

# THE MONTH IN PENSIONS

Keeping you on the cutting edge of  
developments in pensions

JULY 2020



## THE ROBOT WILL SEE YOU NOW

Have you noticed that customer service support is increasingly delivered online via chat rooms? For those who have ground teeth whilst waiting on hold to speak to someone, this 24/7 option may be appealing. It also suits many in younger demographics who are perfectly comfortable with text-based chat but dislike speaking on the phone (in a survey published last year 63% of Millennials said that live chat was their go-to customer service option). But how would you feel if you knew that you were chatting with a robot instead of a person?

In 2016, Oracle published research that suggested up to 80% of companies would be using chatbots by 2020. Are we there yet? Not quite. But some of the world's largest retailers are successfully deploying chatbots to augment their customer service. Up to a third of consumer queries can be successfully resolved without any human interaction. How long will it be before pension schemes catch up with the customer service revolution? Pension dashboards will probably be the key to unlocking a raft of pensions technology applications. Artificial intelligence could then be unleashed as a powerful tool to increase member engagement and improve communications.

## TRUSTEESHIP AND GOVERNANCE

### DWP review of DC default fund charge cap and standardised cost disclosure requirements

The DWP is calling for evidence on the effectiveness of defined contribution costs, charges and transparency measures in protecting pension member outcomes. Following a review of the charge cap in 2017 which resulted in the cap remaining at 0.75%, the DWP committed to reviewing the charge cap again this year. The call for evidence focuses on three key issues:

- the level and scope of the charge cap (in particular whether transaction costs and costs associated with the provision of non-standard add-ons (such as life assurance) should be included within the charge cap);
- fee structures (particularly the appropriateness of contribution charges and flat fees); and
- the use of standardised cost disclosure templates by asset managers when reporting costs to trustees (including measures to make the use of such templates mandatory).

- [Click here or visit tinyurl.com/GWLG200702](https://www.tinyurl.com/GWLG200702) for our Insight.

## PENSIONS POLICY

### Pension Schemes Bill 2019 - 21 delayed until autumn

The Pension Schemes Bill 2019 - 21 has received its third reading in the House of Lords. The DWP has confirmed that the Bill's second reading in the House of Commons will be "scheduled in due course". This means that it won't pass into law before the summer parliamentary recess and will be resumed when Parliament returns in September.

### Government consults on changes to public sector pension schemes

The government has issued three consultations on reforming public sector pension schemes. The first focuses on the local government pension scheme (LGPS). The second applies to a broad range of public sector pension schemes (including Civil Service Pensions, NHS Pensions and the Teachers' Pension Scheme (the last two in England and Wales only)). The third sets out proposals to reform judicial pension arrangements.

Whilst the consultations explore other issues, the main push on all three is to remove age discrimination after the courts found transitional protections given to older members in the judicial and firefighters' pension schemes directly discriminated against younger members in those schemes. The government says it is committed to fixing the discrimination as quickly as possible and welcomes views on how best to do this.

## PENSION BENEFITS AND TAXATION

### PLSA publish a simple guide to GMP equalisation

In a call to action, the Pensions and Lifetime Savings Association (PLSA) has published its Simple Guide to GMP Equalisation (the Guide). The Guide states that "schemes must ... now ... prepare to engage actively with the equalisation process". For the PLSA, that means going "beyond remaining compliant, to proactively prepare for the future". The Guide provides useful background to GMPs, explaining how they work and what particular issues arise with equalisation. The Guide also provides a high level summary of the various equalisation methods that are available.

- [Click here or visit \[tinyurl.com/PLSA2006\]\(https://tinyurl.com/PLSA2006\) for the PLSA's 'Simple Guide to GMP Equalisation'](#); and
- [Click here or visit \[tinyurl.com/GWLGP181029A\]\(https://tinyurl.com/GWLGP181029A\) for our introductory Insight on GMP equalisation.](#)

## PENSION DISPUTES

### High Court rectifies pension scheme's increase rules to remove hardwired RPI provisions

In *Univar UK Limited v Stephen Smith and others* [2020] EWHC 1596 (Ch) the High Court granted the application by Univar UK Limited to rectify the scheme's rules by deleting its reference to an inflation-linked pension increase calculation based on RPI and replacing it with a reference to statutory pension increase requirements. This means the scheme will only be required to pay statutory minimum pension increases. These are currently calculated by reference to the CPI. CPI usually produces a lower rate of increase than RPI and can therefore reduce a scheme's liabilities.

- [Click here or visit \[tinyurl.com/GWLGP200625\]\(https://tinyurl.com/GWLGP200625\) for our Insight](#); and
- [Click here or visit \[tinyurl.com/GWLGUNIVAR\]\(https://tinyurl.com/GWLGUNIVAR\) for the judgment.](#)

### Court of Appeal rules on equalisation

The Court of Appeal has found that Normal Pension Age (NPA) equalised at age 65 in Safeway Pension Scheme on 1 January 1996.

This was the date that section 62 of the Pensions Act 1995 (Section 62) came into force and inserted the equal treatment rule into scheme rules. The equal treatment rule conferred enforceable rights on scheme members to equalised levelled-up benefits. The Court of Appeal determined that this was an 'effective measure' (in line with the requirements set out in the ECJ judgment) that equalised NPAs at age 60. As a result:

- the Barber window for the Safeway Pension Scheme was closed on that date (i.e. 1 January 1996); and
- the Safeway scheme's equalisation deed (dated 2 May 1996) could have its intended retrospective effect to level down to a Normal Pension Age of 65 for men and women in the Safeway Pension Scheme on and from 1 January 1996.

Article 119 of the Treaty of Rome (now Article 157 of the TFEU) prevented the deed from having its full intended effect of equalising on and from 1 December 1991, but Section 62 nullified the effect of the treaty rights on and from its effective date.

An important point was that the Court agreed with Safeway Limited's submission that the coming into force of Section 62 was sufficient to close the window in this specific case, commenting:

"Even if EU law requires the Scheme itself to be modified, section 62 has this effect. It cannot make a difference that the modifications are initiated by Parliament rather than the administrators of the Scheme".

- [Click here or visit \[tinyurl.com/GWLGP200720\]\(https://tinyurl.com/GWLGP200720\) for our Insight](#); and
- [Click here or visit \[tinyurl.com/GWLGSafeway\]\(https://tinyurl.com/GWLGSafeway\) for the judgment.](#)

## AUGUST 2020 IN PENSIONS

- **1 August 2020 - Coronavirus Job Retention Scheme begins to taper off** - employers will be responsible for paying employer NICs and employer pension contributions from this date.
- **20 August 2020 - DWP consultation on charges closes** - responses need to be submitted by this date.
- **21 August 2020 - Consultation on RPI reform closes** - HM Treasury and the UK Statistics Authority's consultation on RPI methodology finishes.
- **31 August 2020 - Pension dashboards call for input closes** - The Pensions Dashboard Programme call for input on data standards on pensions dashboards.