CLIFFORD CHANCE

UK PENSIONS UPDATE 5 in 5 – DECEMBER 2024

Welcome to our rebranded newsletter: "UK Pensions Update: 5 in 5" where we deliver to you what you really need to know about the 5 key developments in UK pensions from the last quarter – digestible within 5 minutes!

1 Mansion House promises to progress pension reforms

The Chancellor is pressing ahead with the pensions review and last month published an interim report of the Pensions Investment Review setting out the initial findings of phase one, with proposals to create Canadian and Australian style defined contribution (**DC**) "mega funds" and consolidate the Local Government Pension Scheme funds. The interim report was accompanied by two new consultations[1] setting out proposals aimed to achieve this by:

- either imposing a maximum number of "defaults" which may be used by multi-employer DC schemes used for auto-enrolment or requiring such "defaults" to operate at a minimum size. The consultation is also considering whether the new rules should apply at **default arrangement/scheme** level or **default fund** level (as a default arrangement[2] may well have multiple default funds). **The requirements would not apply before 2030 at the earliest.**
- enable the transfer of assets from contract-based schemes to either other contract-based or trust-based schemes without individual member consent, subject to appropriate protections to be set out in FCA rules. **The timing for this is not specified.**

2 IHT reforms

The most notable pensions announcement from the Autumn Budget was a new consultation to reform the Inheritance Tax (**IHT**) treatment of pension funds from 6 April 2027.

The HMRC consultation intends to bring "most unused pension funds and death benefits" within the value of a person's estate for IHT purposes. Unused DC pension funds have been increasingly used and marketed as a tax planning tool to transfer wealth without an IHT charge so it is perhaps unsurprising that the government is now looking to stop that tax benefit. However, as drafted, the change would also potentially affect defined benefits (**DB**) lump sum death benefits (covering the traditional lump sum death in service benefits many schemes provide) regardless of whether the payment is discretionary, albeit it seems exemptions which e.g. generally permit transfers to spouses/civil partners as IHT exempt would remain. (If this change goes ahead, trustees may wish to consider reminding members to refresh their expression of wish forms, particularly where current forms specify someone who would not fall within pre-existing exemptions.)

The consultation does though then say that all life policy products purchased with pension funds or alongside them as part of a pension package offered by an employer would **not** be in scope, which could potentially cover a broad range of pension death benefits.

While the consultation is more focussed on the process aspects (information flow between the scheme administrators, HMRC and estate personal representatives, as well as changes in how IHT will be reported and paid) rather than the policy shift, it is hoped that the consultation will yield some clarity as to exactly which payments would fall within scope (and there are ongoing industry efforts to seek clarity here).

3 Dashboards

The Government has pledged its commitment[3] to the existing published timetable for pensions dashboards, with the government-backed MoneyHelper dashboard to be made available to the public before commercial dashboards become operational. The Pensions Dashboards Programme has also published updated versions of its reporting standards, data standards and code of connection.[4] This serves as a useful reminder that dashboards have not been forgotten by the current government and schemes will need to ensure they are ready to connect in time. (For more details, please see September edition of our newsletter).

[1] Unlocking the UK pensions market for growth and We are Local Government Pension Scheme in England and Wales: Fit for the future.

[2] Broadly, an arrangement of an auto-enrolment qualifying scheme where contributions are invested for members who have not expressed a choice to have their contributions invested elsewhere.

[3] https://questions-statements.parliament.uk/written-statements/detail/2024-10-22/hcws148

[4] Available here: https://www.pensionsdashboardsprogramme.org.uk/.

4 Data (Use and Access) Bill

A new data protection Bill has been introduced to the House of Lords. Most of its content has been carried over from the Data Protection and Digital Information Bill introduced by the Conservative Government in 2022. It proposes to introduce a new smart data framework; a new digital verification services framework to support the UK's digital identity ecosystem; various clarificatory tweaks to the UK's data protection regime; new powers for the UK's data protection regulator; and limited but important amendments to other legislation to remove barriers to the effective sharing and use of data in the public interest, notably in the contexts of healthcare, underground infrastructure, online safety and law enforcement.

While most of the changes fall into the above categories and are not specific to pension schemes, if the Bill progresses, there will be work to be done to understand any wider changes to the data protection regime that could impact the data protection duties of pension scheme trustees, employers and third parties providing services to them.

5 DB Funding Code comes into force

The Pensions Regulator's new DB Funding Code of Practice came into force on 12 November 2024. (Please see September edition of our newsletter for details.) Trustees of DB schemes with actuarial valuation dates on or after 22 September 2024 should use the new Code. This was followed by the Regulator's publication of:

- the final version of the scheme funding Fast Track submission tests and conditions, setting out the requirements a scheme must satisfy to meet the Fast Track parameters (these are substantially the same as those included in the draft published for consultation); and
- updated covenant guidance aligned with the new Code. The revised guidance contains new sections on cash flow, reasonable affordability, maximum affordable contributions, reliability period, covenant longevity and contingent assets. The Regulator expects trustees to use this guidance to check whether existing covenant analysis is focused in the right areas and remains proportionate, especially where a scheme has experienced a significant change in funding position in recent years.

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