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Current issues

January 2025

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Knocked out of phase

Rumour, and the *Financial Times*, has it that the Department of Work and Pensions (DWP) has postponed the second phase of its pensions review, on the instructions of the Chancellor of the Exchequer.[1] It seems that she is conscious of additional burden on businesses from her decision to increase secondary Class 1 (employer's) National Insurance Contributions, and doesn't want to add further encumbrance.

Phase 2 of the pensions review was originally set to begin before the end of 2024. Its terms of reference are slated to include pensions adequacy, meaning that it's almost certain to reassess the minimum money purchase contributions required for compliance with automatic enrolment duties: hence the reported concern that it would increase financial demands upon employers.

The decision to postpone the next stage of the review had not been officially confirmed at the time of writing.[2] The *FT* quotes DWP officials as saying that the adequacy phase of the review is not being 'long-grassed', but committing to nothing more that the '*Government will set out more details... in due course.*'

A prolonged, open-ended delay would be damaging for industry confidence in the potential for meaningful change. More importantly, it defers better retirement prospects for millions of people. Retirement adequacy is an enormous issue for the generation heading towards retirement, and will remain an ongoing concern for future governments and UK society as a whole.

[1] '*Rachel Reeves puts pensions review on hold to avoid extra burden on UK business*', *Financial Times*, 14 December 2024, <https://on.ft.com/3OX8XZK> (subscription required).

[2] Baroness Sherlock, the Government's spokesperson in the House of Lords, was subsequently asked to confirm that Phase 2 had been paused, but declined the opportunity to say so. Notably, however, she also refused, politely, to say when Phase 2 might commence.

We urge the Government, if it must pause, to take the opportunity to design an independent pensions commission, as recommended in our recent policy paper.

Levy decision deferred, raising hopes for reprieve

The Pension Protection Fund (PPF) has decided to take more time to settle the details of its levies for 2025/26. It says that it has been '*working closely with the DWP*' (Department for Work and Pensions) on its options, which include potentially reducing the £100m levy estimate that was announced in September 2024. It plans to finalize the details of the levies by the end of January 2025.

The PPF's immediate issue (as made clear in the 'Notes to editors' in its press release) is with the 25 per cent limit on year-on-year increases to the levy estimate, a cap which is contained in primary legislation. The PPF has said that, given its current, healthy funding position, it would otherwise reduce the levy estimate, potentially to zero. However, the limit constrains its ability to increase the levy again, speedily, if economic conditions should suddenly deteriorate. The PPF initially therefore proposed to set the 2025/26 levy estimate at £100m, for the second year running—that being as low as it felt it could comfortably go without sacrificing its ability to resume collection of a more-significant amount, relatively quickly. It had to make adjustments to its formulae to get '£100m' as the answer to its calculations.[3]

There's provision for the DWP to change the 25% limit 'by order'—that is to say, using secondary or delegated legislation. The power to make that change is not currently in force, and would itself have to be switched on by a DWP commencement order. Thereafter, the percentage-setting power could only be exercised with the Treasury's approval and after a consultation exercise, and then the draft order would have to be laid before Parliament and approved by a resolution of each House.

So, the steps required to give the PPF the reassurance that it needs are perhaps not as readily achievable as one might hope, but they don't need to wait for the DWP to insert a clause into a pensions bill and successfully shepherd that through to Royal Assent. Of course, if the PPF were to reduce the levy all the way to zero, that would currently preclude it from raising any levy in the future—it wouldn't matter how high the cap on year-on-year increases was set. A change there will indeed require primary legislation (the same goes for the requirement that the PPF must try to rake in at least 80% of the total levy receipts via the risk-based element).

We hope that the DWP can give the PPF the confidence necessary for it to reset the levies at a more empirically determined level. At a time when the employer National Insurance bill is going up, and investment in UK growth is needed, it would be especially good to release UK businesses from unnecessary costs.

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[3] See '*PPF targets £100m of levies*', again, in *Current Issues* October 2024.

A flood of festive funding fun

The closing months of 2024 saw final milestones passed, last puzzle pieces emplaced, the picture completed and other well-worn cliches exposed to further attrition in connection with the new defined benefit (DB) scheme funding rules. In quick succession, the Pensions Regulator had its Code of Practice brought officially into effect, installed a final version of its 'Fast Track' valuation compliance standards on its website, and published a doorstep-sized guide to employer-covenant assessment.

Code coda

The Code was essentially finalized by the end of July 2024, when it was laid before Parliament (there was a theoretical possibility that MPs and Peers would reject it). At the same time, it was published on the Regulator's website, and trustees were told to use it for valuations at dates on or after 22 September. However, it wasn't until 12 November 2024 that the Code was formally brought into effect, by the *Pensions Act 2004 (Code of Practice) (Defined Benefit Funding) Appointed Day Order 2024*.[4]

There are still some remaining matters to be settled—OK, OK, missing pieces of the jigsaw—before the first valuations of the new era can be submitted to the Regulator (see below for more details).

Side-tracked

The Regulator established the Fast Track compliance option as a filter for schemes that are within parameters that ought to mean that they are relatively low-risk, and need only minimal scrutiny. A 'Bespoke' alternative is available for those that need or desire extra flexibility (at the cost of closer critical examination). The finalized Fast Track parameters were issued together with the Code, in July 2024, as an appendix to a report on the outcome of the Fast Track consultation exercise.

On 20 November, the Regulator published the Fast Track submission tests and conditions as a separate piece of guidance, with '*minor amendments*'. The announcement explains that it has relocated some contextual notes and definitions, and has rephrased some parts to clarify its intentions, in response to industry feedback.

'I establish my covenant [guidance] with you'

The funding reforms make employer-covenant assessment a formal requirement, and it receives commensurate attention in the new Code. The Regulator has revised its covenant-assessment guidance accordingly.

The updated guidance is lengthy, but has been split into sections. The modules cover how to determine the nature and extent of employers' legal obligations to their DB schemes; assessment of employers' projected cash flows and prospects; covenant reliability (the period of reasonable certainty about cash flows) and longevity (how long support for the scheme can reasonably be expected to endure); valuing contingent assets; the uses of covenant assessment when setting recovery plans and considering acceptable risk; and covenant monitoring as part of integrated risk management.

Fan-TAS-tic voyage

The Financial Reporting Council announced a consultation exercise on proposed changes to Technical Actuarial Standard (TAS) 300: Pensions. Version 2.1 of TAS 300 would incorporate changes made in light of the new DB funding rules, the growing incidence of surpluses, and lessons from a pilot exercise that used funding

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[4] SI 2024 No. 1143.

work submitted by actuaries to monitor the effectiveness of actuarial standards. The consultation period runs until 10 March 2025.

Duelling banjos, vying funding stats

The Pension Protection Fund (PPF) and Pensions Regulator both, in December 2024, published analyses of the state of the DB scheme universe. There is consensus about the generally healthy funding position in the industry as at 31 March 2024, and that there had been a modest improvement since the same date in 2023. However, the headlines tended to be about the downward revision of the 2023 figures, resulting from changes to their methodologies for rolling forward assets and liabilities for the private sector: the PPF reduced its estimate of total 31 March 2023 assets by approximately £166bn, whilst the Regulator cut its by around £134bn.

The two organizations had earlier joined with the Office for National Statistics to publish a statement about the different datasets that they work with, and their expectation that they will show greater alignment in future. Their answers for asset values on 31 March 2024 are:

Organization	31 March 2024 Asset Values (£bn)
ONS	1,179
PPF	1,167
TPR	1,227

Still to come

The Regulator has reached the user-testing stage of work on a new online system for the submission of the funding documentation that is produced under the new regime. It is expected to become available in the spring of 2025; any fast-shooting trustees that finalize post-21 September 2024 valuations before the new service is operational are asked to hang fire with their submissions (and given assurances that they won't be penalized).

Similarly awaited is the mechanism for submitting trustees' statements of strategy. During a recent webinar on the Funding Code, a representative of the Regulator revealed that the system will be based around Microsoft Excel spreadsheets.

The Regulator is also finalizing the wording that it wants scheme actuaries to use when confirming that schemes meet the requirements for use of the Fast Track compliance route. It intends to publish the confirmation wording '*in the next few months*'.

Targeting better outcomes

The Financial Conduct Authority (FCA) has laid out broad proposals for a new form of consumer financial support—sitting between fully tailored advice and guidance—for defined contribution (DC) pensions savers. 'Targeted support' would identify solutions aimed at groups sharing the same needs and characteristics as the saver ('people like you'), and wouldn't be considered to rise to the level of fully regulated financial advice.

Why targeted support & how might it work?

Targeted support is one of the solutions that the FCA has been considering as ways to widen access to affordable assistance with financial decisions.[5] The concept arose from wider discussions about how well financial advisers and other parties are able to navigate the 'advice – guidance boundary', so that they can provide information to pension savers without crossing the line (perhaps inadvertently) into the provision of fully regulated advice.

Targeted support would be provided by FCA-authorized firms. They would need to have reasonable grounds for believing that targeted support will produce better—not necessarily optimal— outcomes, compared with a scenario in which such support is not provided. Firms would ask customers a much more limited series of questions than is expected for full ('holistic') advice.

The FCA thinks that many financial advisors would provide targeted support without charging an explicit, up-front fee; it says that if they recover their costs in other ways, they will have to be certain that they don't provide less than fair value to some customer groups as a consequence. It doesn't propose to allow remuneration via commission payments.

Next steps

The FCA expects that its consultation paper (CP24/27) will be of interest to DC pension scheme trustees. Responses to the consultation paper should be submitted by 13 February 2025.

There's an associated discussion paper (DP24/3) exploring the need for additional changes to the regulatory framework that governs the provision of financial projections, tools and modellers; to the requirements for individual DC pension transfers and consolidation; and to the FCA's rules on self-invested personal pensions (SIPPs).

The FCA is working to extend targeted support to cover a wider range of investments. It intends to produce draft rules and guidance for consultation by mid-2025. It will also publish an update on progress toward the introduction of 'simplified advice'[6] and clarification of the advice – guidance boundary.

The proposals mark a significant shift in approach and willingness to work with providers to increase consumer engagement. We believe that they would allow firms to provide worthwhile support to more people who are making vital decisions about their DC pensions, and thereby contribute to better retirement outcomes. Please see the *Newsflash* from our experts for more of our thoughts on the announcement.

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[5] See *Current Issues* January 2024.

[6] Lower-cost advice, meeting and based only on customer information relevant to one specific need, for persons with less-complicated circumstances and fewer assets.

Sorry, but no redress for WASPI

The Government has accepted that it failed promptly to communicate increases to State pensionable age (SPA) affecting a group of women born during the 1950s. However, although it has issued a formal apology, it has decided against introducing a financial compensation scheme.

The Secretary of State for Work and Pensions, Liz Kendall, made a statement in response to the Parliamentary and Health Services Ombudsman (PHSO)'s final report about the communication of changes to the State pensionable ages of women born during the '50s. Kendall accepted the PHSO's finding of maladministration in connection with the 28-month delay in sending out letters, directly, to those affected, and formally apologized on the Government's behalf.

The PHSO had determined that the women concerned had suffered no direct financial loss, and Kendall agreed. However, she disagreed with the PHSO’s recommendation that those who suffered injustice should each receive a compensation payment of between £1,000 and £2,950. The difference of opinion is over the PHSO’s approach to identifying injustice and determining the remedy that should follow. On the Government’s behalf, Kendall cited evidence that, although it had been tardy in supplying targeted, tailored information, the changes had generated considerable publicity, and that significant numbers of those affected had been aware that SPA was increasing. The Government also disagrees that more-timely communication would have had the impact that the PHSO had assumed, because so few people remember receiving and reading unsolicited letters.

The Government has concluded that the task of identifying those who remained unaware of the impending changes, and would have acted differently if they had received the Government’s letter sooner, could only be done—if at all—at disproportionate cost and effort. It doesn’t believe that a flat-rate compensation scheme for all 3.5m affected women would be appropriate, given how many of them appear to have been aware that SPA was to increase (based on the PHSO’s recommended compensation range, the potential total payout would be from £3.5bn to £10.3bn). Nevertheless, Kendall said that it had been an ‘*extremely difficult decision*’, that was '*not taken... lightly*’.

HMRC newsletters: December 2024

Pension Schemes Newsletter 165 from His Majesty's Revenue and Customs (HMRC) contains sections on—

- the online Managing Pensions Schemes service;
- the tax treatment of payments made to a member's trustee in bankruptcy (it seems that HMRC gave out misleading information in the past: payments to the TIB should be subject only to basic-rate income tax deduction);
- the tax treatment of lump sums refunded by members who were panicked into action by pre-Budget rumours (in summary, the payment and its effect on the member's lump sum allowance cannot be reversed; unauthorized payments may become due if the associated pension isn't put into payment; and members should take care not to transgress the lump-sum recycling rules);
- lifetime-allowance abolition queries (mainly complifications involving transitional tax-free amount certificates); and
- upcoming notifications of residency status for scheme administrators operating relief-at-source on member contributions.

Lifetime-allowance abolition probably seemed like a straightforward matter, politically. If the three (and counting) attempts to patch up the implementing legislation were not enough to dispel that notion, the list of gnarly queries in the Newsletter would do the trick. The repercussions of abolition are bound to continue for some time.

HYMANS ROBERTSON

And Finally…

AF had ingested and imbibed too much over the fortnight prior to publication even to think about drafting anything (other than, perhaps, a living will). We will therefore confine ourselves at this juncture to wishing you all a happy and prosperous 2025...

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