October changes

A raft of new regulations come into force in October, including new powers for The Pensions Regulator (TPR), DC governance changes and updated climate change regulations. *Pensions Age* has therefore asked the industry about what professionals need to be most prepared for and which changes could be the most challenging to address

"It's not an exaggeration to say that the extent of change expected to take place in the pensions industry from 1 October 2021 is exceptional, and something that has not been seen since 2004. New criminal offences, new civil penalties, new contribution notice and information gathering powers, combined with new climate-related governance and disclosure requirements will apply now. All these together represent a perfect - though potentially toxic – cocktail of new requirements, for which trustees and employers of pension schemes will need to be prepared. Collaboration and constructive dialogue between these parties will be more essential than ever before. Trustees will need to be aware of the changes and new requirements, and they are likely to be better prepared than some corporate sponsors. Where there are concerns about sponsor awareness, the trustees and advisers may wish to inform and educate key corporate decision makers, including company directors, highlighting the key implications and responsibilities for them to ensure they know what to consider when making decisions regarding the business and the pension scheme. I believe that all those who have been doing the right things and operating in line with the general principles of the current legislation and TPR's guidance are unlikely to have anything to worry about."

Law Debenture trustee director, Lorant Porkolab

"Specifically on the point of climate change governance and reporting, there are changes coming in October that will result in trustees needing to think about the (TCFD) metrics they will monitor with respect to their portfolios. So, trustees (like everyone else) are having to get to grips with the vernacular around this area, as well as understand what these metrics mean and whether there is data available to allow meaningful measurement of them. For example, a scope 3 carbon data availability is more patchy and so this will impact on the how useful these metrics will initially be. Note also that these rules will initially impact the very large pension schemes with assets greater than £5 billion, with the next wave impacting pension schemes with assets of less than £1 billion from October next year. This gives the majority of scheme trustees the opportunity to see how practice develops. But nevertheless, trustees will need to spend time considering which metrics best reflects their beliefs."

Janus Henderson head of UK institutional, Anil Shenoy

"Trustees of large schemes and their advisers should by now have put in place a new climate change policy, but the real challenge will be to prepare meaningful scenario analysis of climate change risks that includes both the impact on covenant and the impact on scheme assets. For many, this will be the first time this exercise will have been performed and, absent established market practice, will take time to get right. Trustees should engage early with their sponsor and advisers, to ensure that information is available and is being considered on a consistent and aligned basis. For corporate activity, while scheme, sponsors and advisers may be tempted to wait for a qualifying event to happen before considering the new tests (or to hope that one doesn't happen), this would be a mistake. Committing now to formalised information sharing arrangements between the sponsor and trustees and discussing thresholds for materiality of events will reduce the twin risks of regulatory intervention if a relevant event is missed, but also excessive scrutiny of minor events caused by uncertainty over the new requirements."

Lincoln Pensions managing director, Michael Bushnell

"Most of the changes coming into force on 1 October have been heavily trailed in the past few months, and most pension professionals will have their preparations well underway. There is a wealth of articles, guidance and texts out there on all of these subjects, and advisers will be immersed in the detail so do lean on them for support. Focus on the areas that matter for your role. The new powers for TPR should be front of mind not only for pension professionals, but also for anyone involved in transactions or restructurings where there is a DB scheme involved. Looking further forward, pension professionals should also have an eye to the new notifiable events regime coming in 2022, for longer term transactions. Those involved in pension scheme investment will already have been preparing for the TCFD-style climate change governance and reporting requirements. The DC professionals will be focused on new ways of addressing the long-running topic of value for members. There is a lot going on this autumn, but pensions professionals are well used to change and will doubtless take these changes in their stride."

DLA Piper partner, Tamara Calvert

"From 1 October, trustees of smaller sub £100 million DC and hybrid schemes need to have plans in place for meeting the new value for money reporting requirements. Given the complexity of the requirements, it's likely that schemes will need some form of professional advice to avoid breaking the new regulations. How, for example, will trustees decide which three larger DC schemes to compare themselves against, particularly as one of the schemes must be available to transfer into should the trustees decide that they need to wind up. Without advice how are the trustees going to develop their rationale for selection? Combined with the complex new reporting requirements for the chair's statement, the expense of complying could be considerable which in turn could speed up the speed of consolidation. Many smaller DC schemes are likely to be part of hybrid DB/DC arrangements with over £100 million of assets, so the trustees may technically escape the need to do undertake the value for money exercise. Whether or not this is a sustainable position is debatable and from a fiduciary viewpoint, all trustees need to think about the value for money they provide. The difficulties in separating hybrid DB/DC arrangements, may cause some trustees to think about a master trust solution for their whole scheme, taking away the governance time and expense completely. These type of solutions, like the one offered by TPT, are likely to come increasingly to the fore."

TPT Retirement Solutions DC director, Philip Smith

"Pension professionals need to be advising DB trustees and corporates with a DB scheme in their orbit without delay. Key advice will centre around the expansion of the regulator's 'moral hazard' powers and the new requirements to align scheme governance processes and disclosures with the TCFD recommendations. The regulator's new moral hazard powers and associated requirements will require corporates to work towards establishing proper procedures. These should cater for determining whether proposed corporate activity could have a material impact on the position of the scheme at an early stage of the planning process. This will enable pension considerations to be

factored into corporate decision making and for engagement with trustees (and potentially the regulator) to be factored into the process where necessary. Meeting TCFD requirements obliged in-scope trustees to get to work early given they will be subject to the new governance requirements from 1 October. Other trustees (depending on scheme size) may think they have the luxury of time before the requirements apply to them. This is not the case as there is much work that needs to be done."

DWF pensions law partner, Marcus Fink

"The very largest schemes and master trusts need to comply with the TCFD from 1 October 2021. Given the amount of work required in implementing the TCFD framework well and given that the DWP statutory guidance was only published in July of this year, the timescales for compliance with TCFD were always going to be a challenge. Most large schemes have been using the summer to improve their ESG governance, risk management processes and to consider their approach to carbon data collection. Wave 1 schemes coming under TCFD from 1 October 2021 (and many wave 2 schemes caught from 1 October 2022) have been setting up ESG committees, thinking about trustees training needs around ESG and climate change, asking questions of managers around their ESG and climate integration and challenging their advisers on their own competencies. For any schemes yet to address these matters, there are lots of useful resources out there – for example the Pensions Climate Risk Industry Group sets out 'top questions' to ask of managers and the Investment Consultants Sustainability Working Group has set out a useful competency framework (although schemes mustn't forget they should be assessing the skillset of other advisers too – while legal advisers are explicitly exempt the scheme actuary, for example, is not)."

Law Debenture trustee director, Natalie Winterfrost

"Finally we will see an end to the absurd situation where a pension provider identifies the scheme you want to transfer to is a scam, tells you it's a scam, and yet can still be forced to hand your money over to scammers. The Pension Schemes Act will give pension schemes the power to protect their members from scams. If a scheme is worried about a potential transfer, it can refer the member to the Money and Pensions Service for a guidance appointment. If it's absolutely certain something is a scam, it can block the transfer. This is much better than the current situation where a pension scheme can be forced to transfer your pension into the hands of scammers. Pension schemes are already doing their due diligence on transfer requests. Many will already operate a 'greenlist' of transfers where no further information is requested. This shouldn't change. However, while most schemes won't need to make wholesale changes this is a good opportunity to make sure due diligence processes are robust and proportionate."

Hargreaves Lansdown senior pensions and retirement analyst, Helen Morrissey

Written by Duncan Ferris