforcement activity (9 April)**

This outlines the Regulator's more flexible approach to its reporting requirements and approach to enforcement. If a breach will be rectified within a short timeframe (not more than three months) and it does not have a negative impact on savers, there is no need to report. The Regulator will take decisions about whether to take regulatory action on a case-by-case basis and adopt a flexible approach.

It also lists particular approaches in particular areas, including some where the approach will not apply (eg, for notifiable events).

Regarding DC chair's statements, where the Regulator has no enforcement discretion under the regulations, it says "we will continue to impose fines if schemes don't comply with this requirement. However, to ease the burden for schemes, we will not issue penalty notices before 30 June 2020. ... We will not be reviewing any chair's statements we receive, for example through master trust submissions or via annual reports and accounts, before 30 June 2020. Any such statements will be returned unread, and not reviewed. This should not be taken as any indication that the statement in question complies with the requirements."

It says that despite the concession on reporting late payment of DC contributions, it is very important that trustees invest contributions promptly when they are received.

- **COVID-19 technical guidance for large employers (17 April)**

This provides technical guidance, including worked examples, about pension contributions and CJRS claims (see below) where there is a salary sacrifice arrangement and/or where there is certification of DC contributions (ie, usually where pensionable pay is not the same as automatic enrolment "qualifying earnings"). It notes that there may need to be a discussion with the payroll provider to ensure that contributions are correctly deducted and paid and that employers can potentially change their method of complying with DC automatic enrolment requirements and claim more under the CJRS.

## FOR FURTHER INFORMATION, PLEASE CONTACT



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