Pensions in 2022

With an eventful 2021 behind us, bringing with it a swathe of new regulations and consultations, 2022 is already shaping up to offer more of the same. Francesca Fabrizi reflects on some key themes for the coming year

It's beginning to look like another busy year in pensions. As the Covid-19 pandemic rages on, creating never-ending uncertainty across the globe, the UK pensions industry should be braced for a further 12 months of developments across both the defined benefit (DB) and defined contribution (DC) space. "There are indeed a great many things for schemes to be thinking about in the year ahead," says PLSA deputy director, policy, Joe Dabrowski. "Whether it is the spectre of rising inflation, employer covenants, a recovering economy, or the long list of regulatory 'must do's', such as TCFD reporting, pensions dashboards preparation or GMP equalisation, schemes will have plenty to occupy their time in 2022."

Regulation-wise, several developments have been pushed back from 2021, notes Sackers senior partner, David Saunders, so there are any number of changes vying for a suitable landing slot in 2022. "DWP changes on the cards include regulations on the new funding and investment strategy, which will act as a catalyst for further pensions regulator action, with a second consultation on the revised DB Funding Code.

"Implementation of the new single code, with new requirements for an effective system of governance and own risk assessments, has also been deferred from 2021 and is currently scheduled to come into force in the summer. With new notifiable events, stronger nudge requirements and simpler annual benefit statements also on the horizon, to name a few, 2022 is going to be yet another bumpy ride for pension schemes and their advisers," adds Saunders.

We take a look at some of these key themes in more detail.

DB Funding Code

Following months of ongoing discussion, the second consultation relating to The Pensions Regulator's (TPR's) revised DB Funding Code has been delayed until "late summer 2022".

The consultation, says DLA partner, Matthew Swynnerton, is expected to cover the final legislative package, the draft code of practice and the proposed regulatory approach, as well as an impact assessment and supporting analysis.

Where the new code ends up, says Dabrowski, will likely determine the next – and critical for many – five to 10 years of scheme management. "It will also shape many schemes' discussions with their employer and sponsor.

"The consultation process for the new Funding Code was also launched at the beginning of the pandemic, and it is likely to be operational towards mid-2023. It feels like much has changed for employers and schemes over this unprecedented period. The government's appetite for pension funds to invest in productive finance much more also adds a fresh dynamic to it all. Getting the right outcome will be key for all those with an interest in DB," he concludes.

Notifiable events

To date, a lot of attention has been focused on the regulator's new criminal powers under the Pension Schemes Act 2021; however, argues Swynnerton, the notifiable events changes are likely to have a greater potential to affect corporate transaction planning on a day-to-day basis. There is no clear confirmation in relation to the timing of the notifiable event changes, he adds, but they are expected in the first half of 2022.

"New notifiable events include the sale by the employer of a material proportion of its business or assets and the granting of security by the employer over its assets," explains Swynnerton. The new notifiable events, and the existing notifiable event of sale of a controlling interest in a sponsoring employer, will need to be notified to the regulator at an early stage, once a decision in principle in relation to the event is taken, and information in relation to the event will also need to be notified to the trustees, he adds.

"This will need to be factored into transaction planning and will result in a need for increased dialogue with the trustees and regulator, and buyers are also likely to approach transactions with increased caution unless the position in respect of the trustees and regulator has been resolved."

Transfer regulations

Changes to statutory transfer rights for scheme members came into force on 30 November, with the regulations introducing a system of red and amber flags, which gave trustees the power to refuse transfers where there's a heightened risk of a scam.

There are a number of known issues with the regulations, says Swynnerton, such as the use of green lists, overseas investments and discretionary transfers, that will need to be thought through by trustees and providers. "Implementing the new conditions will be onerous and schemes will need to update their transfer processes and communications. Many trustees will be scheduling meetings with their administrators early in 2022 to discuss how they are adapting their processes and the extent to which the trustee board will need to be involved."

Pensions dashboards

The much anticipated pensions dashboards will move several steps closer in 2022 having now moved, says Pensions Dashboards Programme principal, Chris Curry, from the 'preparation phases' towards 'starting to build the central digital architecture that will make pensions dashboards work'.

"It's been an exciting year for the programme and there's no sign of the pace reducing in 2022", says Curry, with the momentum likely to increase further, "as the central digital architecture comes together and we work with our volunteer data and dashboard providers".

Pasa has published a '*Data Matching Convention Guidance*' for dashboards, while the PLSA has released a pensions industry guide, '*Pensions Dashboards A-Z*', which identifies key issues that must be resolved to make the initial pensions dashboards a success.

Illiquid assets in DC

The 2021 Autumn Budget shone the spotlight on DC investment, with the government confirming it would consult on further changes to the regulatory charge cap for pension schemes in an effort to unlock institutional investment to drive innovation.

To date, the bulk of DC default fund investment has been focused on liquid, daily-traded assets, says PLSA head of DC, master trusts and lifetime savings, Alyshia Harrington-Clark: "There are many historical reasons for that but, given the long-term focus of pensions, investing in a wider range of asset classes could deliver real benefits for DC."

In particular, she states, access to illiquid, private market investments such as real estate, infrastructure and private credit offer diversification, higher returns and inflation protection. "As ever, schemes will have to think carefully about balance between risk and return, the profile of their membership and more – but greater diversity in DC investment is an important trend for the future."

DC value for money

The FCA and TPR's September 2021 joint discussion paper, *Driving Value for Money in defined contribution pensions*, outlines a framework for consistent reporting on core components of value for money, such as investment performance, scheme oversight (including data quality and communications), and also costs and charges, explains Harrington-Clark. "It is positive to see both regulators working together on this crucial topic. We'll expect to hear more on the next steps in 2022 and will be playing in our views as their thinking develops."

Small pots

"Auto-enrolment is now nearly 10 years old and part of the fabric of UK pensions," says Harrington-Clark. "One of the side effects of the highly effective policy initiative over time has been the increasing volume of 'small pots'. These are difficult for individuals to track and manage, and have cost attached for providers that affects value for members, both past and present."

Small Pots Co-ordination Group chair, Andy Cheseldine, comments: "The small pots problem is more than just one problem with multiple causes and, understandably, it has much more than just one solution.

"In our 2021 interim report, the Small Pots Coordination Group noted there were more than three million deferred savers, invested in default options, with pot sizes of under £100; 10.5 million with pot sizes under £1,000; and if we do not do something, there could be 27 million pots under £2,000 by 2035.

"In 2022 our working groups will continue to focus on data, transfer solutions and member detriment. We expect to report again in Q2 2022 with a focus on potential quick wins."

The Local Government Pension Scheme (LGPS)

The LGPS will be in the spotlight in 2022, with several relevant policy areas set to develop over the coming months. "The PLSA is keeping its ears close to the ground on how some important policy areas are developing for its LGPS members, and will continue to engage and intervene with stakeholders where appropriate," says PLSA head of DB, LGPS and investment, Tiffany Tsang.

"We are carefully monitoring the progress of the Public Service Pensions and Judicial Offices Bill, relating to equal treatment of all members of public service pension schemes.

"TPR's Single Code of Practice is another priority. Clarity is still urgently needed around various issues, including

how the term 'governing body' will be applied to the LGPS, as it could refer to multiple entities," she says.

A stronger nudge

From 1 June 2022, personal pension and stakeholder pension providers will be required to give members a 'stronger nudge' to take guidance from Pension Wise, which will apply, explains Aries Insight co-founder, Ian Neale, when the member has decided in principle to access their money purchase pension savings, including where the member is seeking to transfer their benefits in order to access those pension savings.

"For this purpose, a provider should assume that any policyholder aged over 50 who is seeking to transfer their benefits is doing so in order to access their pension savings. Providers will be required to not only explain to the policyholder the nature and purpose of the Pension Wise guidance, but also offer to book the guidance session for the policyholder and, where the policyholder accepts this offer, to take reasonable steps to book such an appointment at a suitable time for the policyholder."

Simpler annual DC benefit statements

From 1 October 2022, AE schemes that provide only money purchase benefits will be required to provide simpler annual benefit statements for members, which must be produced in line with statutory guidance. Neale comments: "Whilst the requirements here are certainly rather clearer than the 'conditions for transfers' regulations, schemes affected by this new requirement may wish to start planning for the new requirements well in advance of the change coming into force."

Climate change reporting

Climate change had a lot of airtime in 2021, with more to come in 2022. PTL client director Richard Butcher comments: "If we haven't already set climate objectives, then we should be doing so – 2022 will be a year of execution. There are some challenging intellectual points still to deal with in relation to climate too, not least of all how you measure carbon-offsetting and so on, and the metrics and language that you're going to use."

In addition, the Occupational Pension Schemes (Climate Change Governance and Reporting) (Amendment, Modification and Transitional Provision) Regulations 2022 draft regulations are expected to come into force from 1 October 2022, says Neale. "Schemes that are in scope for the 2021 regulations must set a minimum of three metrics to enable them to identify and assess the scheme's climate-related risks and opportunities."

Diversity & Inclusion (D&I)

The themes of diversity and inclusion (D&I) gathered pace in 2021, even if the pensions and wider financial services industries still have some way to go. At the close of 2021, TPR executive director of regulatory policy, analysis and advice, David Fairs, reflected on the progress that has been made in relation to trustee boards, and highlighted areas for improvement. "Trustee boards that are not diverse risk knowledge gaps, entrenched ideas, biased thinking and poor decision-making, which puts savers at a disadvantage.

"To be clear, diverse trustee boards may feel more uncomfortable, and that's not a bad thing. There will be more debate and challenge, board meetings will take longer and have more disagreement. The trustee chair might have a tougher time building consensus. However, that will ultimately lead to better decisions, even though it won't feel as straightforward as when everyone just nods decisions through."

Association of British Insurers executive sponsor, diversity & inclusion, Dr Yvonne Braun, also expects socio-economic diversity to be a key theme for 2022 in the wider financial services arena. "The financial services space does not yet offer equality of opportunity; almost 90 per cent of senior positions are held by people from higher socio-economic backgrounds (defined by parental occupation at age 14), compared to a third of the UK workforce. It also takes employees from lower socio-economic backgrounds 25 per cent longer to get promoted, which is unrelated to performance.

"This is not only deeply wrong but a colossal waste of talent. I'm proud to be a member of the City of London Corporation's taskforce to tackle this."

Covid-19

As new Covid-19 variants continue to scupper a return to normality, a question mark hangs over the impact on pension scheme productivity and innovation: "There are two aspects to the pandemic that concern me," says Butcher. "First is from an operational perspective. All the people who were administering pension schemes in 2020 went home and started to operate from home, and the industry is to be congratulated with the way that it executed that. There was no noticeable degradation of service.

"But is that sustainable over the long term? I do wonder if we continue to operate from home whether our long-term productivity will suffer to the detriment of members. What will almost certainly suffer operationally is our ability to innovate, because it's getting people together into a room to kick ideas around that produces process improvements.

"The second aspect is the impact on the companies that we look after or the pensions of the companies that sponsor the pension schemes that we look after – some companies are going to thrive in this, but there are companies that are really going to suffer. It's going to be very serious for some of our clients and that could mean a worse outcome for members."

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