Feedback loop

Maggie Williams explores the legislative changes in the pipeline for the UK pensions industry

> **Summary**
> • A lengthy list of proposed legislation requires careful planning and prioritisation.
> • Some changes will require significant time and change for the industry and trustees.
> • There are still gaps, such as a timetable for reviewing auto-enrolment contributions.

This year has seen a sandstorm of new potential legislation, calls for evidence, consultations and responses from government. As well as the so-called Mansion House reforms in July, Pensions Minister, Laura Trott, has kept more enduring plates spinning, such as the pensions dashboard programme and new ideas for collective DC (CDC) schemes.

But so much change comes with potential risks. "Timing will be important to avoid unintended consequences from wave after wave of changes crashing into the pensions industry at once," says Sackers senior partner, David Saunders.

Hymans Robertson head of DC corporate consulting, Hannah English, anticipates that, taken together, the proposals will require a major effort from the industry. "From a provider's perspective, committing to the Mansion House reforms alone will require a significant amount of effort and resource to fulfil the obligations outlined in the agreement."

With consultations and legislation at different stages, Pensions and Lifetime Savings Association deputy director of policy, Joe Dabrowski, hopes that progress will be staggered. "All of the proposals will eventually require a lot of work, but some are at a very early stage. Even after consultation, they will require primary legislation and that takes time."

Dabrowski gives the example of the DB pension fund consolidation consultation in February 2019, with the government response published in July this year. "It's taken several years get to the stage that we're at currently. And it will take longer to put legislation into practice."

Zedra Governance client director, Douglas Hogg, believes that accelerating the right legislation at the right time is vital. "I worry about urgency in the DB space. If we lose three years putting some of the proposals in place, it will be too little too late. We need meaningful change quickly around alternative options to buyout, for example."

Getting ready for change

When it comes to preparing for future change, Dabrowski says: "Schemes can ask 'what will this mean for us'? They can think how the changes might play out and identify any red lines. If there is a new Pensions Bill and significant change in the Autumn Statement, we could see some things start to happen very quickly."

But with so much uncertainty around timings and impact of the new proposals, it may be difficult for schemes to know what to prioritise. “2023 was always destined to be a busy year for pension schemes, with so many developments delayed over the past couple of years,” says Saunders. “But the agenda hasn’t quite shaped up the way we were expecting. TPR’s General Code has been pushed back ‘due to delays in the parliamentary timetable’, the new DB funding regime’s timing has also slipped from October 2023 to April 2024, and the long anticipated notifiable events regulations are seemingly unavoidably delayed.”

“With so many links and inter-dependencies, we need a ‘grand implementation plan’,” Aegon pensions director, Steve Cameron, recently stated. He added that, with a General Election looming, that plan needs cross-party support. “This will include setting priorities, reflecting both a logical sequence but also importantly the size of potential improvements in member outcomes.”

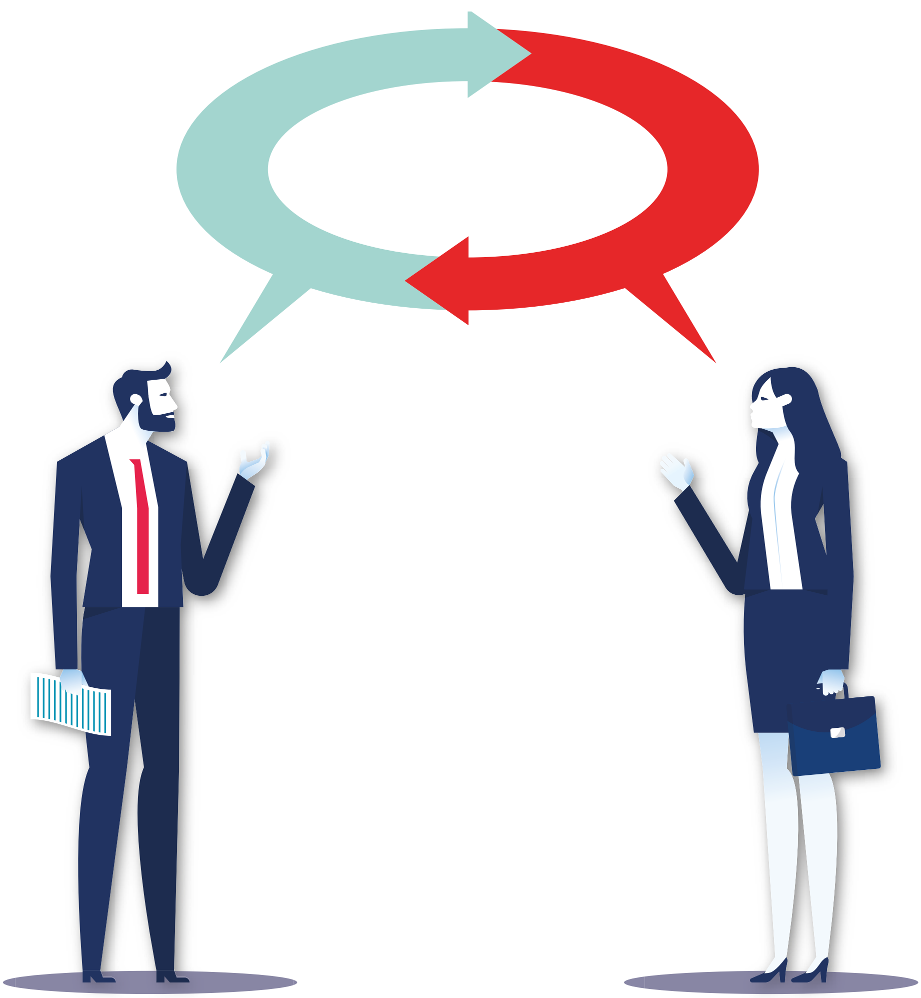
Prioritising by impact

That begs the question of whether some of the proposed changes should be prioritised over others, based on the impact they will have on schemes and savers. But deciding on that prioritisation is likely to depend on the type of scheme and its circumstances.

“It can take even longer to change mindsets than to change legislation,” warns Hogg. “With DB, it could be difficult to engage sponsors with the idea that, having been told that buyout is the only answer for many years, that there could be potential in other options.”

Cameron believes that for DC schemes, auto-enrolment reforms should be top of the list. “The Department for Work and Pensions’ analysis shows that enhancements to auto-enrolment could improve member outcomes by more than all the other policy initiatives put together, making it a clear front-runner for prioritising,” he said.

Cameron also believes that some proposals, such as decumulation-only CDC could take a back seat. “We’d recommend deferring any requirement for trustees to design default retirement income solutions until later in the decade. Any consideration of decumulation-only CDC needs to factor in both the many outstanding questions here, as well as the time industry will take to consider supplying these,” he added.



The missing pieces

While the last thing that the industry might need right now is more proposals and legislation, are there gaps in the current schedule of plans? Dabrowski is disappointed that there has been no progress on reviewing adequacy of auto-enrolment contribution rates. “There has been a lot about DC issues, but this crucial debate hasn’t been addressed.”

English adds that she would also like to see a wider debate on the potential for risk-sharing. “CDC is not the only risk-sharing solution. There are other approaches with the potential to significantly improve retirement incomes as well as aligning with the government’s goals related to productive finance.”

However, Saunders concludes: “Perhaps the most important issues not addressed are how the government intends to squeeze in time to complete policy measures already in train and how trustees, employers and their advisers might best manage potential capacity constraints.”

Written by Maggie Williams, a freelance journalist

What's going on?

General Code (TPR)
March 2021 and ongoing
What? TPR's consolidated code of practice, now known as the General Code has been under debate for some time.

Why? The aim of the code is to consolidate and simplify governance codes of practice. Among its proposals is for all schemes to have an effective system of governance in place.

When? TPR published a draft code in March 2021, and it was expected to be laid in parliament in spring this year, which didn't happen. There may now be aspects of the code that need to be updated.

Extending Opportunities for Collective Defined Contribution (CDC) Schemes
January 2023 – consultation
What? Policy proposals to accommodate multi-employer CDC schemes (including master trusts). It covers potential use of CDC for decumulation only, as well as whole-life schemes.

Why? Although CDC was initially proposed to support the Royal Mail scheme, it has potential for the wider pensions industry, which is explored in more depth in this consultation.

When? The consultation closed in March 2023, and the DWP has said that it intends to consult on draft legislation for whole-life schemes in autumn this year, with some changes to the original proposals.

Pensions Dashboards Update (DWP)
June 2023 – Ministerial statement
What? In March 2023, Pensions Minister Laura Trott stalled the Pensions Dashboards Programme, saying that it needed more time to deliver the complex architecture involved. In June 2023, she announced amended regulations setting out a new path to delivery.

Why? Pensions dashboards have been beset with delays, but the end goal of enabling savers to make better decisions based on a wider view of their total pension savings remains valid.

When? Trott has committed to legislate for a connection deadline of October 2026. Meanwhile, in September 2023, Standard Life announced plans to deliver a commercial dashboard.

Abolition of the Lifetime Allowance (HMRC)
July 2023 – consultation on draft legislation
What? It explains the changes needed to abolish the LTA and sets out tax treatment of pension savings, lump sums and lump sum death benefits. It also proposes some changes to the way that unused pensions passed on after death are taxed.

Why? Getting rid of the LTA could encourage people to continue to save into pensions without risk of being taxed above a certain limit.

When? LTA charges were removed for the 2023/24 tax year and this policy paper completes work to abolish it from 2024/25.

Helping savers understand their pension choices (DWP)
July 2023 – consultation
What: The consultation follows a 2022 call for evidence and sets out proposals to support savers when they access their pension, by requiring all schemes to offer 'decumulation services' including a default choice. That could include a CDC option.

Why? Pensions Minister, Laura Trott, described this as "one of the most challenging and significant issues in private pensions". Many savers don't understand their choices at retirement and could benefit from a default path or better information about how to choose suitable options.

When? The consultation closed in September. There is likely to be legislation to require trustees to provide services, but in the meantime the DWP plans to work with TPR to offer guidance to schemes.

Ending the proliferation of deferred small pots (DWP)
July 2023 – consultation
What? A consultation on the DWP's proposal that a small number of schemes can act as consolidators for deferred small pots.

Why? Small pots have been one of the biggest unintended consequences of auto-enrolment. Keeping track of them is difficult for savers, and collectively they are expensive for schemes to administer.

When? Putting the proposal into practice will need primary legislation, with more detail in secondary legislation but there is currently no timetable. The consultation closed in September 2023.

Pension Trustee Skills Capability and Culture (DWP and HMT)
July 2023 – consultation
What? A consultation into trustee governance and knowledge across three areas: skills and capabilities, the role of advice, and barriers to effectiveness.

Why? The consultation followed the Chancellor's July 2023 Mansion House speech when he called for more pension scheme investment in productive assets. It wants to understand whether trustees have the correct knowledge and skills for proposed investment opportunities.

When? The consultation closed in September 2023 and there is no timetable yet for next steps.

Local Government Pension Scheme: Next Steps on Investment (DLUHC)
July 2023 – consultation
What? Proposals affecting how the LGPS invests, such as asset pooling, levelling up, investment in private markets, and how 'investments' are defined.
Why? The government wants to accelerate asset pooling with the goal of improved net returns, more effective governance, increased savings and access to more asset classes.
When? The consultation closed on 2 October 2023 and it proposed a March 2025 deadline for asset pooling transition.

Options for Defined Benefit Schemes
July 2023 – call for evidence
What? To help DB schemes invest in productive assets, the call for evidence explores how to incentivise DB schemes to invest in this area, whether DB surpluses could be used more productively (such as taking on greater investment risk), and whether the government should establish a new public consolidator alongside commercial consolidators. It also explores whether the Pension Protection Fund should take on that role of public consolidator.
Why? Trott said: "We want to offer sponsoring employers and scheme trustees more choices going forward."
When? The call for evidence closed in September 2023. The PPF has already made clear its ambitions to act as a consolidator.

Value for money: A framework on metrics, standards and disclosures (DWP, TPR and FCA)
July 2023 – consultation response
What? Response to a joint consultation that explores how value for money in DC pensions is defined and assessed, through metrics that produce a consistent, comparable set of criteria for assessing value for money in schemes.
Why? The regulators and DWP want to shift focus away from cost towards value when assessing pension schemes to ensure that savers get the best possible outcomes.
When? The plan is to introduce the framework in phases, starting with workplace default arrangements, but no dates have been confirmed. The consultation closed in September 2023.

DB pension fund consolidation (DWP)
July 2023 – consultation response
What? This has been a slow burn. The original consultation on 'superfunds' closed in February 2019, but the government only published its response in July this year. The DWP will now work on a legislative regime to enable superfunds.
Why? Renewed government support will strengthen the case for superfunds and offer another choice for DB schemes.
When? Although government response has been slow, TPR has had an interim regime in place since June 2020. Only one superfund (Clara Pensions) has been assessed under the regime. Primary legislation will be created 'as parliamentary time allows'.

Occupational Pension Schemes (Funding and Investment Strategy and Amendment) Regulations 2023/ The DB Funding Code (DWP and TPR)
July 2023 – Ministerial comment
What? The DB Funding Code (backed up by secondary legislation through the Occupational Pension Schemes (Funding and Investment Strategy and Amendment) Regulations 2023) is still causing debate, in part because of the significant changes to scheme funding positions, fallout from the LDI crisis and challenge from the Work and Pensions Committee over its impact on open DB schemes.
Why? The Funding Code sets out how DB pension schemes should de-risk and allocate investments towards low-dependency funding.
When? Concerns over the final drafting of the code continue to run. Pensions Minister, Laura Trott, has said that the DWP will provide an update in the autumn, and implementation is planned for April 2024.

Advice Guidance Boundary review (FCA and HMT)
August 2023 – review
What? A joint review to help savers get affordable help, clarifying the boundary between financial advice and guidance.
Why? This is a long-standing issue that has particular resonance for pensions, because of the magnitude and long-term impact of the decisions savers make. The review also applies to investments and financial services more broadly.
When? There are plans for an autumn policy paper.

Pensions (Extension of Automatic Enrolment) (No.2) Bill (Private Members' Bill)
September 2023 – Royal Assent
What? A bill to amend the Pensions Act 2008 to reduce the lower age limit for auto-enrolment and remove the lower earnings limit for qualifying earnings.
Why? The bill proposes encouraging savings from an earlier age and ensures low-paid workers get more opportunity to save for retirement. But it still won't address the wider issue of under-saving and calls for further reform have already emerged.
When? The bill received Royal Assent in September 2023 – with implementation planned for 'mid 2020s'. Therefore, the bill could be included in the King's Speech on 7 November.