

Aries Insights are often an opportunity to herald events to come, usually taking a look at what might be coming up in the year ahead. The sheer volume of changes in 2022 has, however, prompted us to repeat this exercise, even before we get through Q3.

### Collective Money Purchase / Defined Contribution Schemes – 1 Aug 2022

The **Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations 2022** ([SI 2022/255](#)) implement the framework for single or connected employer Collective Money Purchase (CMP) schemes (as provided for by the [Pension Schemes Act 2021](#)). The Pension Regulator's [Code of Practice](#) on 'authorisation and supervision of collective defined contribution schemes' is [in force](#) from 1 August 2022 – note the regulator's use of 'CDC', rather than employing the legislative term 'CMP'.

The **Occupational Pension Schemes (Collective Money Purchase Schemes) (Modifications and Consequential and Miscellaneous Amendments) Regulations 2022** ([SI 2022/337](#)) make several changes to existing legislation, including:

- Providing for a disclosure and publication regime for CMP schemes under the **Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013** ([SI 2013/2734](#)). Among the changes here are requirements for members to be informed that there is no guarantee as to the amount of benefit provided under the scheme and that

the level of pension benefits in a CMP scheme may be adjusted up or down.

- **Occupational Pension Schemes (Preservation of Benefit) Regulations 1991** ([SI 1991/167](#)) are [amended](#) to ensure that bulk transfers without member consent from a defined benefit (DB) scheme to a CMP scheme will not be permitted. However, bulk transfers without member consent out of a CMP scheme that is being wound up under [Continuity Option 1](#) will be permitted.
- **Occupational Pension Schemes (Transfer Values) Regulations 1996** ([SI 1996/1847](#)) are [altered](#) to prevent a member from seeking to transfer out of a CMP scheme that is being wound up. When the initial Cash Equivalent Transfer Value is given to a member, they must also be informed that a [3-week] [cooling-off period](#) applies. The member will be told that during this period no action will be taken to facilitate their transfer request and an explanation will be provided of the implications of leaving the scheme before Normal Pension Age when the full benefits of these schemes are realised. The member will also be signposted to the guidance offered by the Money and Pensions Service.
- CMP schemes are exempt from: the employer debt requirements (s.75 [Pensions Act 1995](#)); the subsisting rights provisions in sections 67 and 67A-I of PA95 which will not apply to any adjustment of benefits that may need to be made to benefits payable under the CMP scheme; and the scheme funding [requirements](#).

- **Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006** ([SI 2006/349](#)) are [amended](#) so that there will be no requirement to consult in respect of CMP benefit adjustments made in accordance with the latest actuarial valuation and the scheme rules.
- The **Occupational Pension Schemes (Investment) Regulations 2005** ([SI 2005/3378](#)) are amended [to reflect](#) the fact that CMP schemes will not have a default arrangement.
- The **Stakeholder Pension Schemes Regulations 2000** ([SI 2000/1403](#)) are [amended](#) so that a stakeholder scheme cannot be a CMP scheme.

### Fourth Climate Change Metric - 1 Oct 2022

Trustees of schemes subject to the climate change governance and reporting requirements must, within seven months of the end of each scheme year, produce a report (known as a 'TCFD report') in respect of that scheme year, published on a publicly accessible website.

As a minimum, trustees must select three metrics to help them understand and monitor the scheme's climate-related risks and opportunities. In respect of scheme years ending on or after 1 October 2022, the **Occupational Pension Schemes (Climate Change Governance and Reporting) (Amendment, Modification and Transitional Provision) Regulations 2022** ([SI 2022/733](#)) add a fourth metric: the 'portfolio alignment metric'. This measures the alignment of the scheme's assets with the ['Paris'](#) goal of limiting

the increase in the global average temperature to 1.5 degrees Celsius above pre-industrial levels.

In each scheme year, trustees 'as far as they are able' must:

- obtain the data required to calculate their selected portfolio alignment metric;
- use the data obtained to calculate that metric in relation to the scheme's assets; and
- use the metric they have calculated to identify and assess the climate-related risks and opportunities which are relevant to the scheme.

The requirements apply to all trust based occupational schemes with £1bn or more in ['relevant assets'](#), authorised master trusts, and authorised collective money purchase schemes.

#### **Simpler Annual Benefit Statements - 1 Oct 2022**

On or after 1 October 2022, [automatic enrolment schemes](#) providing only money purchase benefits [must issue](#) 'simpler annual benefit statements', no longer than one double-sided sheet of A4 paper when printed (note: the requirements do not apply to a member already in receipt of benefits).

When preparing this benefit statement, the trustees or managers of the scheme must have regard to the [statutory guidance](#) produced by the Secretary of State, which includes an illustrative template. What constitutes having regard in this context is not defined in legislation.

The template is divided into five sections covering: details about the member and the scheme; how

much is in the pension; how much could be had on retirement; how to achieve more money; more about the pension.

For more information please [request a copy](#) of our 'Aries Insight' on this topic.

#### **CMA Order Remedies - 1 Oct 2022**

The Competition and Markets Authority (CMA) published an [Order](#) (fully in force from 10 December 2019) to address adverse effects on competition in the markets for both Investment Consultant (IC) and Fiduciary Management (FM) services. There was a low level of engagement by some pension scheme trustees with investment matters, and information to assess value for money was difficult to access.

There are two CMA Order remedies that require action by trustees:

- 'Remedy One': mandatory competitive tendering for pension schemes first buying FM services or if they have not tendered previously.
- 'Remedy Seven': a duty on trustees to set their ICs strategic objectives.

The CMA also recommended that the DWP pass the necessary legislation to enable the Pensions Regulator (TPR) to oversee these two remedies. Although it has taken a while, the **Occupational Pension Schemes (Governance and Registration) (Amendment) Regulations 2022** ([SI 2022/825](#)) achieve this goal and integrate into pensions legislation both of these CMA Order remedies.

These Regulations amend the **Occupational Pension Schemes (Scheme Administration) Regulations 1996** ([SI 1996/1715](#)) and the **Register of Occupational and Personal Pension Schemes Regulations 2005** ([SI 2005/597](#)) to:

- require trustees of occupational pension schemes (a ["relevant trust scheme"](#)), subject to certain limited exceptions, to carry out a qualifying tender process for fiduciary management services (replacing 'Remedy One' of the CMA Order), set objectives for their investment consultants, and review performance against those objectives at least annually (replacing 'Remedy Seven');
- [include](#) as ["registrable information"](#) ([PA2004 s.59](#)): information concerning persons who provide fiduciary management services or investment consultancy services to the trustees of a relevant trust scheme; and
- allow the Pensions Regulator (TPR) to oversee the requirements.

#### **Amendments to PPF and FCF - Spring 2023**

The DWP is consulting on two changes to the Fraud Compensation Fund (FCF) and the Pension Protection Fund (PPF) regulations:

- inserting an additional prescribed liability that the Board of the PPF can make an interim payment for in order to cover scheme fees and costs while FCF claims are progressed;
- changing PPF provisions with regard to surviving child dependants so that a gap

between qualifying courses of more than one year does not result in the loss of PPF compensation.

### Consumer Duty - 31 July 2023

The Financial Conduct Authority (FCA) has confirmed a new '[Consumer Duty](#)' to set clearer standards of consumer protection across financial services. A new Consumer Principle will require firms to act to deliver good outcomes for retail customers.

[Guidance](#) has been published setting out the FCA's expectations and the four outcomes it wants to see under the Consumer Duty.

The Rules come into force on a phased basis:

- for new and existing products or services that are open to sale or renewal the rules come into force on 31 July 2023
- for closed products or services, the rules come into force on 31 July 2024.

### Dashboard Ready? - staging begins 31 Aug 23

The DWP has already [urged](#) trustees and managers "to ramp up their preparations for dashboards" even though we await final regulations, FCA rules and MaPS standards (the Pensions Dashboards Programme is [consulting](#) on standards, specification and technical requirements).

Once all the ducks are in a line, the Secretary of State will announce the 'Dashboards Available Point': when pensions dashboards services will be

made available to all members of the public. The Government has [stated](#) that this announcement "should not come as a surprise".

[Plans are afoot](#) to prohibit pension scheme trustees and managers from being indemnified against penalties imposed under Pensions Dashboards Regulations.

### GMP Conversion Act - regulations required

The [Pension Schemes \(Conversion of Guaranteed Minimum Pensions\) Act 2022](#) aims to clarify and streamline the GMP conversion process by:

- Clarifying that legislation applies to survivors as well as earners (*currently it is unclear*).
- Providing a power for regulations to set the conditions to be met in relation to survivors' benefits.
- Providing a power for regulations to set out details about who must consent to conversion (*to overcome circumstances in which the scheme sponsor no longer exists - currently employer consent is required before conversion can be undertaken*).
- Removing the requirement to notify HMRC that conversion has been carried out (*the new State Pension means that HMRC do not need to be informed about changes to GMPs*).

Regulations are required for the Act to have any practical effect - the necessary powers came into force on 28 April 2022. The Government has [confirmed](#) it will consult before introducing

regulations, but has given no indication of when this can be expected.

### TPR's Single Code - Autumn 2022?

TPR has [long](#) worked on consolidating ten of its [Codes of Practice](#) into one 'Single Code'. 'Consolidation' perhaps oversimplifies this mammoth exercise, which will fillet and reform the existing Codes into around 50 shorter, topic focused modules.

Aside from the desirability of removing duplicated and unnecessary text, the exercise was stimulated by **the Occupational Pension Schemes (Governance) (Amendment) Regulations 2018 (SI 2018/1103)**, which have been in force since 13 January 2019. They require occupational schemes with 100 or more members to establish an Effective System of Governance (ESOG), including internal controls. The Single Code will herald the need for these schemes to undertake and document an 'Own Risk Assessment', within 12 months of the Code coming into force.

Codes slated for amalgamation into the Single Code are: 01 Reporting Breaches; 04 Early Leavers; 05 and 06 Late Payment of Contributions; 07 Trustee Knowledge and Understanding; 08 Member-nominated Trustees; 09 Internal Controls; 11 Dispute Resolution; 13 Governance and Administration of DC; and 14 Governance and Administration of Public Service Schemes.

TPR has provided a [useful table](#) shows the transposition of existing Codes into the Single Code.

## Changes to Defined Benefit Funding - 2023

On 26 July 2022, the DWP finally [launched](#) its consultation on the [draft Occupational Pension Schemes \(Funding and Investment Strategy and Amendment\) Regulations 2023](#). Proposals will require DB schemes to: have a [funding and investment strategy](#); submit a [statement of strategy](#) to TPR; and [appoint a Chair](#) where one is not already in place (the Chair must sign the statement of strategy).

The funding and investment strategy will primarily show how the trustees or managers are pursuing a low dependency on the sponsoring employer and when the scheme is expected to reach 'significant maturity'.

The statement of strategy will contain the funding and investment strategy (Part 1) and also a number of specified ['supplementary matters'](#) (Part 2).

The consultation exercise ends on 17 October 2022 and provides the green light for TPR to focus on the much-delayed second half of its [consultation](#) on a revised **DB Funding Code of Practice** (an exercise expected to begin 'in the autumn').

## Notifiable Events - unknown

The DWP has [consulted](#) on [draft Pensions Regulator \(Notifiable Events\) \(Amendment\) Regulations 2021](#) (which stem from the Pension Schemes Act 2021, [Part 3](#)). The intention was for changes to be in force on 6 April 2022. This date came and went, respondents' concerns seemingly prompting a change of tack. The Government plans to release final legislation 'in due course'.

## Performance Fees - unknown

The Government has consulted on changes to the regulatory charge cap that applies to the default funds of occupational defined contribution pension schemes used for automatic enrolment. The plan is to add 'performance fees' to the [list of charges](#) exempted from the charge cap. It is hoped this exemption will only capture "*well-designed performance fees that are paid when an asset manager exceeds pre-determined performance targets*".

[Consultation](#) on these proposals ended on 18 January 2022. With no official response (on this aspect) or ensuing consultation on draft legislation, it appears this may not be in force from the intended date of 1 October 2022.

## Keeping Track

The above considers the position at the end of July 2022. [Please do get in touch](#) if you would like to see how the Aries Insight service could help you keep pace with, and apply, the changes to come.

## Did you find this Aries Insight useful?

If so, please share it with your colleagues and let them know that more information is available from the [Aries Pensions System](#).

If you have any suggestions for topics that you would like to see covered in a future Aries Insight, then please [let us know](#).

Aries Insight produces these 'Insights' for Aries Members to highlight key legislative changes and other topics of interest. ***As they are only short articles, they cannot always cover every aspect of the topic being discussed and must not be considered as legal or financial advice.***

All Aries Insights are intended to reflect the position as at the date the Insight was issued. Please consider the possibility that the relevant legislation may have changed since an Insight was issued.

**Aries Insight - July 2022**

