

THE MONTH IN PENSIONS

Keeping you on the cutting edge of
developments in pensions

MAY 2020



ACCELERATING THE PACE OF CHANGE

For the last few months, we've hosted thousands of clients and industry professionals in events that have explained the complexities of a rapidly changing pensions landscape. No social distancing rules were breached, indeed, attendees may not even have left their homes. They might not even have left their pyjamas. Webinars are proving to be popular replacements for seminars, and they are now as easy to host and join as telephone calls.

This is just one small way in which COVID-19 has accelerated the adoption of technology in pensions. Trustee meetings have migrated online with many attendees being pleasantly surprised with progress in video conferencing. A large proportion of the pensions industry is working from home with limited adverse impacts. COVID-19 has tested business continuity plans, but, for the most part, it hasn't overwhelmed them.

How much of this will remain as a feature of how we work in pensions after COVID-19? This month, Jason Coates argues in a fascinating Insight that, instead of ushering in a *new normal*, the crisis has been the catalyst for an *accelerated normal* ([click here](#) or visit tinyurl.com/TMIP2005C). Trends that were already evident before coronavirus have become much more apparent. Adoption of technology, use of artificial intelligence and the emergence of data-driven solutions are amongst the accelerated trends that have been identified.

It is unlikely that these developments will be ditched when we get back to 'business as usual'. Pensions dashboards, value for money and consolidation will, over time, create a very different looking pensions industry in the UK. Instead of craving a return to normality, we may instead need to get used to an accelerated pace of change.

TRUSTEESHIP AND GOVERNANCE

The Pensions Regulator issues new guidance on dealing with COVID-19 and pensions

The Pensions Regulator (TPR) has issued new COVID-19 guidance that covers dealing with members who request transfers, automatic enrolment and defined contribution scheme communications.

On member transfers, TPR requires a new template letter to be sent to all defined benefit members seeking Cash Equivalent Transfer Value (CETV) quotations. Schemes are also required to monitor the

number of CETV requests received and watch out for any unusual patterns. The key message is that members should be kept informed of the steps being taken to continue running the scheme and should be warned not to rush into irreversible decisions when accessing or transferring benefits which they may later regret.

TPR's updated guidance document on automatic enrolment includes a new section on employer duties in respect of furloughed staff. This covers:

- enrolling employees who become eligible during furlough leave;
- automatic re-enrolment; and
- requests to join a pension scheme.

On defined contribution scheme communications, TPR notes that members are likely to be concerned about the fall in the market

and individual fund values and sets out guidance on what should be included in any member communications being sent at this time.

- [Click here or visit tinyurl.com/TMIP2005A](https://www.tinyurl.com/TMIP2005A) for our Insight on TPR's guidance to employers and schemes.

SCHEME INVESTMENT, FUNDING AND THE PPF

The Pension's Regulator issues its Annual Funding Statement

On 30 April 2020, TPR issued its Annual Funding Statement for 2020 for defined benefit schemes. The statement identifies some of the key issues facing schemes with valuations in the period from 22 September 2019 to 21 September 2020 (i.e. Tranche 15). The statement also applies to schemes undergoing "significant changes that require a review of their funding and risk strategies".

TPR's key focus in the statement is the current COVID-19 pandemic. The statement emphasises the need for trustees and employers to work together to manage the impact of the pandemic, although TPR doesn't expect this to be at the expense of pension scheme security. Whilst the statement is largely focused on the current pandemic, it is still consistent with TPR's messaging over the last few years, encouraging a long term focus and ensuring pension schemes are treated fairly.

- [Click here or visit tinyurl.com/QU202002A](https://www.tinyurl.com/QU202002A) for TPR's Annual Funding Statement 2020.

CASES AND DETERMINATIONS

High Court deals with two cases involving switching from RPI to CPI

This month, the High Court has handed down judgments in two cases involving pension schemes looking to switch from using the retail prices index (RPI) to the consumer prices index (CPI) as a measure of inflation. The first case looked at the inflation index in respect of the revaluation of pensions and the second case for pension increases.

In the first, *Carr* ([click here or visit tinyurl.com/QU202002N](https://www.tinyurl.com/QU202002N) for the full text of the judgment), the High Court examined 'hard-coding' and highlights the need for caution in construing rules which mix RPI and statutory increase wording without being clear as to which prevails.

In the second, *Ove Arup and Partners International Ltd* ([click here or visit tinyurl.com/QU202002X](https://www.tinyurl.com/QU202002X) for the full text of the judgment) the High Court considered the circumstances in which an index would be regarded as having been replaced. The court's decision was based on a construction that was informed by the wider provisions in the relevant rule.

Both cases emphasise the long running point that the interpretation of provisions imposing an obligation to apply increases calculated by reference to an index requires careful, case by case analysis.

ECJ Advocate General issues opinion on pension fund management services and VAT

An ECJ Advocate General has delivered an opinion (in *United Biscuits (Pension Trustees) Ltd and another v HMRC (Case C-235/19)*) that pension fund management services provided by non-insurers were not within the exemption from VAT. An Advocate General's opinion is not binding on the ECJ but such opinions are often followed by the court. We now wait for the ECJ's decision.

- [Click here or visit tinyurl.com/TMIP2005B](https://www.tinyurl.com/TMIP2005B) for the full text of the opinion.

JUNE 2020 IN PENSIONS

- **25 June 2020 - Finance Bill 2020: end date for Public Bill Committee proceedings** - the Finance Bill 2020 will be sent for scrutiny by a Public Bill Committee. Under a revised timetable for House of Commons business, the proceedings must end no later than 25 June 2020.
- **30 June 2020 - The Pensions Regulator's deadline on reviewing COVID-19 easements for pension scheme trustees, employers and providers** - part of TPR's response to the COVID-19 pandemic was to grant several easements relating to legislative and regulatory requirements on pension scheme trustees, employers and providers. TPR is committed to reviewing these easements by 30 June 2020.
- **30 June 2020 - Automatic enrolment: seafarers and offshore workers regulations intended to come into force** - annual legislation under which the automatic enrolment regime is applied to seafarers and offshore workers is expected to come into force on 30 June 2020.