SLAUGHTER AND MAY/

PENSIONS ESSENTIALS

September 2024

QUICK LINKS

REVISED STATEMENT OF STRATEGY TEMPLATES

The Pensions Regulator has published its interim response to the statement of strategy consultation published in March. Trustees will be required to submit their statement of strategy and scheme actuarial valuation via a new digital service, which is expected to go live in spring 2025. To help trustees understand what they will need to provide in due course, the Regulator has published four illustrative statement of strategy templates.

Under the new funding and investment strategy requirement, which applies to valuations with effective dates on or after 22 September 2024, trustees must send a statement of strategy to the Regulator within 15 months of the valuation date. The statement of strategy must be submitted in the form set out by the Regulator, which the Regulator has now confirmed means in digital form using the Regulator's new digital service, to be launched in spring 2025. Schemes with a valuation date on or after 22 September should not use the Regulator's existing digital systems to submit their statement of strategy or valuation documents but should wait for the new service to be launched. The Regulator has confirmed it will not treat schemes in that position as being in breach of the legislative requirements if there is a delay in submission because the new service is not yet live.

To help trustees understand what they need to do, the Regulator has published four illustrative statement of strategy templates, which differ depending on whether the scheme is adopting the Fast Track or the Bespoke approach, and whether the scheme's valuation date is before, or on or after, its "relevant date" (being the date on which the scheme reaches significant maturity). Although the appearance of the final templates may change, the information and data required in them will not. Trustees should, therefore, familiarise themselves with their content.

The Regulator has said it will publish a full response to its consultation in the winter which will outline the responses it received from industry and its consideration of those responses. Nevertheless, we are pleased to see that many of the comments we made in our response appear to have been taken on board when preparing the final templates. In particular:

- Part 1 of the statement of strategy has been trimmed down, to meet what is legally required under the regulations, and is broadly consistent across all four templates.
- The Regulator has removed much of the narrative explaining the legal requirements, which rendered the document unduly complicated, and was unnecessary in a statement which is being produced for the Regulator rather than for members.
- Trustees will need to complete a free text box to describe their scheme's long term objective, instead of choosing one of a limited list of prescribed options. This should alleviate concerns from sponsors about including unqualified commitments to buy out or buy in, which could have negative implications for corporate accounting.

Overall, trustees will have more scope to tailor their submission to their scheme's particular circumstances. Whilst the quantity of information that must be included in Part 2 of the statement of strategy remains significant, there have been some relaxations, including:

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- Small schemes (defined as those with 200 members or fewer, excluding lump sum death benefit only members, DC-only members in hybrid schemes and fully insured annuitants not included in the scheme's liabilities) and certain other low-risk schemes will not need to provide detailed covenant information. These include schemes in surplus on a low dependency funding basis after applying an immediate stress test.
- Small schemes and those adopting a Fast Track approach will no longer be required to submit cashflow information. Other schemes will only need to provide 40 years of cashflows.
- Cashflows for future service will no longer be required, but schemes open to accrual will have to provide total pensionable salaries and future service contribution rate as at the valuation date.
- There will no longer be a requirement to submit information regarding currency hedging.
- Multi-employer schemes will be able to aggregate covenant data and to decide whether to explain this approach. Further information on this will be included in the revised covenant guidance, which the Regulator expects to publish "in the next few months".
- Non-segregated, non-associated multi-employer schemes will not be required to submit employer cashflows in the same format as other schemes - instead they will need to submit a summary of the trustees' assessment of supportable risk over the reliability period.

In its *press release* the Regulator said that whilst the general election and ongoing party conference season means the *DB Funding Code* will not legally be in force until the end of November, it nevertheless expects those 118 schemes who will become subject to the new requirements before the Code comes into force to comply with its requirements.

Practical points:

- *Begin to consider what information will be required in the statement of strategy and who will provide any new information needed.*
- *Allow plenty of time for joined-up actuarial, covenant and legal advice in relation to the new regime.*

UPDATED SUPERFUND GUIDANCE

The Pensions Regulator has updated its guidance for those setting up and running a superfund. The changes are intended to encourage entrants to the market by enabling capital to be released to investors in a wider range of circumstances.

The new Government has committed to enacting legislation in relation to DB superfunds to facilitate the consolidation of smaller schemes. However, this legislation has been promised for some time and in 2020, the Pensions Regulator published interim guidance for both commercial operators of superfunds and sponsors and trustees looking to transfer to them. Following engagement with industry, the guidance was updated last year.

The Regulator has now further updated the guidance for those setting up and operating superfunds. There are three key changes in the revised guidance:

- **Capital Release:** Previously the guidance provided that capital could only be released to investors when benefits were bought out. The new version will allow capital release up to twice a year and when a funding test has been met. The funding test will require funding and the capital buffer to exceed the levels required under the guidance by 33% of the minimum capital buffer. This level has been set "*to encourage a thriving and competitive superfund market while still maintaining a 99% probability of meeting members' benefits*".
- **Standalone Principle:** Previously, where a new scheme transferred to a superfund, fresh capital had to be provided at a level which, when added to the value of the transaction, would satisfy capital requirements when considering the transferring scheme in isolation. This standalone test is no longer required as long as the superfund as a whole is funded above the level at which capital might be released.
- **Reduced capital adequacy:** The standard capital adequacy requirements can now be relaxed where a sponsoring employer becomes insolvent and the scheme is unable to afford full buyout or enter a superfund on full capital

adequacy terms. However, trustees will need to be confident that the transaction is in members' best interests and that the level of benefits would represent a material improvement from buying out with an insurer.

This guidance should facilitate superfund models which are not focussed on getting schemes to buy-out but designed to run-on transferring schemes. Previously, there was limited opportunity for value to be extracted by investors from such models and they failed to get authorisation from the Pensions Regulator. It will be interesting to see if the new guidance attracts new entrants to the market.

It will also be interesting to see if the Government's promised legislation reflects the Regulator's guidance. The assumption is that as the Regulator's guidance was revised following industry engagement, the Government will take the developments on board.

Practical points:

- *Have regard to guidance if transfer to a superfund is being considered.*
- *Be aware of the new options on sponsor insolvency.*

VALUE FOR MONEY FRAMEWORK

The FCA is consulting on a value for money framework.

In 2021 the FCA and the Pensions Regulator issued a joint discussion paper on a framework and possible metrics to assess value for money across all DC schemes. The intention is that requiring schemes to consistently measure and disclose performance should reduce the number of members in DC auto-enrolment schemes that are delivering poor value and drive better value for money across the industry through greater scrutiny and competition by focussing on long-term value rather than cost.

The regulators and successive governments have remained committed to these proposals and in July the King's Speech announced that the new Pension Schemes Bill would introduce "*a standardised test*" for occupational DC schemes to demonstrate they deliver value and the same test would be implemented by the FCA in relation to personal pensions.

The FCA has now begun consultation on what the new value for money (**VfM**) framework will look like in the context of personal pension schemes and the Pension Schemes Bill should contain similar provisions for occupational pension schemes.

The in-scope arrangements of the new VfM requirements are default funds and arrangements that look like default funds within older pre-auto-enrolment schemes that meet specified requirements. Arrangements with under 1,000 members will be exempt unless they are a scheme's only or largest default fund.

There are 4 key elements to the new proposals:

- **Measurement and disclosure:** Consistent measurement and public disclosure of investment performance, costs and service quality by firms should allow VfM to be assessed effectively.

  The new disclosures will require a lot of information. Arrangements will need to disclose gross investment performance in three different ways: net only of transaction costs; net of investment charges; and net of all costs and charges. Figures will need to be shown over periods of 1, 3 and 5 years, with 10 and 15 years also shown if reasonably practicable. Firms should also show the figures for different cohorts with 30, 5 and 0 years to retirement. All calculations should be made for the period ending 31 December and standard risk metrics will also be required. Costs and charges information will have to be given over the same periods and for the same cohorts.

  Disclosures will also be needed in relation to quality of service. It is more difficult to collect objective data about this but the FCA proposes looking at things such as quality of data, promptness and accuracy of core financial transactions, member complaints, members using services on retirement planning and engaging with their pensions.

  There are additional requirements in relation to asset allocation but these will not form part of the VfM assessment and do not apply to arrangements which have been designed for a specific employer so it is not clear how they will map across to the occupational pensions world.

- **Assessment of performance against other arrangements**: Comparisons will need to be with arrangements offered by at least 3 other providers and the FCA encourages the use of more. At least two of the providers will need to have total DC workplace pension assets above £10bn. In addition, there will need to be a comparison against at least 1 contract-based and at least 1 trust-based arrangement.

  Once comparators are identified there is a 4 stage assessment process to compare whether an arrangement offers value when compared to them. It will look at value delivered from investment performance, value from services, provisional overall value and a red, amber or green rating allocated depending on the outcome. Green will represent VfM, red not VfM with no prospect of improvement within a reasonable time and amber that the arrangement can be improved within a reasonable period of time.

- **Public disclosure of assessment outcomes:** There are detailed requirements on what would need to be published and when but it is proposed that there will be a reporting cycle based on the calendar year, with a reporting end date of 31 December and each metric calculated will be a snapshot as of 31 December. Firms will be required to publish by 31 March their collated data up to 31 December of the previous year.

- **Actions where arrangement does not provide VfM**: Providers will need to notify contributing employers and close to new business. Both red and amber rated arrangements will also need to submit an action plan to the FCA.

Consultation is open until 17 October 2024 and trustees and sponsors of occupational pension schemes are also encouraged to respond as it will inform the regime that applies to them. The Pensions Regulator has also urged engagement to help ensure that the final version works for occupational pension schemes.

Practical points:

- *Although the consultation relates to the personal pensions world, similar requirements are coming for occupational pension schemes.*
- *Consider whether to respond to the consultation.*
- *Be aware of the amount of information required and consider how to collect it.*

UPDATE ON LIFETIME ALLOWANCE ABOLITION

The lifetime allowance which limited total pensions savings across all registered schemes that an individual could accumulate without incurring additional tax was abolished with effect from 6 April 2024. It was replaced by two new allowances restricting the level of tax free lump sums that can be paid to or in respect of a member. The lifetime allowance was an integral part of the Finance Act 2004 tax regime and its removal has not proved straightforward. HMRC has now confirmed that it has consulted on additional amending regulations which will be introduced as soon as Parliamentary time allows. These will correct known issues with the current legislation and ensure that the new regime operates as intended and will have retrospective effect to 6 April 2024.

Amongst those items expected to be covered by the new regulations will be changes to:

- Allow members with enhanced protection to transfer their pension savings to a new provider whilst retaining their protection. The transferring scheme will need to inform the receiving scheme about the member's permitted maximum, as at 5 April 2023 or 5 April 2024, as appropriate.
- Correct how scheme-specific lump sums are treated for the purposes of the lump sum allowance so that certain benefits are no longer double-counted in the protection calculation, thereby overstating the protected amounts.
- Require members to provide a copy of their transitional tax-free amount certificate (**TTFAC**) to all their pension scheme administrators and to inform those administrators where their TTFAC is subsequently cancelled. Individuals will also be able to apply to their annuity provider for a TTFAC.
- Provide that where a pensions commencement lump sum, trivial commutation lump sum or winding up lump sum has been paid in reliance on an incorrect TTFAC which is then revoked, it will be treated as an authorised payment, to be taxed at the member's marginal rate.

- Ensure that any pension commencement lump sum or tax-free part of an uncrystallised funds pension lump sum paid after age 75 is included when calculating a member's transitional tax-free amount to be shown on a TTFAC.
- Ensure that funds crystallised as drawdown prior to 6 April 2024 will not be counted against the overseas transfer allowance and to provide that the overseas transfer allowance will be reduced by pre A-Day rights where there has been no benefit crystallisation event between 6 April 2006 and 5 April 2024.
- Ensure that lump sum death benefits paid from funds which crystallised before 6 April 2024 can be paid tax-free without the unintended application of the "permitted maximum". This is relevant to, for example, lump sums paid from drawdown funds.

Practical points:

- *Look out for the final regulations and prepare to update relevant processes, especially in relation to TTFACs.*
- *Get ready to communicate with members affected by the current problems with the legislation, who may have been waiting for these regulations in order to proceed with transfers or retirements.*

PROGRESS ON PENSIONS DASHBOARDS

With 2025 as the year that most schemes are expected to connect to the dashboards in line with DWP guidance, there continues to be a drip feed of new guidance and publications. The Pensions Regulator has recently said that it plans to get in touch with hundreds of schemes in the autumn to ask them how they are ensuring that their data is dashboard ready and has published the final version of its dashboard compliance and enforcement policy. In addition the Pensions Dashboards Programme has published updated technical standards and a code of connection setting out the mechanics of how schemes will need to connect to the dashboard ecosystem.

The Pensions Regulator has said that: "*In a landscape where automatic enrolment means more people start saving sooner, and may end up with multiple pots, it is vital they can find a complete picture of their pensions in one place*" which means that schemes need to ensure that are able to comply with their dashboard duties. It acknowledges that many schemes are working towards ensuring they have the data that will be needed but says it "*cannot be right that with the connection dates approaching, there are still some schemes not measuring their data or trying hard to improve it*". To address this, the Regulator is planning to engage with a large number of schemes over the autumn and ask what steps they are taking to ensure data is dashboard-ready. Where a scheme has not taken enough action, the Regulator says that it may consider taking regulatory action.

The Regulator has powers not only to pursue trustees for non-compliance but may take action against third parties such as employers and administrators where it considers that they are at fault. Its new compliance and enforcement policy says that the Regulator will focus on the behaviours or breaches that it considers pose the greatest risk to members' abilities to receive a complete and accurate picture of their pensions, and therefore make appropriate decisions. It will focus on "*connection compliance*" which includes schemes not connecting by the connection deadline, trustees being unable to demonstrate they have had regard to DWP's guidance on connection and a scheme failing to fully connect or remain connected to dashboards.

Trustees and administrators will also need to ensure that they have appropriate governance standards in place around the dashboards and this includes:

- Keeping records about any decisions taken by scheme, including related advice or information received.
- Having a risk management function in place, including identifying, evaluating and recording risks, with appropriate internal controls to mitigate the key risks and monitor them.
- Having appropriate controls when selecting, appointing and managing service providers.
- Reviewing and assessing the quality of their data from multiple dimensions and putting adequate controls around them.
- Having processes in place to identify breaches of the law and if necessary, reporting them to the Regulator.

The Regulator also says that it will take "*an interest where a scheme is failing to find a pension for a saver when they should*" or where they "*fail to provide data in line with legal requirements, and where the value provided is not sufficiently recent.*"

The updated technical standards and code of connection set out how data and dashboard providers will interface with the central digital architecture of the dashboards and with each other, as well as the mandatory requirements for schemes and dashboard providers to connect and remain connected to the dashboards.

***Practical points*:**

- *Ensure you have a dashboard project plan in place.*
- *Data is key so consider the extent to which your data is dashboard ready and can be digitally searched.*

PENSIONS INVESTMENT REVIEW

In July, the Chancellor announced that she would undertake a pensions review which would initially consider how assets in both the Local Government Pension Scheme and DC schemes could be invested in UK businesses. A call for evidence has been launched to seek information to inform this phase of the review and poses some interesting questions.

The Chancellor's pensions review will be led by the Pensions Minister and will focus on defined contribution workplace schemes and the Local Government Pension Scheme. It is intended to engage extensively with stakeholders and as part of this process, Government has invited views on a number of issues including:

- The potential advantages and risks for UK pension savers and UK economic growth from a more consolidated future DC market consisting of a higher concentration of savers and assets in schemes or providers with scale.
- The role of single employer trusts (or conventional occupational pension schemes) in a more consolidated DC market.
- The role of master trusts and GPPs in the future pensions landscape and who is more likely to adopt new investment strategies that include exposure to UK productive assets.
- Barriers to commercial or regulation-driven consolidation in the DC market, including competitive and legal factors.
- The case for Government interventions designed to encourage pension schemes to increase their investment budgets in order to seek higher investment returns from a wider range of asset classes.
- The potential for a more consolidated workplace DC market, combined with an increased focus on net investment returns to increase net investment in UK asset classes and the potential impacts of such an increase on UK growth.
- The main factors behind changing patterns of UK pension fund investment in UK asset classes.
- The case for establishing additional incentives or requirements aimed at raising the portfolio allocations of DC and LGPS funds to UK assets or particular UK asset classes.

As expected, the focus is on the ways in which DC and LGPS assets could be invested in UK companies. However, it is slightly disturbing that there are no questions on how risk and reward could be balanced in this context and the interests of savers protected. It is also interesting that the Government has asked whether there is a role in the future for conventional occupational DC schemes at all or whether, presumably, they should all be consolidated into large commercial schemes.

The review could lead to interesting outcomes or nothing at all so it will be interesting to see what happens in the coming months. It will also be interesting to see later this year what the promised second half of the review, looking at DC member outcomes, will focus on.

***Practical points*:**

- *Watch out for more from the Government on investment.*

- *Look out for the second part of the review promised later this year.*

PREPARING FOR CHANGES TO NORMAL MINIMUM PENSION AGE

The minimum age at which most people can take their pension (other than on ill health grounds) is currently age 55. However, this is due to rise to age 57 on 6 April 2028. However, some members may retain a right to a lower pension age. It is clearly important for trustees and members to understand what the minimum retirement age is in their scheme and the Pensions Administration Standards Association has published guidance on preparing for the change.

Normal minimum pension age (**NMPA**) is the earliest age at which most individuals can take their pension from a registered pension scheme. It will rise from age 55 to age 57 on 6 April 2028. That might seem like quite a long way in the future, but there are things that schemes need to think about before then.

Some members may be entitled to retain an NMPA of 55 if the scheme rules included a provision allowing payment of benefits before age 57 on 11 February 2021 and, prior to 4 November 2021, the member had an unqualified right to take a pension or lump before age 57. An unqualified right in this context means that no employer or trustee consent is required to take the benefit.

If a member with a protected pension age takes an individual transfer of their benefits on or after 4 November 2021, that protected pension age can also apply in the receiving scheme, although in the case of an individual transfer it will only apply to amounts derived from the sums and assets transferred. Receiving schemes do not need to provide members with a lower pension age but may have agreed to do so when they accepted the transfer credit.

Where members currently have a right to retire before age 55 (because their scheme rules provided for a lower retirement age before the NMPA was increased from age 50 to 55 in 2010), they will be unaffected by the change in 2028 and the conditions in relation to retaining the lower pension age also remain unchanged.

As a starting point, trustees need to ensure that they know what the minimum pension age is for different categories of member under their scheme rules, including any entitlement to protected pension ages. They also need to consider whether any members who have transferred in have a different minimum pension age in relation to some or all of their benefits.

The new guidance from PASA highlights a number of issues for trustees and administrators to consider in relation to transfers in and highlights the differences in the protections that apply depending on whether the transfer was a block transfer or an individual transfer.

In addition, it sets out a checklist of things to be thinking about now, including:

- **Scheme rules**: Review and consider impact of the change.
- **Communications**: Consider reviewing benefit statements to reflect the change and ensure that members have clear information to plan their retirements. Trustees might also want to review other member facing communications such as the scheme booklet and consider whether further communications are needed to explain to members what is happening. Also review whether any changes are needed to wake up packs. If there are modelling tools used on scheme websites, these may also need to be updated.
- **Transfer packs**: These should contain information on the impact of transferring benefits on the minimum pension age applicable to the member.
- **Administration systems**: These need to record the minimum age applicable to the member and, possibly, different tranches applicable to different ages (e.g. where the member has transferred benefits into the scheme).

Practical points:

- *Review member communications and decide what needs to be communicated and when.*
- *Ensure admin systems properly reflect the minimum pension ages applicable to members.*

2025/26 PENSION PROTECTION FUND LEVY CONSULTATION

The Pension Protection Fund (PPF) has launched a consultation on the 2025/26 levy proposing a £100m levy estimate, equalling the lowest levy ever (set last year). The consultation notes that the PPF's existing level of funding and current level of future claims support the case for a zero levy but a change in legislation would be required to permit this. The PPF and others in the industry remain committed to work with the Government to secure the changes required to allow the levy to be reduced further.

To avoid reducing the number of schemes paying the risk-based levy, some changes are being proposed to the levy calculation method. Whilst these will alter the distribution of the levy, the PPF expects schemes to pay broadly the same scheme-based levy as in 2024/25. Of the around 37% of schemes that pay the risk-based levy, 63% will see a decrease whilst only 5% will see an increase of more than 0.01 per cent of liabilities. The proposed changes are:

- To reduce the levy scaling factor from 0.40 to 0.35.
- To increase the scheme-based levy multiplier from 0.000015 to 0.000018.

These small adjustments are intended to keep the scheme-based levy within the legislative maximum of 20 per cent of the total levy.

- The risk-based levy cap will remain at 0.25% of scheme liabilities.

Following comments received during last year's consultation, the PPF has said it is open to considering applications for a waiver of the levy from schemes that have completed a full insurance buy-in. Furthermore, although only minor changes will be made to the alternative covenant scheme (**ACS**) guidance and stress and liability factors at present, the PPF has committed to undertake a fuller review of its ACS methodology and rules once the superfund legislation expected in the Pension Schemes Bill comes into force.

The consultation closes on 23 October 2024 with the final rules due to be published in December 2024.

Practical points:

- *Consider whether to respond to the consultation.*
- *Watch out for proposed legislative change to the calculation of the levy.*

WATCH LIST

For upcoming developments see our new pensions horizon scanning webpage.

No	Topic	Effective date or expected effective date	Further information/action
1	Changes to DC scheme governance and disclosure	2024/25	Anticipated that wording for new value for money framework in occupational pension schemes will be included in a new Pension Schemes Bill. The FCA is currently consulting on the requirements for personal pension schemes. Draft legislation on consolidating small DC deferred pots also expected in the Bill, along with new obligations in relation to decumulation options.
2	DB consolidation	2024/25 Public consolidator to be established by 2026, consultation on features closed on 19 April 2024.	TPR further updated interim superfund guidance -issued July 2024. Draft legislation on superfunds expected in Pension Schemes Bill.
3	Changes to pensions tax allowances	Lifetime allowance removed on 6 April 2024 and two new tax-free cash allowances introduced.	Further amending regulations expected in 2024/25.
4	Repayment of surplus	The reduction in the tax charge took effect on 6 April 2024. Consultation closed on 19 April 2024.	Tax charge on repaying surplus reduced from 35% to 25%. Consultation has closed on facilitating repayment of surplus in ongoing schemes. There is no reference to legislation being included in any forthcoming Bill.
5	Funding and investment strategy requirements for DB schemes	Legislation came into force 6 April 2024. Funding and investment strategy in place 15 months from date of the first valuation obtained on or after 22 September 2024. Revised Code of Practice from TPR will come into force late November 2024.	Consultation on covenant guidance expected later in 2024. TPR has consulted on the form of the strategy statement and four illustrative templates were published on 23 September 2024. The first statements will need to be submitted electronically in spring 2025.

No	Topic	Effective date or expected effective date	Further information/action
6	Notifiable events for DB schemes on corporate and financing activity	Significant uncertainty about publication of government response to consultation on draft Notifiable Events (Amendment) Regulations.	TPR will consult on update to Code of Practice 2 (Notifiable Events) and accompanying guidance once DWP have published their finalised regulations and consultation response.
7	Pensions dashboards	Compulsory connection deadline of 31 October 2026 for schemes with 100 or more active and/or deferred members at year end between 1 April 2023 and 31 March 2024; staging timetable set out in DWP guidance.	All registrable UK-based schemes with active and/or deferred members.
8	Corporate transparency	The Economic Crime and Corporate Transparency Act 2023 introduces requirements on identity verification, corporate directors and limited partnerships. The requirement to have a registered email address and for registered offices to meet certain requirements came into force on 4 March 2024. Other provisions are due to come into force later in 2024.	All corporate trustees and schemes using Scottish Limited Partnerships. More detail about what the Act requires can be found in our briefing.

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