Pension Monthly Planner

Pensions360: the full picture
Issue 43 - May 2014

How to use this planner

Principal new developments in pensions are set out alphabetically by topic in four main sections – arranged according to when the changes had or are expected to have effect.

New material in the timeline sections is in bold.

Material in the sections 'Recent cases and determinations' and 'Other points of interest' is new each month.

Further information

If you would like further information on any aspect of pensions law please contact a person mentioned below or the person with whom you usually deal.

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Highlights

Abolition of DB contracting-out: HMRC Bulletin	
Countdown Bulletin 1 issued March 2014	HMRC has issued the first in a series of bulletins, intended to provide updates on activities linked to the cessation of contracting-out in April 2016. Points to note include: • From April 2014, HMRC will offer a Scheme Reconciliation Service to assist administrators and trustees to reconcile records for non-active members against HMRC's records in advance of April 2016. Details of the service and how to use it are provided at www.hmrc.gov.uk/nic/srsrequest.htm. • From 6 April 2014, employers will be required to show the SCON (Scheme Contracting-out Number) in addition to the ECON (Employer's Contracting-out Number) when submitting National Insurance Contributions for employees who have been in a contracted-out scheme during the tax year.
Auto-enrolment: updated guidance notes	
Guidance updated on 7 April 2014	The Pensions Regulator has issued updated guidance notes on auto-enrolment, revised to reflect changes to regulations in force in April 214, including the extension to the auto-enrolment period for an eligible jobholder from one month to six weeks and increases to the qualifying earnings band and earnings trigger.
Budget 2014	
2014 Budget and draft legislation issued on 19 March 2014. Consultation paper, "Freedom and Choice in Pensions", issued 19 March 2014. Consultation period ends on 11 June 2014. Initial changes to the pension tax regime will apply from 27 March 2014. Removal of restrictions on use of DC pension pots to apply from April 2015. Full implementation of the increase to minimum pension age to 57 expected in 2028. Guidance Note, "Combatting Pension Liberation", issued 19 March 2014. The consultation period on the "fit and proper person" condition ends on 27 June 2014. Changes relating to pension liberation will have effect from 20 March 2014, except for the "fit and proper person" and regulatory intervention provisions which will have effect from 1 September 2014.	In the Budget, the Chancellor announced significant changes to the pension tax regime. Highlights are as follows. **Relaxations in taking benefits - applicable from 27 March 2014** • The trivial commutation limit will increase from £18,000 to £30,000, applicable to all commutation periods starting on or after 27 March 2014. (A trivial commutation lump sum may be paid when the member is aged at least 60, the total value of his/her pension rights under registered pension arrangements does not exceed the commutation limit and the lump sum extinguishes all the member's rights under the scheme.) In addition, the Government intends to remove the revaluation factor for determining how much of the commutation limit is used up by crystallisation of previous pension rights. • The size of a small pot that may be taken as a lump sum, regardless of an individual's other pension pots, will increase from £2,000 to £10,000. • An individual will be able to take three pension pots as lump sums under the small pot rules, increased from the current limit of two small pots. • The maximum income that can be drawn from a capped drawdown arrangement (including a dependant's drawdown arrangement) will increase from 120% to 150% of an equivalent annuity. The new limit will apply to all drawdown pension years starting on or after 27 March 2014. • The level of guaranteed annual income required in order to use flexible drawdown will reduce from £20,000 to £12,000, applicable to all individuals who apply for flexible access to their drawdown pension on or after 27 March 2014.

Minimum pension age

- The minimum age at which an individual can take benefits from a registered pension scheme (other than on ill health) without suffering tax penalties will increase at the same rate as the increase in State Pension age, to 57 in 2028 (when State Pension age will increase to 67).
- The Government is consulting on whether the minimum pension age should rise further, for example to five years below State Pension age.

Relaxations in taking benefits from DC arrangements - applicable from April 2015

Individuals will be able to access the whole of their DC pots from the minimum pension age (currently 55), regardless of the size of the pot. Benefits taken will be subject to the individual's marginal rate of income tax. It will still be possible to use a DC pot to purchase an annuity.

Everyone with a DC pension will be offered free and impartial face to face guidance on the range of options available at retirement. There will be a new duty on pension providers and trust-based pension schemes to offer a "guidance guarantee" at the point of retirement.

The Government has asked whether a statutory override should be put in place to ensure that pension scheme rules do not prevent individuals taking advantage of the increased flexibility.

DB arrangements

- Transfers from public sector DB schemes to DC arrangements will be banned, except in very limited circumstances.
- The Government has asked for views on restricting transfers from private sector DB schemes to DC arrangements. Options being considered include:
  - banning DB to DC transfers in all but exceptional circumstances (the most likely outcome);
  - ring fencing former DB funds within the DC arrangement and applying the current (pre-April 2015) tax regime to such funds;
  - imposing an annual cap on DB to DC transfers;
  - allowing DB to DC transfers, subject to the trustees' consent;
  - leaving the current transfer rules unamended.
- The Government is considering how any transfer restriction should apply to hybrid schemes.

Pension liberation

- The Finance Act 2004 will be amended to help prevent the registration of pension liberation schemes and to facilitate the de-registration of such schemes. In particular, HMRC will have new powers to:
  - send information notices to the scheme administrator and other persons;
  - enter business premises to inspect documents.
- There will be new penalties for providing false information or a false

declaration in connection with a registration application.

- HMRC will be able to de-register, or refuse to register, a scheme if it considers that the scheme administrator is not a fit and proper person.
- "Fit and proper person" will not be defined in legislation. Guidance issued at the time of the Budget sets out the approach that HMRC will take when considering whether a person is fit and proper to act as scheme administrator. HMRC will assume that all persons appointed as scheme administrators are fit and proper persons unless HMRC holds information, or obtains information, which causes it to question that assumption.
- There will be a new requirement that the main purpose of a pension scheme must be to provide authorised benefits.
- Surrendering pension rights in favour of an employer to fund an authorised surplus payment will be subject to tax as an unauthorised payment.
- The surrender of rights in favour of dependants will be treated as an unauthorised payment unless the dependants' newly-acquired rights are provided under the same pension scheme.
- Independent trustees appointed at the instigation of the Pensions Regulator will not be liable for tax that arose before they were appointed.

Budget 2014: FCA guidance on interim period

Guidance published on 9 April 2014

The Financial Conduct Authority (FCA) has issued guidance, setting out its expectations of pension providers in the interim period between the Budget 2014 announcements and April 2015. The guidance covers action that providers should take in relation to customers at various stages in the retirement process. The guidance does not apply to customers who have bought an annuity or income drawdown product before the Budget 2014 where the cancellation period has expired. Points to note include the following.

To meet the requirements of the FCA principles and rules:

- Advisers of customers within the cancellation period for an annuity or income drawdown product should consider whether their recommendation is still suitable and re-contact customers as quickly as possible if for any reason a different course of action is suitable.
- Customers within six months of retirement who have been sent retirement literature should be informed of the changes and implications in writing before they make an application.

As a matter of good practice:

- Annuity or income drawdown providers may wish to extend their cancellation period to give customers more time to consider their options.
- Providers may wish to restate to customers with a guaranteed annuity rate (GAR) the benefits that may be lost if they change their mind or do not take up the GAR.
- Providers may wish to inform customers of their ability to accept returned funds when an annuity is cancelled, or to make alternative arrangements for receipt of returned funds.

Budget 2014: HMRC guidance on pension flexibility	
Guidance issued on 9 April 2014.	HMRC has issued further details of the tax consequences of unravelling actions taken before 27 March 2014 (Budget day). The guidance is aimed at individuals who have: • taken a tax free lump sum before Budget day; and • either cancelled an annuity that was linked to the lump sum within the cooling off period; or not yet decided how to access the rest of their pension savings. Individuals who cancelled an annuity contract within the cooling off period and repaid the lump sum will have their benefit crystallisation events in respect of the annuity and lump sum cancelled and will be able to use the flexibility available from 6 April 2015. Individuals who cancelled an annuity contract within the cooling off period but retained the lump sum will be able to use the flexibility available from 6 April 2015. Payment of the lump sum will be treated as a benefit crystallisation event (BCE 6), with the amount paid as the "permitted maximum". The lump sum will remain an authorised payment even if the value of the remaining fund subsequently falls. However, no further lump sum may be taken if the fund increases in value. The guidance points out that the options available to individuals in practice will depend on the rules of their pension scheme.
Budget 2014: pension flexibility - extended decision period	
Announcement made 9 April 2014	HM Treasury has announced that individuals who have recently taken a tax free lump sum from a defined contribution (DC) pension will be given 18 months (extended from six months) to decide what they wish to do with the remainder of their pension fund. The extension will enable such individuals to take advantage of the pension flexibility available from April 2015.
Budget 2014: statement from Pensions Regulator	
Statement issued 15 April 2014	The Pensions Regulator has issued a short statement on key measures announced in the Budget 2014, aimed at trustees of occupational defined contribution (DC) schemes and others involved in their governance and administration. The statement summarises the pension tax changes applicable from March 2014 plus those proposed from April 2015, and recommends that trustees should take their own advice on their implications. Trustees are advised to consider recent member communications that might be affected by the Budget, as well as those due to be issued in the future. The statement emphasises that members should, where appropriate, seek their own tax and financial advice.
Defined contribution: regulation of workplace DC pensions	
Guide issued on 21 March 2014	The Pensions Regulator and the Financial Conduct Authority (FCA) have issued a joint regulatory guide setting out how they regulate defined contribution (DC)

	workplace pensions. Highlights include the following: • The Pensions Regulator and the FCA will incorporate the minimum quality standards being developed by the DWP into their regulatory activities. • The Pensions Regulator's main regulatory focus for DC schemes is on the conduct of trustees of trust-based schemes. It expects trust-based DC schemes to exhibit the quality features set out in Code of Practice 13 and associated regulatory guidance. • The FCA's regulatory focus is on providers and the products they develop. It expects firms to design and maintain contract-based products that meet the needs of the intended target market. Firms must also pay due regard to the interests of their customers and treat them fairly. • The Pensions Regulator is more likely to take the lead where there are problems with an individual scheme and the FCA is more likely to lead where the issue is caused by the provider. Where there are potential implications for both regulators, they will agree which one should lead or may conduct a joint investigation.
Defined contribution: updated guidance	
Updated guidance issued April 2014.	The Pensions Regulator has updated its regulatory guidance for defined contribution (DC) schemes, intended to be read in conjunction with Code of Practice 13 (Governance and administration of occupational defined contribution trust-based pension schemes). The guidance has been updated to reflect the coming into force on 6 April 2014 of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013. It also refers to the Government's consultation on allowing DC pots to be taken entirely as cash from April 2015 and states that trustees should ensure that members are made aware of the full range of options available to them, including commutation for small pots and deferring their pension.
Definition of money purchase benefits	
Written Ministerial Statement issued 3 April 2014. Response to consultation to be published in due course. *The Pensions Act 2011 (Transitional and Consequential Provisions) Regulations 2014* expected to come into force in July 2014	The Pensions Minister has announced that the "Bridge" regulations, containing transitional provisions relating to the new definition of "money purchase benefits" in section 29 of the Pensions Act 2011, will come into force in July 2014. The regulations especially concern benefits (such as GMP underpins) which may previously been treated as money purchase benefits but which do not fall within the section 29 definition. Previous consultation had indicated that the regulations would have effect from April 2014. Following consultation the DWP has changed its policy and, In most cases, transitional protection will be provided in respect of events occurring from 1 January 1997 (the date from which section 29 will have effect) and the date the regulations are in force in July 2014. This means that in almost all cases schemes will not need to revisit decisions made before the regulations were in force.

European reform: portability directive	
Directive adopted by European Parliament on 15 April 2014. The next step is for the Directive to be formally approved by the Council of Ministers. Once in force, Member States will have four years to implement the Directive in national law.	The European Parliament has adopted the proposed Portability Directive intended to protect the occupational rights of workers who move between Member States. As adopted, the combined waiting / vesting period for mobile workers must not exceed three years' service. In addition, the European Parliament inserted a clause stipulating that cross-border workers should benefit from the same level of protection under the Directive.
Marriage (Same Sex Couples) Act 2013: further consequential provisions	
The Marriage (Same Sex Couples) Act 2013 (Consequential Provisions) Order 2014/107 in force on 13 March 2014	An order, in force on 13 March 2014, makes various consequential amendments subsequent to the coming into force of the Marriage (Same Sex Couples) Act 2013. Points to note include: • Under Scottish law, a same sex marriage under the law of England and Wales is treated as a civil partnership formed under the law of England and Wales. • The section of the Act which provides that, in English and Welsh legislation, marriage has the same effect in relation to same sex couples as in relation to opposite sex couples is disapplied in relation to specified Acts and regulations, including legislation governing various statutory pension schemes. • The requirements for providing a survivor's guaranteed minimum pension (GMP) have been amended to continue more favourable treatment for widows of a male earner, compared to widowers, surviving civil partners and (from 13 March 2014) widows of a female earner (whose survivor's GMP is calculated only by reference to contracted-out service from 1988/89 to 1996/97). • Consequential amendments are made to the Modification Regulations to make clear that trustees may modify schemes to provide benefits for surviving civil partners in the same way as for surviving opposite sex spouses without offending the subsisting rights provisions, or by resolution (provided that rights to benefits exceeding those required under the Equality Act 2010 may only be conferred with the employer's consent).
Miscellaneous amendments: final regulations	
The Occupational Pension Schemes (Miscellaneous Amendment) Regulations 2014/540 in force on 6 April 2014	The Government has issued two responses to consultation and final regulations making changes in the following areas: **Scheme administration** The eligibility conditions in the OPS (Scheme Administration) Regulations 1996 for being a scheme auditor will be amended to allow, in certain circumstances, someone prohibited from being a statutory auditor of the sponsoring employer under the independence conditions of the Companies Act 2006 to be a scheme auditor. The relaxation will apply in respect of trust-based, multi-employer

	occupational pension schemes where there at least 500 participating employers on the first day of the scheme year (or on the first day of the following scheme year). Following consultation, the proposed requirement for at least two-thirds of the employers not to be associated or connected has been dropped. **Discharge of liability** The OPS (Discharge of Liability) Regulations 1997 will be amended to clarify that the statutory discharge will apply to trustees who secure benefits by purchasing an annuity or insurance policy which allows members to take a proportion of their benefits as a pension commencement lump sum. A similar provision was inadvertently removed when changes were made to the taxation of pensions in 2006. Following consultation, the requirement that the individual must have reached age 55 has been removed. **TUPE transfers** The Transfer of Employment (Pension Protection) Regulations 2005 will be amended to allow a transferee employer which offers a money purchase scheme to transferred employees the choice of: matching the level of contributions paid by the transferring employer immediately prior to the transfer; or matching the level of contributions paid by the employee, to a maximum of 6%. **Section 75 debts** The OPS (Employer Debt) Regulations 2005 will be amended to correct a cross-referencing error relating to employers' liability to money purchase schemes in cases of criminal fraud.
Pension Protection Fund: valuation assumptions	
Consultation document issued on 5 March 2014. Consultation closed on 16 April 2014. The changes would apply for valuations with an effective date on or after 1 May 2014. The PPF Board hopes to publish the results of the consultation and the new assumptions guidance by the end of May 2014.	The PPF has consulted on changing the assumptions used for section 143 valuations (used for schemes in assessment periods) and section 179 valuations (used when setting a scheme's risk-based levy). The PPF Board is responsible for keeping the valuations used in line with estimated pricing in the bulk annuity market and is considering changes in the light of recent developments in that market. The PPF expects that the proposed changes would increase section 143 and section 179 liabilities by just under 4% and would potentially lead to a small increase in the number of schemes transferring to the PPF.
Pension Protection Fund: insolvency risk provider	
"Information for schemes on the move to Experian" issued March 2014 .A six-week consultation on the PPF's intentions for the levy years 2015/16 to 2017/18, including details of the PPF specific model, is intended for the end of	The PPF has issued a note giving information on its progress with the move to Experian as its insolvency risk provider. Points to note include: • It is intended to use a measure of insolvency risk specifically designed for the PPF: The PPF-Specific Insolvency Score. • A web portal will allow information held on employers to be checked and

May 2014. Scores will be collected for use in the 2015/16 levy from 31 October 2014 onwards.	scores to be monitored, with the ability to set up alerts if scores change. • The aim is that supplying information direct to Experian should be the exception and that, in most cases, schemes and employers should ensure that current information is provided to the sources Experian will use and that information on the Pensions Regulator's Exchange system is accurate. • Employers' insolvency risk will be assessed using one of eight scorecards, decided according to factors such as whether the employer is part of a group or is a stand-alone business. A separate scorecard will be used for the not for profit sector.
Pensions Ombudsman: permission to appeal	
*The Civil Procedure (Amendment) Rules 2014/40*7 in force (in relation to appeals from the Pensions Ombudsman or PPF Ombudsman) on 6 April 2014	The Civil Procedure Rules are amended to introduce a requirement for permission from the High Court to bring an appeal against a determination of the Pensions Ombudsman or the Pension Protection Fund Ombudsman.
Tax: annual allowance - RPSM updates	
Updates to RPSM issued 3 April 2014.	HMRC has updated the Registered Pension Schemes Manual (RPSM) to reflect to reduction in the annual allowance to £40,000 on 6 April 2014. HMRC has confirmed that: • for the purpose of carrying forward unused annual allowance to the 2014/15 tax year, the previous annual allowance of £50,000 may still be used for the tax years 2011/12, 2012/13 and 2013/14, • there are no transitional rules to cover the reduction of the annual allowance as the reduced amount was known ahead of pension input periods that started in 2013/14 but would end in 2014/15.

Recent cases and determinations

ATP PensionService A/S v Skatteministeriet	
Pension fund could be a "special investment fund"	The ECJ has upheld the Opinion of the Advocate General, confirming that an occupational DC scheme can claim exemption from VAT on third-party administration expenses. **Background** In a case brought by ATP, a Danish company that provides administration services to occupational pension schemes, the Advocate General gave an Opinion in December 2013 that a Danish occupational pension scheme which appeared to have similar characteristics to a UK defined contribution scheme may constitute a "special investment fund" under Article 13(B)(d)(6) of the Sixth VAT Directive (77/388/EEC), which exempts from VAT "the management of special investment funds as defined by Member States", if the scheme is funded by the members, the funds are invested using a risk-spreading principle and the member bears the investment risk. **Judgment** The ECJ has followed the Opinion and ruled that an occupational DC scheme can constitute a "special investment fund" provided that: It pools assets of several beneficiaries to spread investment risk; The members bear the investment risk; and It is funded by the persons to whom the retirement benefits are paid. The case has been sent back to the Danish court to decide whether the scheme does fulfil these conditions.
Harvey	
Provider's delay in bulk transfer	Member suffered loss when provider transferred benefits outside agreed ten day period. **Background** Mr Harvey's scheme benefits were transferred to Scottish Widows as part of a bulk transfer in 2012. The scheme had agreed it would make the transfers within ten working days. Guidance from the Association of British Insurers (ABI) specified a ten period for transferring money between providers and stated that transfers should be made electronically. This guidance had lapsed; it was unclear whether this was before or after 2012. Although the scheme settled Mr Harvey's plan on the day it received his claim form, 24 January 2012, it did not issue a cheque to Scottish Widows (for £53,040) until 14 February 2012, outside the ten day period. When Mr Harvey complained the scheme agreed to compensate him for any financial loss arising from it not sending the cheque on 1 February 2012, the earliest date on which any cheque under the bulk transfer had been sent and asked Scottish Widows to establish any loss from the fund not having been invested on 2 February 2012. Mr Harvey complained that the scheme had wrongly delayed transferring his

benefits, that the cheque should have been sent to Scottish Widows earlier than 1 February 2012, and that the transfer should have been made electronically.

Determination

The Deputy Ombudsman partially upheld the complaint. The scheme had wrongly delayed sending the transfer cheque, which had caused him financial loss through the late reinvestment of the funds by Scottish Widows. However, the seven days from the date the claim form was received (24 January 2012) to the deemed reinvestment by Scottish Widows (on 2 February 2012) was a reasonable time frame given the circumstances. In addition, treating the money as having been invested the day after the cheque was deemed to have been issued (with no cheque clearance period) meant that no financial loss arose from not sending the money electronically.

The Deputy Ombudsman also held that the £275 already paid to Mr Harvey by the scheme was fair compensation for distress and inconvenience.

IBM UK Holdings Ltd and another v Dalgleish and others

Employer found to have breached duty of good faith

The court held that statements made by the employer at the time of previous amendments to defined benefit pension schemes had established members' reasonable expectations as to the future and, therefore, the court found that subsequent proposals to close to future accrual were in breach of the duty of good faith.

Background

During 2004 to 2006, IBM UK had made changes to its two defined benefit (DB) pension plans. In explaining these changes, IBM UK was found to have made statements to the members and the trustees to the effect that the changes to the DB plans would put them on a secure footing in the long-term.

In 2009 further changes to the plans were proposed (known as Project Waltz), the main elements of which were:

- closing the DB section of the plans to future accrual for most employees
- procuring agreements with DB members under which future pay increases would be non-pensionable for DB purposes
- opening an early retirement window for active members
- introducing a new early retirement policy preventing early retirement for active DB members except on cost neutral terms
- creating a "hybrid deferred" status by allowing members who had ceased accruing DB benefits to join the defined contribution (DC) section of the main plan.

The employer asked the High Court to rule upon a number of issues.

Judgment

Mr Justice Warren held that IBM UK was in breach of the implied duty of good faith on an employer not to destroy or seriously damage the relationship of trust and confidence between them (with regard to benefit accrual and the change in its early retirement policy) and of its contractual duty of trust and confidence by indicating that there would be no future salary increase for members who did not sign the non-pensionability agreements. He also held that there was a breach of the contractual duty in the way the consultation exercise had been carried out. He found that IBM was not in breach of any duty in relation to the creation of the hybrid deferred status.

The Court held that the test of the implied duty of trust and confidence, set out (in relation to pensions) in *Imperial Group Pension Trusts Ltd v Imperial Tobacco Limited* in 1991 is an objective one, not based on fairness but on irrationality or perversity. The test is a severe one; the employer's conduct must be such as to destroy or seriously damage the relationship. In deciding whether there has been a breach, any "reasonable expectations" of members had to be brought into the balance and might be critical in that conduct which disappointed those expectations would amount to a breach.

In this case, the court found that the reasonable expectations of the members were that benefit accrual would continue, subject to an appreciation that a significant change in financial and economic circumstances might reasonably lead to changes. They also were found to have had an expectation that they could take advantage of the existing early retirement policy until 2014, unless there was some justification for a change. The court concluded that the Project Waltz changes conflicted with the reasonable expectations in a very serious way, going to the heart of the relationship between employer and employees. The deterioration in financial conditions which produced problems for IBM UK in meeting its commitment to investors was not necessarily a sufficient justification, according to Mr Justice Warren. He concluded that IBM UK had to do more than demonstrate that the changes amounted to a rational, commercially sensible course – IBM also had to show why confounding members' reasonable expectations was within the range of decisions that a reasonable employer would take.

Irvine

Repayment of overpaid pension

A member had no defence to recovery of four years of overpaid early retirement pension after she failed to notify the scheme administrator of her re-employment, as required by the scheme rules.

Background

On taking early retirement in 2008, Mrs Irvine confirmed that she understood that if she returned to work before age 60 then her pension and "re-employed" earnings combined could not exceed her pensionable earnings prior to retirement, or else she would have to pay back the overpayment. She also declared that she would immediately inform the administrators of any changes in the information given to them.

In January 2012, the administrator informed Mrs Irvine that the size of her earnings meant that she had been overpaid and sought repayment of four years of overpaid pension. The repayment amount was significantly increased by the administrator's failure to spot the overpayment earlier.

Mrs Irvine complained that she had not received sufficient information about abatement and had assumed after her application for early retirement had been

	approved that the administrator was aware of her earnings. **Determination** The Ombudsman rejected her complaint, holding that the member had been given sufficient information to know that the administrator needed up-to-date information in order to avoid overpayments. She could not therefore have reasonably received the overpayments thinking they were hers to spend. However, the Ombudsman directed the administrator to pay the member £350 for the distress and inconvenience caused by its failure to detect the overpayments in 2009, together with a later mistake in calculating their amount.
Major	
Independence of medical experts for ill-health early retirement	Medical expert must be "independent" in order to be able to act as an independent registered medical practitioner to certify eligibility for ill-health early retirement benefits under the Local Government Pension Scheme. **Background** Before making a decision as to whether to award the member an ill-health early retirement (IHER) pension under the Regulations of the Local Government Pension Scheme (LGPS), the employer must first obtain certification from an independent registered medical practitioner (IRMP) as to whether in his opinion the member's condition satisfies the criteria set out in the Regulations. The Regulations define "IRMP" and also provide that the IRMP must be "independent" in the terms set out, including (under Regulation 56) that the IRMP "must be in a position to declare that: (a) He has not previously advised, or given an opinion on, or otherwise been involved in the particular case for which the certificate has been requested; and (b) He is not acting, and has not at any time acted, as the representative of the member, the employing authority or any other party in relation to the same case ..." Mrs Major complained that her employer had wrongly refused her an IHER pension and, in particular, that doctors from the employer's occupational health service provider were not impartial as it was the employer's contracted provider. **Determination** The Deputy Ombudsman upheld the complaint. Under the PGPS Regulations, a medical practitioner's independence was not defined by his ability to make a Regulation 56 declaration alone; the word "independent" must carry its intrinsic meaning and a "reasonable perception of independence is also required". A properly instructed physician working for the same organisation as a physician who has previously advised does not automatically lose independence as a result but the facts of this case raised doubts that the doctors were truly independent. In addition, Mrs Major's eligibility under one of the regulations was both first considered and then rejected at the second and final stage of the IDRP, so she

	was denied the right to appeal against that decision. The Deputy Ombudsman remitted the decision on eligibility to the employer and ordered it to pay Mrs Major £150 for distress and inconvenience.
Ministry of Justice v O'Brien	
Accrual of part-time pension entitlement	The EAT has held that a part-time fee-paid recorder was entitled to a pension calculated from 7 April 2000, the date on which the Part-Time Workers Directive should have been transposed into UK law. **Background** Mr O'Brien was a recorder from March 1978 until his retirement in March 2005. He complained to an employment tribunal that his exclusion from pensions entitlement was discriminatory on the basis of his part-time status. The Supreme Court referred his case to the ECJ. The ECJ held that it was open to the Supreme Court to find that part-time fee-paid judges are workers within the meaning of the Framework Agreement and, if judges are workers, national law cannot discriminate between full-time and part-time judges in the provision of pensions unless this can be objectively justified. The Supreme Court subsequently held that recorders were workers for the purposes of the Part-Time Workers Regulations and the exclusion of recorders from entitlement to a judicial pension could not be objectively justified. The Supreme Court remitted Mr O'Brien's case back to an employment tribunal to decide the amount of his pro-rated pension entitlement. The employment tribunal held that Mr O'Brien was entitled to a pension based on all of his service from March 1978, not just from 7 April 2000 when the UK were obliged to implement the Directive. **Judgment** The EAT overturned an employment tribunal's decision that the recorder's pensionable service began on the date he started working in 1978. The fundamental principle of legal certainty in EU law meant that rights could not be backdated to a period before they existed in law.
Wallace	
Consideration of application for ill-health early retirement pension	The process followed by the principal employer and trustee in considering a member for an ill-health early retirement pension did not match the scheme rules. **Background** Mrs Wallace joined the scheme before the rules on ill-health early retirement were changed on 1 July 1996. Her eligibility for an IHER pension in 2008 had to be considered under both sets of rules, with the level of benefits dependent on which of the two she satisfied, if any. The report of the company's chief medical officer indicated that she met the test under both the pre-96 and post-96 rules. However, the certificate was rejected by an HR officer, who referred the matter to an independent occupational health consultant who reported that she was not

"permanently incapacitated from doing her job or a comparable job on a permanent basis". The company wrote to Mrs Wallace informing her that her IHER application had been unsuccessful, and her employment was terminated from 22 August 2009.

Mrs Wallace's subsequent appeal under the scheme's internal dispute resolution procedure (IDRP) was unsuccessful.

Mrs Wallace complained to the Ombudsman that the trustee had unfairly rejected her application for an IHER pension.

Determination

The Ombudsman upheld the complaint. The employer and trustees had failed to identify their separate obligations and they had followed a process that did not fit the rules. The two bases on which a member could qualify for an ill-health pension were confused and it was not clear in what capacity the various medical advisers were giving advice and to whom they were giving it at several stages in the process. Decisions that were for the trustee under the scheme rules were made by an employee of the sponsoring employer without proper delegated authority and without the trustee's knowledge. The trustee also wrongly adopted a medical adviser's opinion when it should have reached its own view under one of the bases for qualifying.

The Ombudsman directed the trustee to pay the member benefits from the date her employment was terminated, subject to two-yearly reviews. He also directed the trustee and the employee to each pay the member £250 for her distress and inconvenience.

Wright Health Group Limited Superannuation & Life Assurance Scheme

Refusal by the Pensions Regulator of application to modify scheme to allow refund of surplus to employer

The Determinations Panel of the Pensions Regulator rejected an application to modify a scheme's trust deed and rules to allow a refund of surplus to the employer.

Background

The Pensions Regulator has the power under section 69(3)(b) of the Pensions Act 1995 to authorise the modification of an occupational pension scheme which is being wound up to enable a payment to be made to the scheme's employer "after the liabilities of the scheme have been fully discharged", if the Regulator is satisfied that the purposes for which the order is made cannot be achieved in another manner, or in accordance with a procedure that is liable to be unduly complex or protracted, or involves the obtaining of consents which cannot be obtained, or can only be obtained with undue delay or difficulty.

The trustee of a DB scheme which was in the process of a buy-out and winding-up wanted to make a repayment of surplus to the scheme's employer. This was not possible because the scheme's trust deed and rules did not contain a provision allowing a repayment to the employer and, in addition, the rules expressly prohibited any amendment of the scheme to permit such a payment.

The trustee applied for an order from the Regulator to modify the scheme.

Decision

The Panel determined that the order could not be made. It was not satisfied, based on the evidence submitted by the trustee, that the order requested would enable the scheme's liabilities to be fully discharged, as required by section 69(3)(b). The trustee had not fully considered the effect of rule 19 of the trust deed and rules which dealt with the distribution of assets on winding up. The rule provided for any surplus assets once members' benefits had been secured and all costs met to be used to increase members' benefits "in such a manner as the Trustee may decide". The words "liabilities of the scheme" in section 69(3)(b) meant an obligation at law. Rule 19 imposed an obligation and so it could rightly be regarded as a liability of the scheme.

The Panel was concerned that it had not been provided with sufficient information on assets and liabilities to understand what assets would remain after the buyout, and the subsequent wind-up, if rule 19 were to be followed. Therefore it could not grant the order. However, it left it open for the trustee to submit a new application, with additional information, at a later date.

Imminent: in force in the last three months or due to come into force in the next three months

Accounting: classifying pension liabilities as equity	
Press notice issued 15 January 2014	The Financial Reporting Council (FRC) has issued a press notice warning company boards against entering into arrangements (often using a Scottish limited partnership) that turn pension obligations into equity instruments in their accounts. The FRC has acknowledged the genuine commercial reasons for establishing such alternative arrangements for supporting pension scheme funding. Its concern has focussed on companies that have used an alternative funding arrangement to reclassify pension liabilities as equity instruments in the company's consolidated accounts.
Auto-enrolment: 2014/15 thresholds	
Written Ministerial Statement issued 17 December 2013. *The Automatic Enrolment (Earnings Trigger and Qualifying Earnings Band) Order 2014/632* in force 6 April 2014.	The auto-enrolment thresholds for 2014/15 have been finalised: • £10,000 for the earnings trigger (to align with the PAYE threshold) • £5,772 for the lower limit of the qualifying earnings band (to align with the National Insurance (NICs) lower earnings limit) • £41,865 for the upper limit of the qualifying earnings band (to align with the NICs upper earnings limit).
Auto-enrolment: career average and hybrid schemes	

The draft *Occupational and Personal Pension Schemes (Automatic Enrolment) (Amendment) Regulations 2014* in force on 1 April 2014	In February 2014, draft regulations were issued which will:
	
	• allow all hybrid schemes to phase in the level of contributions in relation to their money purchase benefits. Previously, an employer which certified money purchase benefits in a hybrid scheme against one of the alternative quality requirements could not take advantage of the lower minimum contribution rates during the auto-enrolment transitional periods;
	• permit career average (CARE) schemes which provide for revaluation at below the "minimum rate" to be qualifying schemes if they are funded on the basis that benefits will revalue at or above the minimum rate and this is reflected in the statement of funding principles; and
	• amend the definition of "minimum rate" for revaluation to be (for private sector schemes) the lower/lowest of:
	  - the annual increase in the Retail Prices Index (RPI);
	  - the annual increase in the general level of prices as determined in a manner decided by the Secretary of State; and
	  - 2.5%.

Auto-enrolment: technical changes	
Consultation paper and draft regulations issued 25 March 2013. Consultation ended 7 May 2013.	The DWP has issued a response to consultation and final regulations making technical changes to simplify the auto-enrolment process.

Response to consultation and final regulations issued October 2013.

Updated guidance from the Pensions Regulator expected "shortly".

The Automatic Enrolment (Miscellaneous Amendments) Regulations 2013/2556 in force on 1 April 2014 in relation to the joining window and contribution deadlines and on 1 November 2013 in relation to other provisions.

Alternative method of defining pay reference period

An alternative method for defining a "pay reference period" for the purposes of assessing an employer's auto-enrolment duties will be available. Following consultation, the original proposals have been amended.

- The length of a pay reference period will be defined by reference to how often an individual is paid (for example, monthly). This is intended to address the issues which would otherwise arise with variable pay patterns, for example where an individual is paid monthly but the amount paid is either 4 or 5 weeks' pay, depending on how the month falls.
- Under the new option, the pay reference period will start on the first day of the tax month (where the individual is paid monthly) or tax week (where the individual is paid weekly).

The new option will not be compulsory and will run alongside the existing provisions.

Alternative pay reference period for assessing quality of DC schemes

When the amendments are in force, employers may use one of three definitions of "pay reference period" when assessing the quality of their DC scheme:

- one year starting with the anniversary of the employer's staging date (the current definition);
- the period between the jobholder's regular payments of pay (for example, a month or a week), starting on the first day of a tax month (if paid monthly) or the first day of a tax week (if paid weekly);
- the period by reference to which the jobholder is paid their regular pay (for example, a month or a week), commencing on the first day of that period.

The new alternative definitions of pay reference period remove the need to have an annual reconciliation of contributions and qualifying earnings unless the employer chooses to do so.

Where jobholders are paid by reference to a period that is a multiple of weeks or months, pay reference periods will align with a cycle starting on 6 April.

Extension of contribution deadline

As amended, contributions deducted during the first three months of membership must reach the scheme by the 19th day of the fourth month (or the 22nd day if the payment is sent electronically). The extended deadline will apply to all new joiners irrespective of whether or not they are jobholders and whether they joined through auto-enrolment or a contract arrangement.

The proposal in the consultation was that contributions deducted during the opt-out period should be paid to the scheme by the end of the second month after the month which includes the jobholders auto-enrolment date. However, this extension would only have applied to jobholders (not, for example, to entitled workers) and to the auto-enrolment process (not contractual arrangements).

Flexibility in form and content of opt-out notice

Opt-out notices will have to include information and warnings set out in the regulations but will be allowed to include additional information and use different

	wording. **Extension of joining window** The joining window for a jobholder to achieve active membership will be extended from one month to six weeks from the individual's auto-enrolment date. The extension will apply to auto-enrolment, automatic re-enrolment, enrolment following opt-in, and to the deadline for the joining processes at the end of the transitional period for DB and hybrid schemes. **Test scheme standard** The test scheme standard for non-contracted-out schemes will be amended: • so that, when determining whether a scheme meets the standard, employers and actuaries may take into account future increases to state pension age set out in regulation 38 of the auto-enrolment regulations, without having to wait until the increases have effect; and • to clarify the revaluation and maximum service requirements in relation to cash balance schemes. **Proposals not included in the Regulations** The DWP intends to consult on excluding certain categories of jobholder, including individuals who have recently been contractually enrolled but who have opted out, from the scope of employer duties.
Auto-enrolment: updated guidance notes	
Guidance updated on 7 April 2014	The Pensions Regulator has issued updated guidance notes on auto-enrolment, revised to reflect changes to regulations in force in April 214, including the extension to the auto-enrolment period for an eligible jobholder from one month to six weeks and increases to the qualifying earnings band and earnings trigger.
Budget 2014: pension flexibility - HMRC guidance	
Guidance issued 9 April 2014	In April 2014, HMRC issued further details of the tax consequences of unravelling actions taken before 27 March 2014 (Budget day). The guidance is aimed at individuals who have: • taken a tax free lump sum before Budget day; and • either cancelled an annuity that was linked to the lump sum within the cooling off period; or not yet decided how to access the rest of their pension savings. Individuals who cancelled an annuity contract within the cooling off period and repaid the lump sum will have their benefit crystallisation events in respect of the annuity and lump sum cancelled and will be able to use the flexibility available from 6 April 2015. Individuals who cancelled an annuity contract within the cooling off period but retained the lump sum will be able to use the flexibility available from 6 April 2015. Payment of the lump sum will be treated as a benefit crystallisation event (BCE 6), with the amount paid as the "permitted maximum". The lump sum will

	remain an authorised payment even if the value of the remaining fund subsequently falls. However, no further lump sum may be taken if the fund increases in value. The guidance points out that the options available to individuals in practice will depend on the rules of their pension scheme
Budget 2014 - pension flexibility March 2014	
2014 Budget and draft legislation issued on 19 March 2014. Consultation paper, "Freedom and Choice in Pensions", issued 19 March 2014. Consultation period ends on 11 June 2014. Initial changes to the pension tax regime will apply from 27 March 2014. Removal of restrictions on use of DC pension pots to apply from April 2015.	In the March 2014 Budget, the Chancellor announced significant changes to the pension tax regime. Highlights in relation to changes with effect from 27 March 2014 are as follows. • The trivial commutation limit has increased from £18,000 to £30,000, applicable to all commutation periods starting on or after 27 March 2014. (A trivial commutation lump sum may be paid when the member is aged at least 60, the total value of his/her pension rights under registered pension arrangements does not exceed the commutation limit and the lump sum extinguishes all the member's rights under the scheme.) In addition, the Government intends to remove the revaluation factor for determining how much of the commutation limit is used up by crystallisation of previous pension rights. • The size of a small pot that may be taken as a lump sum, regardless of an individual's other pension pots, has increased from £2,000 to £10,000. • An individual may take three pension pots as lump sums under the small pot rules, increased from the previous limit of two small pots. • The maximum income that can be drawn from a capped drawdown arrangement (including a dependant's drawdown arrangement) has increased from 120% to 150% of an equivalent annuity. The new limit applies to all drawdown pension years starting on or after 27 March 2014. • The level of guaranteed annual income required in order to use flexible drawdown has reduced from £20,000 to £12,000, applicable to all individuals who apply for flexible access to their drawdown pension on or after 27 March 2014.
Budget 2014 - pension liberation	
2014 Budget and draft legislation issued on 19 March 2014. Guidance Note, "Combatting Pension Liberation", issued 19 March 2014. The consultation period on the "fit and proper person" condition ends on 27 June 2014. Changes relating to pension liberation will have effect from 20 March 2014, except for the "fit and proper person" and regulatory intervention provisions which will have effect from 1 September 2014.	In the March 2014 Budget, the Chancellor announced changes intended to tackle pension liberation fraud. Highlights are as follows. • The Finance Act 2004 will be amended to help prevent the registration of pension liberation schemes and to facilitate the de-registration of such schemes. In particular, HMRC will have new powers to: - send information notices to the scheme administrator and other persons; - enter business premises to inspect documents. • There will be new penalties for providing false information or a false declaration in connection with a registration application. • HMRC will be able to de-register, or refuse to register, a scheme if it

	considers that the scheme administrator is not a fit and proper person. • "Fit and proper person" will not be defined in legislation. Guidance issued at the time of the Budget sets out the approach that HMRC will take when considering whether a person is fit and proper to act as scheme administrator. HMRC will assume that all persons appointed as scheme administrators are fit and proper persons unless HMRC holds information, or obtains information, which causes it to question that assumption. • There will be a new requirement that the main purpose of a pension scheme must be to provide authorised benefits. • Surrendering pension rights in favour of an employer to fund an authorised surplus payment will be subject to tax as an unauthorised payment. • The surrender of rights in favour of dependants will be treated as an unauthorised payment unless the dependants' newly-acquired rights are provided under the same pension scheme. • Independent trustees appointed at the instigation of the Pensions Regulator will not be liable for tax that arose before they were appointed.
Budget 2014: statement from Pensions Regulator	
Statement made on 15 April 2014	In April 2014, the Pensions Regulator issued a short statement on key measures announced in the Budget 2014, aimed at trustees of occupational defined contribution (DC) schemes and others involved in their governance and administration. The statement summarises the pension tax changes applicable from March 2014 plus those proposed from April 2015, and recommends that trustees should take their own advice on their implications. Trustees are advised to consider recent member communications that might be affected by the Budget, as well as those due to be issued in the future. The statement emphasises that members should, where appropriate, seek their own tax and financial advice.
Defined contribution: definition of "money purchase" benefits	
Consultation paper and draft regulations issued 31 October 2013. Written Ministerial Statement issued 3 April 2014. Response to consultation to be published in due course. *The Pensions Act 2011 (Transitional and Consequential Provisions) Regulations 2014* expected in force in July 2014 (previously, the regulations had been expected in force in April 2014).	In April 2014, the Pensions Minister announced that regulations containing transitional provisions relating to the new definition of "money purchase benefits" in section 29 of the Pensions Act 2011 will come into force in July 2014. Section 29 will overturn the decision of the Supreme Court on 27 July 2011 in Bridge, which held that certain benefits (such as some DB underpins and pensions provided from a DC scheme (internal annuitisation)) were money purchase benefits even though deficits could arise in relation to them. Previous consultation had indicated that the regulations would have effect from April 2014. Following consultation the DWP has changed its policy and, In most cases, transitional protection will be provided in respect of events occurring from 1 January 1997 (the date from which section 29 will have effect) and the date the regulations are in force in July 2014. This means that in almost all cases schemes will not need to revisit decisions made before the regulations were in force.

Defined contribution: master trust assurance framework	
Draft framework issued 16 October 2013. Consultation period ended on 16 December 2013 Final guidance planned for publication in spring 2014	The Institute of Chartered Accountants of England and Wales (ICAEW, in partnership with the Pensions Regulator, has issued a draft assurance framework intended to help trustees of DC "master trusts" demonstrate to potential and existing customers that their scheme is being run to a high standard. The consultation sets out "control objectives", based on some of the Pensions Regulator's DC principles and quality features. Six key areas are focussed on: • essential characteristics (schemes should be durable, fair and deliver good member outcomes); • establishing governance; • ensuring that individuals responsible for scheme decisions and activity understand their duties and are fit and proper to carry them out; • on-going governance and monitoring; • administration; • member communication. Master trusts would be expected to obtain independent assurance annually. The ICAEW and Pensions Regulator consider that, although the framework has been developed for master trusts, other larger DC schemes may also decide to adopt the framework.
Defined contribution: Pensions Regulator – code of practice	
DC code of practice in force on 21 November 2013 Regulatory guidance for defined contribution schemes and Compliance and enforcement policy published 21 November 2013	The Pensions Regulator's code of practice 13, "Governance and administration of occupational defined contribution (DC) trust-based pension schemes has come into force.
Defined contribution: Pensions Regulator – strategy for regulating DC schemes	
Draft compliance and enforcement policy and Strategy for regulating defined contribution pension schemes issued 2 October 2013. Consultation ended on 31 October 2013	In two draft papers, the Pensions Regulator has set out its framework for regulating the governance and administration of DC schemes plus its approach to enforcement for occupational DC trust-based schemes. Points to note include: • The Regulator has identified the following core risk areas: governance; investment governance and decision making; administration; and fraud. • The Regulator intends to carry out a programme of thematic reviews focussing on a particular field or market segment. • When deciding whether to take enforcement action, the Regulator will take into account the immediacy and materiality of the risk or issue, plus other factors which may include: the number of members affected; the financial impact on individual and/or groups of members; the severity and duration of

	the breach; and whether trustees are able to demonstrate that they have adequate knowledge and understanding and have a training schedule in place.
Defined contribution: regulation of workplace DC pensions	
Guide issued on 21 March 2014	The Pensions Regulator and the Financial Conduct Authority (FCA) have issued a joint regulatory guide setting out how they regulate defined contribution (DC) workplace pensions. Highlights include the following: • The Pensions Regulator and the FCA will incorporate the minimum quality standards being developed by the DWP into their regulatory activities. • The Pensions Regulator's main regulatory focus for DC schemes is on the conduct of trustees of trust-based schemes. It expects trust-based DC schemes to exhibit the quality features set out in Code of Practice 13 and associated regulatory guidance. • The FCA's regulatory focus is on providers and the products they develop. It expects firms to design and maintain conract-based products that meet the needs of the intended target market. Firms must also pay due regard to the interests of their customers and treat them fairly. • The Pensions Regulator is more likely to take the lead where there are problems with an individual scheme and the FCA is more likely to lead where the issue is caused by the provider. Where there are potential implications for both regulators, they will agree which one should lead or may conduct a joint investigation.
Defined contribution: Regulator tools	
Standard governance statement and scheme assessment template issued 6 February 2014.	In February 2014, the Pensions Regulator issued a standard governance statement and scheme assessment template for trustees of defined contribution (DC) schemes. The Regulator expects trustees to publish a governance statement, used to: • confirm that the scheme complies with the DC code of practice and regulatory guidance and that it exhibits the quality features the Regulator expects all schemes to possess; • explain where a scheme has adopted a different approach where a quality feature is wholly or partially absent; • set out trustees' intended action to incorporate or improve a quality feature. The assessment template sets out each quality feature and its location in the DC code, and allows trustees to allocate a colour to each feature to indicate whether it has been fully or partially adopted and, if not, whether an action plan for its adoption is in place. The Regulator does not expect the assessment template to be published but expects the information to be available to employers, members and the Regulator on request.

Disclosure: consultation on revised requirements	
Consultation paper issued February 2013. Consultation closed 14 April 2013 Response to consultation issued on 31 July 2013 *The Occupational and Personal Pension Schemes (Disclosure of Information) Regulations* 2013/2734 in force 6 April 2014	Following consultation, the DWP has finalised regulations to consolidate and amend the disclosure requirements for occupational and personal pension schemes. Key points include: • The disclosure regulations for occupational and personal pension schemes are combined in the new regulations and the existing (separate) regulations will be revoked. The new regulations also incorporate requirements in relation to auto-enrolment and qualifying schemes. • The requirements for DC funding statements will apply in relation to members of occupational and personal pension schemes. • Where a scheme contains provision for lifestyling, a statement explaining lifestyling, its advantages and disadvantages, and when it has been or will be adopted must be given to: - prospective members of an occupational pension scheme, if it is practicable to do so; - members of an occupational scheme who have not already been given the information; and - members of an occupational or personal pension scheme between five and 15 years before the member's retirement date. The retirement date for this purpose will be a date specified by the member to the trustees or managers provided that it is acceptable under the scheme rules or, otherwise, a date specified by the trustees or managers. The regulation clarify that acceptable methods of ensuring disclosure include giving information by post, by email or making information available on a website provided that, where electronic means are used, the safeguards set out in the regulations must be followed. In particular, schemes which have made several attempts to obtain a member's email address or the member's opt out of electronic communications do not have to continue to give notifications by email or by hand each time information is placed on a website.
Employer debts: draft regulations	
Consultation paper issued 10 May 2013. Consultation ended 7 June 2013 *The draft Occupational Pension Schemes (Employer Debt)(Miscellaneous Amendment) Regulations 2013* was expected in force October 2013	The DWP has issued draft regulations for consultation. The regulations will amend the definition of "receiving employer" used in relation to the restructuring easements, under which a section 75 debt will not arise on some corporate restructurings (provided certain conditions are met). At present, the definition provides for the receiving employer to be either associated for the purposes of the Insolvency Act 1986 with the exiting employer or to be the new legal status of the exiting employer. As amended, the limb referring to the new legal status of the exiting employer will be removed. The consultation paper also asks some more general questions about use of the provision and whether flexible apportionment arrangements can be used instead
Financial Assistance Scheme: qualifying schemes	
Final regulations laid before Parliament	In February 2014, final regulations to extend eligibility to the Financial Assistance Scheme (FAS) were laid before Parliament. A new regulation 9(1D)

February 2014 The draft *Financial Assistance Scheme (Qualifying Pension Scheme Amendments) Regulations* in force the day after the day on which they are made	will be inserted which will extend the definition of qualifying pension schemes to include defined benefit schemes where: • the scheme commenced winding up during the period starting on 23 December 2008 and ending on the day before the 2014 amending regulations are in force; • an insolvency event has occurred in relation to the employer before 6 April 2005; • the relevant employer has not undergone an insolvency event which would be a qualifying insolvency event for the purposes of entry to the Pension Protection Fund; and • the relevant employer ceased to be an employer in relation to the scheme before 10 June 2011. For this purpose, "relevant employer" means the person who employed persons in the description or category of employment to which the scheme relates (or related) immediately before it ceased to have active members. A scheme which is a qualifying scheme for FAS purposes by virtue of regulation 9(1D) will be excluded from eligibility for the Pension Protection Fund.
Marriage (Same Sex Couples) Act 2013	
Royal Assent given on 17 July 2013 Same sex marriage lawful from 13 March 2014 Outcome of review to be published before 1 July 2014	A new clause was inserted in the Marriage (Same Sex Couples) Bill to require the Secretary of State to review the differences in survivor benefits from occupational pension schemes between benefits provided to a widow and to a widower and between benefits provided to a surviving opposite sex spouse and those provided to a surviving same sex spouse or civil partner. The review must cover (among other things): • the extent to which same sex survivor benefits are provided in reliance on the exemption in the Equality Act 2010, which requires equal benefits to be provided for same and opposite sex survivors only in respect of pensionable service from 5 December 2005; and • the costs, and other effects, of equalising benefits between same and opposite sex survivor benefits.
Marriage (Same Sex Couples) Act 2013 – consequential provisions	
The Marriage (Same Sex Couples)Act 2013 (Consequential Provisions) Order 2014/107 in force on 13 March 2014	An Order makes various consequential amendments to secondary legislation following the introduction on 13 March 2014 of same sex marriage, including in relation to compensation from the Pension Protection Fund and the Financial Assistance Scheme. The Order also amends the modification regulations to: • disapply the subsisting rights provisions of section 67 Pensions Act 2014 where a scheme is amended to treat a same sex surviving spouse in the same way as an opposite sex surviving spouse; and • give trustees power to amend schemes by resolution to treat same sex

	surviving spouses in the same way as opposite sex surviving spouses (although amendments which go further than the minimum required under the Equality Act 2010 may not be made without the employer's consent).
Marriage (Same Sex Couples) - survivor benefits	
Royal Assent given on 17 July 2013 Same sex marriage lawful from 13 March 2014 Outcome of review to be published before 1 July 2014	The Marriage (Same Sex Couples) Act 2013 requires the Secretary of State to review the differences in survivor benefits from occupational pension schemes between benefits provided to a widow and to a widower and between benefits provided to a surviving opposite sex spouse and those provided to a surviving same sex spouse or civil partner. The review must cover (among other things): • the extent to which same sex survivor benefits are provided in reliance on the exemption in the Equality Act 2010, which requires equal benefits to be provided for same and opposite sex survivors only in respect of pensionable service from 5 December 2005; and • the costs, and other effects, of equalising benefits between same and opposite sex survivor benefits.
Miscellaneous amendments: final regulations - auditors	
Consultation paper and draft regulations issued 29 November 2013. Consultation ended on 10 January 2014. Consultation response and final regulations issued March 2014. *The Occupational Pension Schemes (Miscellaneous Amendments) Regulations 2014/540* in force on 6 April 2014.	The eligibility conditions in the OPS (Scheme Administration) Regulations 1996 for being a scheme auditor will be amended to allow, in certain circumstances, someone prohibited from being a statutory auditor of the sponsoring employer under the independence conditions of the Companies Act 2006 to be a scheme auditor. The relaxation will apply in respect of trust-based, multi-employer occupational pension schemes where there at least 500 participating employers on the first day of the scheme year (or on the first day of the following scheme year). Following consultation, the proposed requirement for at least two-thirds of the employers not to be associated or connected has been dropped.
Miscellaneous amendments: final regulations - section 75 debts	
Consultation paper and draft regulations issued 29 November 2013. Consultation ended on 10 January 2014. Consultation response and final regulations issued March 2014. *The Occupational Pension Schemes (Miscellaneous Amendments) Regulations 2014/540* in force on 6 April 2014.	The OPS (Employer Debt) Regulations 2005 has been amended to correct a cross-referencing error relating to employers' liability to money purchase schemes in cases of criminal fraud.

Miscellaneous amendments: final regulations - trustees: discharge of liability	
Consultation paper and draft regulations issued 29 November 2013. Consultation ended on 10 January 2014. Consultation response and final regulations issued March 2014. The Occupational Pension Schemes (Miscellaneous Amendments) Regulations 2014/540 in force on 6 April 2014	The OPS (Discharge of Liability) Regulations 1997 have been amended to clarify that the statutory discharge applies to trustees who secure benefits by purchasing an annuity or insurance policy which allows members to take a proportion of their benefits as a pension commencement lump sum. A similar provision was inadvertently removed when changes were made to the taxation of pensions in 2006. Following consultation, the requirement that the individual must have reached age 55 has been removed.
Pensions Bill	
Pensions Bill had first reading in House of Commons on 9 May 2013 Government amendments laid on 21 October 2013 and added to Bill at Report Stage and Third Reading in House of Commons on 29 October 2013. The Pensions Bill completed Report Stage in the House of Lords on 26 February 2014. Text of the Bill agreed on 8 April 2014. Awaiting Royal Assent.	Areas covered by the Pensions Bill (set out in more detail elsewhere in the Monthly Planner) include: • establishment of the single-tier State pension; • abolition of defined benefit contracting-out; • increases to State pension age; • automatic transfer of small pension pots; • power to prohibit incentive offers; • abolition of short service refunds from money purchase occupational schemes; • power to require pension levies to be paid in respect of past periods; • prohibition of a corporate trustee where one or more of its directors has been prohibited from being a trustee; • a new statutory objective for the Pensions Regulator; • increasing the PPF compensation cap for certain members with long service. In relation to auto-enrolment, changes include: • power to make exceptions from employer duties (for example, in relation to members with fixed or enhanced protection) and to convert an employer duty into a power; • power to prescribe limits on administration charges or types of administration charges, use of which would prevent a scheme from being a qualifying scheme.
Pension liberation: HMRC Newsletter	
HMRC Pension Schemes Services Newsletter 60 issued February 2014	HMRC Newsletter 60, issued in February 2014, gives some details of HMRC's process for registering a new pension scheme following its change in policy announced on 21 October 2013: • on receipt of the application HMRC will review the application to decide

whether or not to register the scheme;

- where the initial risk assessment does not identify any problems, around 90% of schemes are registered within five working days;
- where HMRC has concerns it may request further information from the scheme administrator;
- any further information requested must be submitted within 45 days.

HMRC has introduced an email address (pensionschemes@hmrc.gov.uk) for schemes wishing to check the registration status of a potential receiving scheme. An email request should include a scanned copy of a letter requesting confirmation, including all relevant scheme details.

Pensions Ombudsman: permission to appeal

The Civil Procedure (Amendment) Rules 2014/407 in force (in relation to appeals from the Pensions Ombudsman or PPF Ombudsman) on 6 April 2014

From 6 April 2014, the Civil Procedure Rules have been amended to introduce a requirement for permission from the High Court to bring an appeal against a determination of the Pensions Ombudsman or the Pension Protection Fund Ombudsman.

Pension Protection Fund: 2014/15 levy documents

Draft Pension Protection Levy documents issued 5 September 2013

Final levy documents issued 11 December 2013

The PPF has issued a consultation paper, draft determination and other documents in relation to the pension protection levy for 2014/15. Points to note include:

- The PPF has confirmed that it intends to make no change to the levy parameters for 2014/15.
- The Levy Estimate for 2014/15 is £695m, about 10% higher than the previous year.
- In setting the Levy Estimate, no allowance has been made for the possible impact of changing the PPF compensation cap or the Pensions Regulator's objectives.
- The rule that a contingent asset could only be recertified if it had been certified in the previous levy year will be amended. Instead, a contingent asset may be recertified if it has been certified in at least one of the previous five years, provided that the underlying agreement remained in place throughout the period.
- The wording of the certification to be given by trustees in relation to the ability of a guarantor to meet its obligations under the guarantee will be slightly changed to read:

  "The trustees, having made reasonable enquiry into the financial position of each certified guarantor, are reasonably satisfied that each certified guarantor, as at the date of the certificate, could meet its full commitment under the contingent asset as certified, having taken account of the likely impact of the immediate insolvency of all of the relevant employers."

- The final Determination for 2014/15 may provide for levy calculations to be reviewed to take account of regulations defining "money purchase benefits",

	expected to come into force in 2014.
Pension Protection Fund: levy ceiling and compensation cap	
The Pension Protection Fund and Occupational Pension Schemes (Levy Ceiling and Compensation Cap) Order 2014/10 in force on 31 March 2014 in relation to the levy ceiling and on 1 April 2014 in relation to the compensation cap	Regulations have been laid before Parliament to: • set the levy ceiling for the financial year beginning on 1 April 2014 at £941,958,542; and • set the PPF compensation cap for the year commencing on 1 April 2014 at £36,401.19.
Pension Protection Fund: levy determination 2014/15	
Levy determination and policy statement issued 11 December 2013	The PPF has issued its 2014/15 levy determination and has confirmed that the pension protection levy estimate for 2014/15 will be £695m. The levy scaling factor will remain unchanged from the previous year at 0.73. The PPF has also confirmed the following deadlines: • certifying / re-certifying contingent assets – 5pm on 31 March 2014; • certifying deficit reduction contributions made on or before 31 March 2013 – 5pm on 30 April 2014; • certifying block transfers on or before 31 March 2014 – 5pm on 30 June 2014.
Pension Protection Fund: Olympic Airlines scheme	
House of Commons written answers, 4 February 2014	In February 2014, the Pensions Minister announced that the Government was actively exploring whether it can amend PPF legislation on employer insolvency to enable members of the UK Olympic Airlines pension scheme to benefit from the PPF. The statement follows a decision of the Court of Appeal in June 2013 that Olympic Airlines, which was already subject to insolvency proceedings in Greece, could not be wound up in the UK - with the result that the members of its UK pension scheme would be outside the remit of the PPF.
Pension Protection Fund: valuation assumptions	
Consultation document issued on 5 March 2014. Consultation closed on 16 April 2014. The changes would apply for valuations with an effective date on or after 1 May 2014. The PPF Board hopes to publish the results of the consultation and the new assumptions guidance by the end of May 2014.	The PPF has consulted on changing the assumptions used for section 143 valuations (used for schemes in assessment periods) and section 179 valuations (used when setting a scheme's risk-based levy). The PPF Board is responsible for keeping the valuations used in line with estimated pricing in the bulk annuity market and is considering changes in the light of recent developments in that market. The PPF expects that the proposed changes would increase section 143 and section 179 liabilities by just under 4% and would potentially lead to a small increase in the number of schemes transferring to the PPF.

Pensions Regulator: annual funding statement	
Annual funding statement issued 8 May 2013 Consultation on revisions to code of practice on scheme funding, draft regulatory strategy and draft funding policy issued on 2 December 2013	The Pensions Regulator has issued an annual funding statement for 2013. Key points include: • Trustees may need to make greater use of the flexibilities available than was the case with previous valuations. Setting discount rates for technical provisions and expected investment returns for recovery plans • Schemes may use either the expected yield on assets held by the scheme or a gilts-based approach. • Trustees should adopt an approach that best suits the individual characteristics of their scheme and employer. • Assumptions used may differ from previous valuations, to reflect changes in market conditions. The reasons for any change should be well documented. **Setting contribution rates and recovery plans** • As a starting point, trustees should consider whether the current level of contributions can be maintained. • Where there are significant affordability issues, trustees may consider agreeing to lower contributions. Trustees should consider the risks involved and should document the reasons for any change. • Any investment in the employer's business given priority over paying otherwise affordable pension contributions should be used to improve the employer's covenant. **Understanding risk** • Trustees are encouraged to take an integrated approach to addressing covenant, investment and funding risks and to document how this has been done. • The Regulator is moving away from its previous use of triggers focussed on individual factors to use of risk indicators based on an integrated approach to risk management.

Pensions Regulator: identifying the statutory employer	
Statement issued December 2013	The Pensions Regulator has updated its statement for trustees on identifying the statutory employer(s) for their scheme, in the light of the Olympic Airlines case. In that case, the trustees were not permitted to commence secondary insolvency proceedings in the UK against the overseas employer, meaning that the scheme was not eligible to enter the Pension Protection Fund (PPF). Following *Olympic Airlines,* the Regulator has emphasised that, where a scheme has an overseas employer: • Trustees should be mindful of the fact that any assets located in the UK will be available to a wider group of creditors and may be moved offshore without or at short notice.

	• Trustees should be vigilant as to the extent of the employer's economic activity in the UK, as this may affect the possibility of commencing a UK insolvency process and therefore the scheme's ability to enter the PPF. • Trustees should be ready to act quickly to protect the scheme's interests if overseas insolvency proceedings are brought against the employer. This may involve petitioning for winding up of the employer in the UK or applying to commence secondary insolvency proceedings.
Pensions Regulator: late payment of DC contributions	
Guide issued February 2014.	In February 2014, the Pensions Regulator issued a guide for trustees and pension managers on reporting material payment failures. Payment failures may be reported using an online reporting portal via Exchange. Failures relating to a single employer should be reported by a single report, while failures relating to more than one employer in the same scheme should be reported using a bulk report.
Pensions Regulator: record keeping survey results	
Report issued 23 July 2013 Detailed review of record-keeping currently underway; results expected towards end of 2013 Record-keeping guidance to be updated to reflect the main findings of the review	The Pensions Regulator has issued a report detailing the key findings of its fourth record-keeping survey. Points to note include: • The majority of large and medium trust-based schemes are engaged with the measurement of common data and over 50% meet the target for common data overall. • Measuring conditional data has been less of a priority for schemes. Only one-fifth of members are in schemes with a conditional data score of more than 90%, broadly unchanged from the previous year. 42% of larger trust-based schemes had not generated a conditional data score.
Personal pensions: inflation-adjusted assumptions	
Policy Statement PS13/2 issued 21 March 2013 New rules and guidance in force 6 April 2014. Firms may comply with provisions, as if they were in force, from 6 April 2013	The Financial Services Authority (FSA) has issued a policy statement giving feedback on responses to a previous consultation and presenting final rules. The statement follows Consultation Paper 12/29, issued in November 2012, which contained proposals to: • introduce inflation-adjusted illustrations for personal pensions, to match the statutory money purchase illustrations (SMPIs) required for occupational money purchase schemes; • add new guidance on the preparation of product information. Following the consultation, a few minor changes have been made: • The FSA has decided not to impose new requirements in relation to transfer value analysis reports but, instead, will urge firms to consider how they may meet their current regulatory obligations in a way that is more helpful to consumers. • In relation to annuity quotations, the FSA points out that the current rules do not prevent providers from making statements about the effect of inflation or

	providing examples of the future buying power of an annuity. It looks forward to providers introducing these features voluntarily and will also assess the impact of the ABI Code of Conduct on Retirement Choices.
Public sector: LGPS transfers	
Announcement made 27 November 2013	The Government Actuary's Department (GAD) has issued an announcement in relation to transfers of staff eligible for membership of the Local Government Pension Scheme (LGPS), in the light of the introduction on 1 April 2014 of a new LGPS and of transitional provisions in regulations yet to be laid before Parliament. Points to note include: • Existing broad comparability certificates will cease to be valid for transfers of employment on or after the date the transitional regulations are laid before Parliament (the "relevant date"). • From the relevant date, applications for passport certificates must take account of benefits provided as of right following the 2014 reforms. • There may be delay in processing applications while GAD's systems are updated: GAD will consider requests for back-dated passport certificates valid from the relevant date.
Scheme funding: asset-backed contributions	
Guidance published 19 November 2013	The Pensions Regulator has published new guidance for trustees considering using asset-backed contribution arrangements (ABCs) to fund DB pension schemes. The Regulator acknowledges that ABCs may help employers to meet their obligations to schemes and may, in some circumstances, improve a scheme's security. Before entering into an ABC, trustees should take legal, actuarial, covenant, valuation and investment advice and should take into account the following concerns: • whether there are any less risky alternatives to support the scheme, such as an appropriate recovery plan and contingent assets; • whether transferring an asset to the ABC will weaken the employer covenant; • the present value of the underlying asset and the value of the asset on the insolvency of the sponsoring employer/group. Trustees should also "unpack" the capitalised value of the ABC and instead recognise the asset as a funding stream; • where the capitalised income stream from the ABC eliminates a deficit on the scheme specific funding basis, the trustees' ability to agree higher payments under a recovery plan may be limited, even where such increased payments would be affordable and appropriate; • trustees may face increased risks if the ABC provides funding over a longer period than would be the case under a conventional recovery plan; • risks may be increased where the payment stream is back-end loaded, especially where a significant proportion of the capitalised value of the ABC derives from a final "bullet" payment at the end of the term;

	• the ABC may restrict the trustees' ability to carry out de-risking exercises such as buy-ins; buyouts, and longevity swaps; • the risk that ABC arrangements will be held to contravene the employer-related investment restrictions and therefore be void. The Regulator expects ABC arrangements to include an underpin to protect the scheme's position in the event that courts find that ABCs are void for illegality or there is a change in the law. Where trustees have entered an ABC arrangement which does not contain an adequate underpin, trustees and employers should rectify the situation as soon as practicable; • a decision to invest in an ABC arrangement should be reported to the Regulator and should be explained to members in the next available communication.
Section 75 debts: draft regulations	
Consultation paper issued 10 May 2013. Consultation ended 7 June 2013 *The draft Occupational Pension Schemes (Employer Debt) (Miscellaneous Amendment) Regulations 2013* were expected in force October 2013	In May 2013, the DWP issued draft regulations for consultation. The regulations will amend the definition of "receiving employer" used in relation to the restructuring easements, under which a section 75 debt will not arise on some corporate restructurings (provided certain conditions are met). At present, the definition provides for the receiving employer to be either associated for the purposes of the Insolvency Act 1986 with the exiting employer or to be the new legal status of the exiting employer. As amended, the limb referring to the new legal status of the exiting employer will be removed. The consultation paper also asked some more general questions about use of the provision and whether flexible apportionment arrangements could be used instead.
Tax: annual allowance – reduction	
Finance Act 2013 received Royal Assent on 17 July 2013 Reduction to have effect from 2014/15 tax year Newsletter 56 issued 29 January 2013	Following an announcement in the Autumn Statement 2012, the Budget confirmed that the annual allowance will be reduced to £40,000, from £50,000, for the tax year 2014/15 onwards. In its Pension Newsletter 56, HMRC comments that no changes to the carry forward rules have been announced. Unused allowances from tax years 2011/12 to 2013/14 will still be based on the £50,000 limit and may be carried forward to 2014/15 and subsequent years.
Tax: disguised remuneration – disclosure of tax avoidance schemes (DOTAS)	
Draft regulation and guidance published 30 September 2013. Consultation ended on 21 October 2013 *The Tax Avoidance Schemes (Prescribed Descriptions of Arrangements) (Amendment) Regulations 2013/2595* in force on 4 November 2013	HMRC has issued a revised draft regulation 18 to be inserted in the *Tax Avoidance Schemes (Prescribed Descriptions of Arrangements) Regulations 2006/1543*, plus draft guidance. Regulation 18 will contain a new employment income hallmark intended to bring disguised remuneration arrangements within the scope of the DOTAS regime. Draft regulation 18 has been amended following consultation so that an arrangement is caught if its main benefit, or one of its main benefits, is that income which would otherwise be caught by the disguised remuneration

	provisions of ITEPA is reduced or eliminated. One of the examples in the guidance demonstrates how an unfunded EFRBS, set up to avoid the disguised remuneration provisions which would apply to a funded EFRBS, would be caught by regulation 18 and so be subject to the DOTAS disclosure requirements.
Tax: financial transaction tax	
Proposal for a directive issued 14 February 2013 May be implemented in 11 participating Member States (not including the UK) by mid-2014 at the earliest	The European Commission has adopted a proposal for a directive to implement a financial transaction tax of 0.1% on equity and fixed income transactions and 0.01% on derivatives transactions. It is not proposed to exempt pension funds. The directive is expected to be adopted by only 11 participating Member States. However, the tax may apply where parties to a transaction are outside the 11 participating States but where the issuer of the financial instrument is resident or incorporated in one the of the 11 States. The compatibility of the proposed tax with EU law has been questioned.
Tax: lifetime allowance – individual protection 2014	
Consultation paper issued 10 June 2013. Consultation ended 2 September 2013. Draft clauses for Finance Bill 2014 and a guidance note issued 10 December 2013, following consultation in June 2013. Revised guidance note reissued on 7 February 2014. Royal Assent expected summer 2014, with IP14 clauses to have retrospective effect from 6 April 2014. Application form for IP14 available from date supporting regulations come into force, likely to be mid-August 2014. HMRC likely to start issuing certificates in October 2014. *The Registered Pension Schemes and Relieved Non-UK Pension Schemes (Lifetime Allowance Transitional Protection)(Notification) Regulations 2013/1741* in force on 12 August 2013. *The draft Registered Pension Schemes (Provision of Information)(Amendment) Regulations 2014*.	In December 2013, draft clauses to implement individual protection 2014 ("IP14") and an associated guidance note were issued. Following consultation, it was decided that individuals with enhanced protection would be allowed to take out IP14, provided that they do not also have primary protection. The Government has also decided against reducing an individual's IP14 protected amount if his/her benefits are reduced as a result of the scheme paying an annual allowance charge on the individual's behalf. Key features of IP14 are as follows: • Individuals with pension savings at 5 April 2014 valued at £1.25 million or more may apply for IP14, provided that they do not already have enhanced protection. Individuals with enhanced protection, fixed protection 2012 (FP12) or fixed protection 2014 (FP14) may also apply for IP14. • Where an individual has both IP14 and enhanced protection or a form of fixed protection, the enhanced or fixed protection will take precedence. • An individual with IP14 will have a personalised lifetime allowance (LTA) based on the value of their pension savings at 5 April 2014, up to a maximum of £1.5 million. • The personalised LTA will be expressed as a monetary amount and will not increase unless the standard LTA increases to a level higher than the individual's personalised LTA. If this happened, the individual's personalised LTA would revert to the standard LTA. • Individuals with IP14 may continue to accrue pension benefits, with any benefits valued above the personalised LTA (including those resulting from statutory or other revaluation or investment growth in defined contribution schemes) subject to the lifetime allowance charge when they are taken. • Individuals with IP14 may take up to 25% of their fund as a tax free pension commencement lump sum (subject to their scheme rules) to a maximum of

25% of their personalised LTA.

- Individuals will have three years from 6 April 2014 to apply for IP14.
- An individual applying for IP14 will need a valuation of his/her existing pension rights as at 5 April 2014.
- The value of an individual's existing pension rights will be the aggregate value of:
  - uncrystallised rights in UK registered pension schemes;
  - crystallised rights in UK registered pension schemes;
  - tax privileged UK pension rights in payment before A-Day;
  - overseas pension rights that have benefited from UK tax relief.
- Where an individual with IP14 is subject to a pension sharing order resulting in a pension debit after 5 April 2014, the personalised LTA will be reduced by the reduced amount of the pension debit.

In February 2014, HMRC updated its guidance note. Changes made to the updated note are very minor, principally extending sub-headings to give greater indication of the content that follows.

Tax: overseas pensions – lump sums

The Enactment of Extra-Statutory Concessions Order 2014/211 in force on 5 February 2014, with effect for lump sums received on or after this date

Following earlier consultation, an Order has been made to enact part of Extra-Statutory Concession (ESC) A10, relating to lump sums paid by overseas pension schemes. A new section 395B of the Income Tax (Earnings and Pensions) Act 2003 provides that certain lump sum payments from non-UK schemes in respect of "foreign service" before 6 April 2011 will be exempt from income tax under ITEPA.

Tax: overseas – QROPS guidance

Guidance issued 27 November 2013

HMRC has issued guidance setting out its policy in relation to imposing unauthorised payment charges in respect of unauthorised transfers to overseas schemes. Points to note include:

- From 24 September 2008 onwards, HMRC's list of QROPSs has contained a caveat stating that inclusion on the list does not mean that HMRC had verified all the information provided and that a transfer to a scheme which is not a QROPS could give rise to tax charges.
- HMRC will not raise or pursue tax assessments where:
  - the transfer from the registered scheme took place before 24 September 2008;
  - the receiving scheme was included on HMRC's QROPS list at the time of the transfer; and
  - the scheme was not a QROPS.
- For transfers made on or after 24 September 2008, where a transfer is made to a scheme on the QROPS list and HMRC later discovers that the scheme

	is not a QROPS, HMRC will decide whether or not to exercise its tax collecting powers on the particular facts. • A letter from HMRC with a QROPS number is not confirmation that the scheme is or will remain a QROPS.
Tax: overseas arrangements – QROPS – Finance Act 2013	
"Overseas transfers of UK pension savings" issued by HMRC on 11 December 2012 Finance Act 2013 received Royal Assent on 17 July 2013	The Finance Act 2013 includes certain changes to the requirements for qualifying recognised overseas pension schemes (QROPS). Changes include: • enabling HMRC to make regulations requiring a QROPS to give regular notifications that it continues to meet the QROPS requirements. The explanatory notes indicate that such notification may be required every five years; • bringing the information requirements for QROPS in line with those applicable to registered schemes; • widening the circumstances in which HMRC may exclude a scheme from being a QROPS. (Please see also "Tax: reporting requirements" below.)
Tax: VAT - HMRC brief	
Revenue & Customs Brief 06/14 issued 3 February 2014 *PPG Holdings BV*, C-26/12, 18 July 2013	In February 2014, HMRC issued a brief setting out its position on the recovery of VAT paid in relation to pension fund management costs, revised in the light of the European case of *PPG Holdings BV*. • HMRC has withdrawn its previous policy that, where a single invoice covered both pension scheme administration and investment of the scheme assets, 30% would be treated as attributable to administration costs (with VAT deductible by the employer) and 70% attributable to investment services (with VAT deductible, if at all, by the trustees). However, employers and trustees may continue to use a 70/30 split for a transitional period of six months. • Employers may now be able to deduct a greater amount of VAT in respect of pension scheme management, provided that there is a direct and immediate link between the supply received and the taxable supplies the employer makes. Employers may also claim a refund of any previously unclaimed input VAT. • HMRC will not accept that VAT is deductible by an employer where: - supplies were not made to the employer; or - the supply is of investment management services only.
Transfers: TUPE – guidance	
"A guide to the 2006 TUPE Regulations (as amended by the Collective Redundancies and Transfer of Undertakings (Protection of Employment)	The Department for Business, Innovation & Skills (BIS) has reissued a guide to TUPE transfers, updated to take account of changes made by amendment regulations in force on 31 January 2014.

(Amendment) Regulations 2014) for employees, employers and representatives" issued January 2014 *The Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014/16* in force on 31 January 2014	The guidance has an expanded section on the pension obligations of the transferee employer following a TUPE transfer, including in relation to auto-enrolment.
TUPE transfers: alignment with auto-enrolment requirements	
Draft regulations issued 25 February 2013. Consultation ended 5 April 2013 *The draft Transfer of Employment (Pension Protection) (Amendment) Regulations 2013* expected in force in April 2014	The Transfer of Employment (Pension Protection) Regulations 2005 have been amended to allow a transferee employer which offers a money purchase scheme to transferred employees the choice of: • matching the level of contributions paid by the transferring employer immediately prior to the transfer; or • matching the level of contributions paid by the employee, to a maximum of 6%. Without the amendment, a transferee employer could be required to pay 6% contributions in respect of an employee whose previous employer (the transferor) had auto-enrolled him into an occupational scheme and, under the auto-enrolment transitional provisions had paid only 1% contributions.

Mid-term: coming into force in the next three to 12 months

Auto-enrolment: defined benefit schemes	
Amendment to Pensions Bill made by House of Lords on 20 January 2014. The Pensions Bill completed Report Stage in the House of Lords on 26 February 2014.	The House of Lords has agreed an amendment to the Pensions Bill which introduces alternative quality tests for defined benefit (DB) schemes. Regulations may allow a UK DB scheme to meet the quality requirement if: • it meets the quality test applicable to money purchase schemes; • providing the benefits would require contributions (from the employer and/or member contributions) whose total amount was at least a prescribed percentage of the members' "relevant earnings"; or • for at least 90% of members, the cost of providing future benefits would require contributions (employer and/or member contributions) of at least a prescribed percentage of the member's relevant earnings. The prescribed percentage for the second and third test must be at least 8%.
Auto-enrolment: exceptions from auto-enrolment requirements	
Briefing paper issued 1 July 2013. Response to consultation issued 12 February 2014. Final proposals and draft legislation expected "in due course"	The DWP has published a response to consultation on excluding prescribed categories of individuals from the scope of auto-enrolment. It believes there is a **strong case for excluding**: • individuals with pension tax protection, such as enhanced protection or fixed protection. A possible approach would be to exclude individuals only where the employer is aware of that person's tax status, with the onus on the individual to make the employer aware; • individuals who have given or received notice to terminate employment, or of intention to retire; • individuals who have been contract joined into a qualifying scheme and have cancelled their membership. The DWP considers there is **less reason to exclude**: • those at risk of redundancy at some point in the future; • those who are already drawing benefits from their employer's (or a previous employer's) scheme; • individuals approaching their lifetime allowance; • individuals in serious ill health ; • waged/salaried workers with Schedule D status for income tax purposes; • very low paid workers who are eligible for auto-enrolment only because of a spike in earnings; • very high earners; • new starters, temporary or casual staff, short term or zero hours contract workers; • individuals with an address outside the UK. Any exclusion would not apply to contract joining.

Auto-enrolment: re-enrolment	
White Paper issued 14 January 2013. Pensions Bill issued 9 May 2013. Government amendments laid on 21 October 2013 and added to Bill at Report Stage and Third Reading in House of Commons on 29 October 2013. The Pensions Bill completed Report Stage in the House of Lords on 26 February 2014.	The draft Pensions Bill will amend the Pensions Act 2008 to prevent an individual's re-enrolment date falling before his or her auto-enrolment date. The requirement to automatically re-enrol a jobholder will not apply where: • the jobholder's auto-enrolment date is deferred from a date before the automatic re-enrolment date to one after the automatic re-enrolment date; or • auto-enrolment is deferred, taking advantage of the transitional period for DB/hybrid schemes, and the automatic re-enrolment date falls before the date the jobholder would need to be auto-enrolled under the transitional provisions.
Budget 2014 - pension flexibility April 2015	
2014 Budget and draft legislation issued on 19 March 2014. Consultation paper, "Freedom and Choice in Pensions", issued 19 March 2014. Consultation period ends on 11 June 2014. Initial changes to the pension tax regime will apply from 27 March 2014. Removal of restrictions on use of DC pension pots to apply from April 2015.	In the March 2014 Budget, the Chancellor announced significant changes to the pension tax regime. Highlights in relation to changes from April 2015 are as follows. **DC arrangements** • Individuals will be able to access the whole of their DC pots from age 55, regardless of the size of the pot. Benefits taken will be subject to the individual's marginal rate of income tax. It will still be possible to use a DC pot to purchase an annuity. • Everyone with a DC pension will be offered free and impartial face to face guidance on the range of options available at retirement. There will be a new duty on pension providers and trust-based pension schemes to offer a "guidance guarantee" at the point of retirement. • The Government has asked whether a statutory override should be put in place to ensure that pension scheme rules do not prevent individuals taking advantage of the increased flexibility. **DB arrangements** • Transfers from public sector DB schemes to DC arrangements will be banned, except in very limited circumstances. • The Government has asked for views on restricting transfers from private sector DB schemes to DC arrangements. Options being considered include: - Banning DB to DC transfers in all but exceptional circumstances (the most likely outcome) - Ring fencing former DB funds within the DC arrangement and applying the current (pre-April 2015) tax regime to such funds - Imposing an annual cap on DB to DC transfers - Allowing DB to DC transfers, subject to the trustees' consent - Leaving the current transfer rules unamended. The Government is considering how any transfer restriction should apply to hybrid schemes.

Defined contribution: capping/disclosing charges	
Consultation paper "Better workplace pensions: a consultation on charging" issued on 30 October 2013. Consultation period ended on 28 November 2013. The consultation paper had suggested that some proposals could be implemented for employers staging from April 2014, with transitional provisions dealing with arrangements in place before this date. Written Ministerial Statement issued 23 January 2014 - any cap will not be introduced before April 2015. Command paper published 27 March 2014. The Financial Conduct Authority is expected to consult on changes to rules for providers of contract-based schemes, including the requirements for independent governance committees later in 2014. Secondary legislation expected to be laid in the latter part of 2014. Detailed expectations will be set out in guidance. The minimum governance requirements for all DC workplace schemes, the charges cap, the requirement for independence governance committees (IGCs), and the requirements to report on costs and charges will be introduced from April 2015. Active member discounts and member-borne commission payments will be prohibited from April 2016. Extension of the charges cap to be considered in 2017.	In March 2014, the DWP issued a Command Paper, "Better workplace pensions: Further measures for savers", setting out quality standards that will apply to all workplace DC schemes. In relation to charges, measures expected in force from April 2015 include the following. • Minimum governance standards will apply to all workplace DC schemes. To satisfy the minimum governance requirements, providers of contract-based schemes will have to operate independent governance committees (IGCs). IGCs will have power to escalate concerns to members, employers and the Financial Conduct Authority. The provider's board will have a duty to "comply or explain" in relation to the IGC"s recommendations. • A charges cap of 0.75% will apply to the default funds of qualifying schemes used for auto-enrolment. The cap will apply to all management charges but will exclude transaction costs. • Trustees and IGCs will have new duties to consider and report on costs and charges. The DWP will then introduce new requirements to make standardised disclosure of all pension costs and charges mandatory. • Consultancy charges will be banned in qualifying schemes. From April 2016, adviser commissions and active member discounts (including higher charges for deferred members reclassified as individual personal pension scheme members) will be banned in qualifying schemes. In 2017, the DWP will decide whether some or all transaction costs should be included in the default fund charges cap and whether the cap should be lowered. The DWP is also seeking views on whether the new transparency requirements should be extended to defined benefit schemes to enable employers better to scrutinise the scheme's costs.

Defined contribution: quality standards	
Call for evidence issued July 2013. Consultation ended 9 September 2013. Consultation on charges, including the introduction of a charges cap, issued in autumn 2013. Command paper published 27 March	In March 2014, the DWP issued a Command Paper, "Better workplace pensions: Further measures for savers", setting out quality standards that will apply to all workplace DC schemes: Measures expected in force from April 2015 include the following. • Minimum governance standards will apply to all workplace DC schemes. The standards will include:

2014. Consultation on the proposals relating to trust-based schemes closes on 15 May 2014.

The Financial Conduct Authority is expected to consult on changes to rules for providers of contract-based schemes, including the requirements for independent governance committees later in 2014.

Secondary legislation expected to be laid in the latter part of 2014. Detailed expectations will be set out in guidance.

The minimum governance requirements for all DC workplace schemes, the charges cap, the requirement for independence governance committees (IGCs), and the requirements to report on costs and charges will be introduced from April 2015.

Active member discounts and member-borne commission payments will be prohibited from April 2016.

Extension of the charges cap to be considered in 2017.

  - all schemes must be governed by a body with a duty to act in members' interests;
  - the body must be able to explain how conflicts of interest are handled;
  - a majority of individuals on the governing body (including the chair) must be independent;
  - the chair must prepare an annual report explaining how the scheme has performed against the quality standards;
  - matters the governing body must consider will include: the design and net performance of default investment strategies, administration standards and charges.
- To satisfy the minimum governance requirements, providers of contract-based schemes will have to operate independent governance committees (IGCs). IGCs will have power to escalate concerns to members, employers and the Financial Conduct Authority. The provider's board will have a duty to "comply or explain" in relation to the IGC"s recommendations.
- The independent governance of mastertrusts will be strengthened, including by requiring that mastertrust boards should have at least seven trustees, the majority of whom (including the chair) are independent of providers of services to the mastertrust.
- Pension providers and trust-based schemes will have to offer each DC member a free "guidance guarantee" at the point of retirement.
- Constraints in trust deeds and rules in relation to trustees' choices of investments or service providers will not be allowed.
- A charges cap of 0.75% will apply to the default funds of qualifying schemes used for auto-enrolment. The cap will apply to all management charges but will exclude transaction costs.
- Trustees and IGCs will have new duties to consider and report on costs and charges. The DWP will then introduce new requirements to make standardised disclosure of all pension costs and charges mandatory.
- Consultancy charges will be banned in qualifying schemes.

Standards governing the guidance guarantee are to be developed by the Financial Conduct Authority, working with the Money Advice Service, the Pensions Advisory Service, the Pensions Regulator and consumer organisations.

From April 2016, adviser commissions and active member discounts (including higher charges for deferred members reclassified as individual personal pension scheme members) will be banned in qualifying schemes.

In 2017, the DWP will decide whether some or all transaction costs should be included in the default fund charges cap and whether the cap should be lowered.

The DWP is also seeking views on whether the new transparency requirements should be extended to defined benefit schemes to enable employers better to scrutinise the scheme's costs.

Early leavers: short service refunds	
Command paper issued 23 April 2013. Amendments to the Pensions Bill made October 2013. The Pensions Bill completed Report stage in the House of Lords on 26 February 2014.	In April 2013, the DWP issued a command paper, "Automatic transfers: consolidating pension savings", which confirms that the option of taking a short service refund from occupational money purchase schemes will be withdrawn from 2014. Provisions to remove short service refunds are included in the Pensions Bill. In October 2013, technical amendments were made to the provisions in the Bill withdrawing the option of making short service refunds from money purchase occupational schemes. The amendments are intended to ensure parity of treatment with individuals who are contract-joined into a workplace personal pension scheme (who are subject to a 30 day cooling off period) and those joining an occupational scheme who will, in effect, be subject to a 30 day vesting period. Prior to the amendment, members of an occupational scheme would have had a right to short service benefit from the date contributions were paid to the scheme.
Pension Protection Fund: increase to compensation cap	
Written Ministerial Statement given 25 June 2013 New provisions inserted in Pensions Bill on 11 July 2013 Government amendments laid on 21 October 2013 and added to Bill at Report Stage and Third Reading in House of Commons on 29 October 2013 The Pensions Bill completed Report Stage in the House of Lords on 26 February 2014.	In June 2013, the Pensions Minister announced that the cap on PPF compensation would be amended to make some allowance for long service. As amended, the cap will increase by 3% for every full year of service above 20 years, subject to a maximum of double the amount of the basic cap. The changes will apply to schemes that enter the PPF or commence winding-up after the revised cap is introduced. In October 2013, the Pensions Bill was amended to extend the increase in the PPF compensation cap to individuals already entitled to PPF compensation in respect of future compensation.
Pension Protection Fund: insolvency risk provider	
"Information for schemes on the move to Experian" issued March 2014 .A six-week consultation on the PPF's intentions for the levy years 2015/16 to 2017/18, including details of the PPF specific model, is intended for the end of May 2014. Scores will be collected for use in the 2015/16 levy from 31 October 2014 onwards	The PPF has issued a note giving information on its progress with the move to Experian as its insolvency risk provider. Points to note include: • It is intended to use a measure of insolvency risk specifically designed for the PPF: The PPF-Specific Insolvency Score. • A web portal will allow information held on employers to be checked and scores to be monitored, with the ability to set up alerts if scores change. • The aim is that supplying information direct to Experian should be the exception and that, in most cases, schemes and employers should ensure that current information is provided to the sources Experian will use and that information on the Pensions Regulator's Exchange system is accurate. • Employers' insolvency risk will be assessed using one of eight scorecards, decided according to factors such as whether the employer is part of a group or is a stand-alone business. A separate scorecard will be used for the not for profit sector.

Pensions Regulator: regulating defined benefit pension schemes	
Consultation issued 2 December 2013. Consultation closed on 7 February 2014 New code of practice expected in force by July 2014, applicable to schemes undertaking valuations from that time	In December 2013, the Pensions Regulator issued a consultation paper on regulating DB pension schemes plus a draft funding code of practice, draft regulatory strategy and draft funding policy, to replace the previous documents in force since 2006. The draft code emphasises that the Regulator will adopt an integrated approach to managing the key risks of a DB scheme: funding, investment and the employer covenant. The Regulator has adopted a suite of risk indicators around these key risks.

Pensions Regulator: statutory objective	
Response to call for evidence issued 7 May 2013 Pensions Bill given first reading in House of Commons on 9 May 2013. Government amendments laid on 21 October 2013 and added to Bill at Report Stage and Third Reading in House of Commons on 29 October 2013. The Pensions Bill completed Report Stage in the House of Lords on 26 February 2014.	The DWP has issued a response to its call for evidence. The response confirms that a new statutory objective for the Pensions Regulator to support scheme funding arrangements compatible with sustainable growth for the employer will be developed. Following consultation, the proposal to allow smoothing of assets and liabilities will not be taken forward. The Pensions Bill includes a provision to add the following new objective for the Regulator: *"in relation to the exercise of its functions under Part 3 only, to minimise any adverse impact on the sustainable growth of an employer"*

Tax: annual allowance – administration and transfers	
Draft regulations issued November 2012 Statement made 5 February 2013 Letter from DWP to Association of Consulting Actuaries dated 16 July 2013 *The draft Annual Allowance Charge (Amendment) Order 2013* had been expected in force 6 April 2013	In November 2012, draft regulations were issued to clarify the administration of the annual allowance charge. Changes include: • a member wishing to use his scheme's "scheme pays" facility when taking all of his scheme benefits must elect to do so before the benefits are taken; • a refund of excess contributions lump sum paid from a money purchase scheme will not be included in the member's pension input amount; • deferred members of DB and cash balance schemes whose benefits are transferred to another arrangement under a "recognised transfer" will have a nil pension input amount provided that they accrue no further rights in the pension input period after the transfer and the increase in pension rights does not exceed the "relevant percentage". The regulations will not have retrospective effect. In an email to the HMRC Pensions Industry Stakeholder Forum in February 2013, HMRC announced that it would delay the implementation of the draft regulations, following concerns raised in the consultation. In July 2013, the DWP wrote to the ACA to confirm that the Government intends that pension input amounts should not arise where the following conditions are

	met: • there is a bulk transfer of a group of members between registered pension schemes as a result of an employer rearranging its pension schemes or as part of a business transaction; • members are provided with mirror image benefits under the receiving scheme, although a value test may be included to accommodate some variations in benefit format; and • the pension input amount would arise solely because the transfer is underfunded and the amount transferred would not be sufficient to support the benefits promised by the receiving scheme.
Tax: Autumn statement – NICs	
Government amendments laid on 21 October 2013 and added to Bill at Report Stage and Third Reading in House of Commons on 29 October 2013.	Employer National Insurance contributions (NICs) will be abolished for under-21 year olds earning less than £813 per week.
Tax: lifetime allowance – reduction	
Reduction to have effect from 2014/15 tax year Finance Act 2013 received Royal Assent on 17 July 2013	Following an announcement in the Autumn Statement 2012, the Budget confirmed that the lifetime allowance will be reduced to £1.25m, from £1.5m, for the tax year 2014/15 onwards. Provisions are contained in the Finance Act 2013. Individuals with A-day primary or enhanced protection, but who do not have lump sum protection will retain a right to a lump sum of up to 25% of £1.5m.
Transfers: small pension pots	
Command paper issued 23 April 2013 Provisions included in Pensions Bill, issued 9 May 2013. Government amendments laid on 21 October 2013 and added to Bill at Report Stage and Third Reading in House of Commons on 29 October 2013. The Pensions Bill completed Report Stage in the House of Lords on 26 February 2014. Consultation on draft regulations expected after Pensions Bill receives Royal Assent	The DWP has issued a command paper, "Automatic transfers: consolidating pension savings", confirming its intentions in relation to the automatic transfer of small pension pots. The Pensions Bill will set out a broad legal framework, with detail contained in regulations. Key points include: • The legislation will permit a variety of implementation approaches. The paper considers a "pot-matching" IT solution and a "member-driven" approach under which employees would pass information regarding their dormant pension pots to their new employers on starting work, or at regular intervals. • Initially, the automatic transfer process will apply only to "pure" money purchase benefits. • The receiving scheme would provide solely money purchase benefits, although power would be given to extend the requirements to other schemes if appropriate. • Anyone who is a worker and is an active member of a workplace pension scheme would potentially fall within the automatic transfer regime. The application of the regime could be extended by regulations.

	• A pension pot would be eligible for automatic transfer once all contributions had ceased, provided that it had been created after a specified date and did not exceed £10,000. • Regulations would set out standards for automatic transfer schemes. • Members would be able to opt out of automatic transfer by giving notice within a prescribed period. • The Pensions Regulator would be the principal enforcement body for the automatic transfer process.
Transfers: small pension pots – disclosure	
Statement made in consultation on disclosure regulations February 2013 Pensions Bill issued 9 May 2013. Government amendments laid on 21 October 2013 and added to Bill at Report Stage and Third Reading in House of Commons on 29 October 2013. The Pensions Bill completed Report Stage in the House of Lords on 26 February 2014.	In a consultation paper on draft disclosure regulations, the DWP has said that it is exploring how to ensure that individuals subject to an automatic transfer receive an appropriate amount of information while minimising burdens on business. It intends to set out its broad powers in this regard in primary legislation.
Transfers out: Pensions Bill – prohibition of incentives	
White Paper issued 14 January 2013 Pensions Bill issued 9 May 2013. Government amendments laid on 21 October 2013 and added to Bill at Report Stage and Third Reading in House of Commons on 29 October 2013. The Pensions Bill completed Report Stage in the House of Lords on 26 February 2014.	The Pensions Bill will give the Secretary of State power to make regulations prohibiting the offering of incentives to members to transfer out of a DB occupational scheme, subject to any prescribed exceptions. The prohibition may be extended to incentives provided by someone different to the person making the offer. An "incentive" is defined as "a financial or other advantage". The introduction to the draft Bill stated that the clause is to allow the prohibition of "non-pension inducements", so it may be that regulations will still allow enhanced transfer values to be offered.
Trustees: prohibition of corporate trustees	
Pensions Bill issued 9 May 2013. Government amendments laid on 21 October 2013 and added to Bill at Report Stage and Third Reading in House of Commons on 29 October 2013. The Pensions Bill completed Report Stage in the House of Lords on 26 February 2014.	The draft Pensions Bill contains a clause which will prohibit a company from being a trustee of an occupational pension scheme if the Pensions Regulator has prohibited one or more of its directors from being a trustee.

Long-term: coming into force in 12+ months

Abolition of DB contracting-out: HMRC Bulletin	
Countdown Bulletin 1 issued March 2014	HMRC has issued the first in a series of bulletins, intended to provide updates on activities linked to the cessation of contracting-out in April 2016. Points to note include: • From April 2014, HMRC will offer a Scheme Reconciliation Service to assist administrators and trustees to reconcile records for non-active members against HMRC's records in advance of April 2016. Details of the service and how to use it are provided at www.hmrc.gov.uk/nic/srsrequest.htm. • From 6 April 2014, employers will be required to show the SCON (Scheme Contracting-out Number) in addition to the ECON (Employer's Contracting-out Number) when submitting National Insurance Contributions for employees who have been in a contracted-out scheme during the tax year.
Annuity products	
Project outline published on 12 July 2013	The Insurance and Private Pension Committee of the Organisation for Economic Co-operation and Development (OECD) has published a project outline 2013/14 setting out its multi-year project on annuities. The main objectives of the project are to: • assess the different types of annuity products and the nature of the guarantees involved; • identify the exposures and costs of annuity products for insurers and consumers; • understand better insurer risk management and the regulatory framework of annuity products.
Auto-enrolment: NEST – removal of restrictions	
Response to call for evidence issued July 2013 Contribution limit to be removed from April 2017 Individual transfers to be allowed alongside the introduction of automatic transfer regime Bulk transfers to NEST to be allowed from April 2017 Consultation on draft regulations is intended "as soon as possible"	The DWP has issued a response to its call for evidence on the impact of contribution and transfer restrictions on the National Employment Savings Trust (NEST). The DWP intends to: • remove the restriction on contributions to NEST (£4,500 pa for 2013/14); • remove the prohibition on individual transfers alongside the introduction of the automatic transfer system ("pot follows member"); and • allow NEST to accept bulk transfers. The DWP intends to seek confirmation from the European Commission that removing the restrictions from April 2017 will be consistent with State Aid rules.
Budget 2014 - minimum pension age	
In the March 2014 Budget, the Chancellor announced significant changes to the	In the March 2014 Budget, the Chancellor announced significant changes to the pension tax regime. Highlights in relation to minimum pension age are as

pension tax regime. Highlights in relation to minimum pension age are as follows. The minimum age at which an individual can take benefits from a registered pension scheme (other than on ill health) without suffering tax penalties will increase at the same rate as the increase in State Pension age, to 57 in 2028 (when State Pension age will increase to 67). The Government is consulting on whether the minimum pension age should rise further, for example to five years below State Pension age.	follows. • The minimum age at which an individual can take benefits from a registered pension scheme (other than on ill health) without suffering tax penalties will increase at the same rate as the increase in State Pension age, to 57 in 2028 (when State Pension age will increase to 67). • The Government is consulting on whether the minimum pension age should rise further, for example to five years below State Pension age.
Contracting-out: abolition of DB contracting-out	
White Paper issued 14 January 2013. Single-tier pension to be implemented in April 2016 (brought forward from 2017). Pensions Bill issued 9 May 2013. Government amendments laid on 21 October 2013 and added to Bill at Report Stage and Third Reading in House of Commons on 29 October 2013. The Pensions Bill completed Report Stage in the House of Lords on 26 February 2014. Written Ministerial Statement issued 19 March 2013. Legislation on some aspects of the abolition in the Finance Bill 2013. Consultation paper on protected person rules issued 14 January 2013. Consultation response issued 12 February 2014.	The White Paper on reforming State pensions announced that DB contracting-out would cease at the same time as the single-tier State pension was introduced. Steve Webb, the Pensions Minister, announced in March 2013 that defined benefit contracting-out will cease from April 2016, alongside the introduction of the single tier state pension. The Pensions Bill includes provisions to enable private sector employers to amend scheme rules to adjust for the additional cost without trustee consent. The modification power will exist only for a limited period and will allow changes only to the extent that they offset the cost of additional employer NICs. In October 2013, the Pensions Bill was amended to make various technical amendments to the statutory override provisions, including to clarify that the scheme rules, as amended using the override power, may apply to future as well as current members. **Protected persons** In January 2013, the DWP consulted on whether it would be fair and appropriate to legislate to override the protected person rules applicable to certain employees from formerly-nationalised industries to allow employers to change future pension benefits for such individuals to offset the increased cost of paying full National Insurance contributions following the abolition of DB contracting-out. In February 2014, the DWP issued a response to consultation. Following consultation, the Government has decided that employers should not be able to use the statutory override to amend protected persons' future benefits. Instead, issues of future benefit accrual should be resolved through negotiation between the employers and employees.
Contracting-out: GMP equalisation – interim response	
Consultation issued 20 January 2012. Interim response issued 8 April 2013 Full response expected at a later date	The DWP has issued an interim response, following a consultation paper on draft regulations and a proposed equalisation method published in January 2012. Key points are: • The DWP has rejected the view (expressed by many respondents) that GMP equalisation may not be necessary. It considers that GMPs have never been

The draft Occupational Pension Schemes and Pension Protection Fund (Equality) (Amendment) Regulations – implementation delayed	a replacement or substitute for SERPS. • The DWP considers that the *Allonby* case means that, where legislation is the single source for the discrimination in question, the pool of comparators is everyone affected by the legislation. The practical effect of this interpretation is that an individual need only identify a notional comparator to demonstrate unequal treatment. • The DWP has also rejected suggestions that the *Allonby* case concerned only access to benefits, not the level of benefits. • Making the draft regulations law will be delayed while the DWP considers providing statutory guidance on GMP conversion, including how schemes might equalise GMPs as part of the process of converting GMPs to scheme benefits. • The DWP is considering whether any further advice is needed in relation to complex cases such as divorced members, deceased members and cases of employer liquidation. • Following representations about the equalisation method consulted on, the DWP will not make a final publication of this method. The DWP does not consider that the methodology proposed is the only way in which equalisation can be achieved.
Defined contribution: consultation on charging	
Consultation paper "Better workplace pensions: a consultation on charging" issued on 30 October 2013. Consultation period ended on 28 November 2013. The consultation paper had suggested that some proposals could be implemented for employers staging from April 2014, with transitional provisions dealing with arrangements in place before this date. Written Ministerial Statement issued 23 January 2014 - any cap will not be introduced before April 2015. Government amendments to Pensions Bill laid on 21 October 2013 and added to Bill at Report Stage and Third Reading in House of Commons on 29 October 2013. The Pensions Bill completed Report Stage in the House of Lords on 26 February 2014.	In October 2013, the DWP issued a consultation paper on restricting charges levied in relation to auto-enrolment schemes or qualifying schemes used to meet the employer enrolment requirement. Changes proposed include the following: • **Disclosure of information**: potential options are: - Mandatory disclosure to members about charges to be included in the basic scheme information at the start of scheme membership and in annual benefit statements; - Standardised disclosure to employers of costs and charges at the point of sale through a code of conduct and on an on-going basis by mandating information provided to employers; - Mandatory disclosure of transaction costs to members, employers, trustees and independent governance committees; • **Capping scheme charges** for default funds in qualifying DC schemes for employers staging from April 2014. By April 2015, the cap would be extended to cover employers staging from October 2012 to March 2014. Three options are considered: - Charge cap of 1% of funds under management - Charge cap of 0.75% of funds under management - Two tier "comply or explain" cap: 0.75% cap with a higher cap of 1% available to employers who explained to the Pensions Regulator the reasons for the higher charges. • **Differential charging** between active and deferred members would be prohibited, potentially for employers staging from April 2014;

	- **Extending the ban on consultancy charges** to all qualifying schemes (currently applicable only to auto-enrolment schemes); - **Banning adviser commissions** from qualifying schemes set up before the Retail Distribution Review had effect on 1 January 2013 (when providers were banned from paying commission to advisers on new GPPs); - **Legacy schemes**: working with the OFT and the Pensions Regulator as the ABI's audit of "at risk" contract based schemes is taken forward and the Regulator works on allowing trustees of small schemes to assess value for money. The DWP announced in a Ministerial Statement in January 2014 that any cap on defined contribution (DC) charges would not be introduced before April 2015. The Pensions Minister has stressed that the Government remains strongly minded to cap charges applicable to auto-enrolment default funds. **Pensions Bill** The Pensions Bill contains provisions to allow the DWP to restrict the charges that may be imposed on members of certain work-based schemes. The provisions were amended in October 2013 and now enable the requirements to be imposed on schemes closed to new members or to further accrual, rather than only schemes to be used for the new small pot automatic transfer system.
European reform: EIOPA work programme	
Work Programme published 10 October 2013 Preliminary report on personal pensions issued on 19 February 2014	In October 2013, the European Insurance and Occupational Pensions Authority (EIOPA) issued its work programme for 2014. Points to note include the following: - EIOPA intends to continue dialogue with the European Commission on developing a new regulatory and supervisory framework for IORPS. - Further work is expected in relation to solvency issues for IORPS, including continuing to develop the holistic balance sheet approach. - Work will continue on personal pensions, with a focus on consumer protection and developing a EU-wide prudential and consumer protection framework that will enable cross border activity. Following its publication of a discussion paper in May 2013, EIOPA's next step is to submit a preliminary report on issues and options for consideration by the Commission (issued on 19 February 2014). - EIOPA intends to collect evidence on costs and charges for occupational schemes, and to work towards uniform ways of quantifying them for DB and DC schemes. - EIOPA intends to carry out research into how to present investment choices in a manner that leads to appropriate decisions by consumers. - By early 2014, EIOPA expects to implement its first technical standard on the reporting of prudential information by national supervisors. - EIOPA intends to report on good practices on the portability (transfers in and out) of accrued pensions within occupational schemes.

European reform: levy to fund EIOPA	
Draft report issued 11 October 2013	The Economic and Monetary Affairs Committee of the European Parliament has recommended granting the European Insurance and Occupational Pensions Authority (EIOPA) an independent budget, funded by contributions from the pensions industry and taxpayers.

European reform: portability of pensions	
General approach agreed on 20 June 2013. Member States will be required to implement directive in national legislation within four years of directive being adopted. The European Parliament and the Council of the European Union reached political agreement on the amended directive on 10 December 2013. Position at first reading adopted on 17 February 2014. Council's position endorsed by European Commission on 19 February 2014. Directive adopted by European Parliament on 15 April 2014. The next step is for the Directive to be formally approved by the Council of Ministers Once in force, Member States will have four years to implement the directive in national law.	In June 2013, the European Council agreed a general approach on a directive on improving the acquisition and preservation of supplementary (occupational) pension rights. Such a directive was first proposed in 2005. In May 2013, the Irish Presidency tabled a revised proposal, limiting the scope of the directive to workers who move employment between Member States. Member States are, however, encouraged to ensure equal treatment of workers moving employment within the same Member State. Key features of the directive include: • where a vesting period and/or a waiting period is applied, the total combined period must not exceed three years; • minimum vesting ages above 21 will not be allowed; • early leavers without vested rights must be given a refund of contributions including (for DC arrangements) investment returns; • deferred rights must be revalued in a similar way to rights of active members; • Member States may allow occupational schemes to refuse to retain deferred rights and instead to pay a capital equivalent sum to the leaver, subject to a maximum amount set by the Member State. The directive will not apply to: • schemes (or sections) closed to new members; • personal pensions other than arrangements "concluded through an employment relationship"; • ill health and death benefits. In February 2014, the European Council adopted its position at first reading of the proposed directive. The Council's position reflects the compromise reached in earlier negotiations between the Council and the European Parliament, following the agreement in 2013 to limit the scope of the directive to workers who move employment between member states. In February 2014, the European Commission endorsed the Council's position. In April 2014, the European Parliament adopted the proposed directive. In addition, the Parliament inserted a clause stipulating that cross-border workers should benefit from the same level of protection under the Directive.

European reform: proposal for IORP II directive

White Paper "An Agenda for Adequate, Safe and Sustainable Pensions" published 16 February 2012.

Draft Technical Specifications QIS of EIOPA's Advice on the Review of the IORP Directive: consultation paper issued 15 June 2012.

EBA, EIOPA and ESMA's Joint Consultation Paper on its proposed response to the European Commission's Call for Advice on the Fundamental Review of the Financial Conglomerates Directive, issued 14 May 2012.

Quantitative Impact Study launched 16 October 2012. Memo from European Commission issued 23 May 2013.

Proposal to revise the IORP directive (covering occupational pension schemes) issued 27 March 2014.

Revised directive to be implemented by Member States by 31 December 2016.

Current proposals

In March 2014, the European Commission issued a proposal to revise Directive 2003/41/EC (the "IORP Directive") governing occupational pension schemes. The proposal is issued as part of a package of measures intended to stimulate new means of unlocking long-term financing and to support Europe's return to sustainable economic growth. One of the proposal's objectives is to reinforce the capacity of occupational pension schemes to invest in financial assets with a long-term economic profile.

Points to note include the following.

- IORPs must ensure that the professional qualifications, knowledge and experience of all persons who effectively run the IORP are adequate to enable them to ensure sound management of the IORP and to carry out their key functions properly (the requirement to be "fit"). In addition, such individuals must be of good repute and integrity (the requirement to be "proper").
- IORPs will be required to have a "sound remuneration policy", including proportionate measures aimed at avoiding conflicts of interest, for those persons who effectively run the IORP.
- Member States must require IORPs to have an effective system of governance. In particular, the governing body of the IORP must implement and annually review written policies in relation to risk management, internal audit and, where relevant, actuarial functions and outsourcing.
- Active members must be given a standardised annual pension benefit statement ("PBS"), with other specified information to be provided to members and prospective members at different stages of the pension life cycle.
- IORPs will be required to publish the "conditions" of their scheme on a website.
- In relation to cross-border schemes, the host Member State may no longer impose additional information requirements or investment rules on institutions carrying out cross border activities.
- Cross-border transfers of all or part of a scheme should be allowed, subject to authorisation from the home Member State of the receiving scheme and (unless national law provides otherwise) approval by the affected members and beneficiaries or their representatives.
- The proposal does not consider the introduction of new solvency rules.

Previous developments

In May 2012, the European Insurance and Occupational Pensions Authority (EIOPA) consulted on draft technical specifications to be used in a Quantitative Impact Study (QIS) on the effect of the proposed "Holistic Balance Sheet" (HBS) approach to the European Commission's Review of the IORP Directive. Following the consultation, EIOPA launched its QIS, to be carried out in nine Member States, including the UK, under the supervision of the national

	supervisory authorities. A key element of the HBS would have been the "Solvency Capital Requirement" (SCR), calculated using methodology drawn from capital requirements for insurance companies under Solvency II but, possibly, making some adjustment for support from the sponsoring employer and the Pension Protection Fund. In May 2013, Michel Barnier, European Commissioner for Internal Market and Services, announced that the proposal for a directive on occupational pension funds (expected following the review of the IORP directive) will focus on governance, transparency and reporting requirements. The proposal will not cover the issue of solvency rules for pension schemes, which will remain an open issue
European reform: single market for personal pension products	
EIOPA's Task Force on Personal Pensions launched February 2013 Discussion paper issued 16 May 2013. Consultation period ended 16 August 2013 Preliminary report by EIOPA issued 19 February 2014. Detailed call for advice then expected from European Commission, with deadline of 2015	In May 2013, the European Insurance and Occupational Pensions Authority (EIOPA) issued a discussion paper on a possible EU-single market for personal pension products. The paper focuses on two possible approaches: passporting and the "second regime". The second regime is a body of law enacted in a particular field to create an alternative uniform European system to different national regimes. Private parties can choose which of the two bodies of law will govern their legal position. EIOPA intends to advise the Commission on legislative changes needed to create a single market for personal pension products, in parallel with a separate initiative focusing on improving consumer protection in relation to third pillar retirement products through voluntary codes and possibly an EU certification scheme.
Investment: financial benchmarks	
Draft regulation published 18 September 2013 Proposed legislation expected to have effect in 2015	The European Commission has published draft legislation to provide for more stringent rules for benchmarks used in financial instruments and financial contracts in the EU, including benchmarks used to measure the performance of investment funds. Under the proposals: • administrators of benchmarks would be regulated by national authorities under the coordination of the European Securities and Markets Authority (ESMA); • the governance and scrutiny procedures of those who calculate benchmarks (or contribute information used in their calculation) would be tightened, in particular in relation to conflicts of interest.
Law Commission: fiduciary duties of investment intermediaries	
Consultation paper issued 22 October 2013. Final Law Commission report with recommendations expected June 2014	The Law Commission has issued a detailed consultation paper considering the fiduciary duties of investment intermediaries. The paper follows a principle recommended by the 2012 Kay Review of UK equity markets that "all participants in the equity investment chain should observe fiduciary standards in

their relationships with their clients and customers".

Key points include:

- The Law Commission is inclined to consider that the existing legal duties on trustees to act in the best interests of beneficiaries are satisfactory.
- Fiduciary-type duties on providers of workplace contract-based pensions are unduly uncertain. The Commission has noted recent initiatives to address this issue and has asked for views.
- Rules requiring contract-based providers to reassess the suitability of investment strategies over time should be clarified and strengthened, both for default schemes and for chosen funds.
- Members of independent governance committees, which the Association of British Insurers agreed would be introduced following the Office for Fair Trading's market study on workplace DC pensions (19 September 2013), should be subject to clear legal duties to act in the interests of members. Pension providers should provide a full indemnity to members of their committees for any liabilities they incur in the course of their duties.
- Legal duties alone are insufficient to ensure good outcomes for members of workplace DC schemes. The duties need to be embedded in an industry structure and regulatory framework which reinforce and encourage independent review of investment strategies. The Commission points out that industry structure and regulatory enforcement are outside its terms of reference but notes that the DWP is carrying out a programme of work in this area.
- In relation to other intermediaries in the investment chain, the law is extremely flexible but also uncertain.
  - The Commission has asked whether there is a need to review the regulation of investment consultants.
  - In relation to custodians, the Commission has asked whether the law of intermediated shareholdings should be reviewed and whether the FCA should review the regulation of stock lending by custodians.
- The Commission considers that any statutory reform of the general law of fiduciary duties would result in new uncertainties and could have unintended consequences. Instead, it has asked whether: it would be better to enact specific duties; there should be stronger rights to sue for breach of Financial Conduct Authority rules or breach of statutory duty under the Financial Services and Markets Act 2000 and whether the rules should be strengthened in some areas.

In relation to ethical investment, the Commission considers that:

- Wider factors relevant to long-term investment performance, including environmental, social and governance issues, may be taken into account where they would further the purpose of the investment power.
- Macro economic factors may be taken into account provided that the anticipated benefits of an investment decision based on such factors must outweigh the likely costs.
- Factors relating to beneficiaries' quality of life now and in the future may only

	be taken into account when choosing between two equally beneficial investments. • General ethical issues, unrelated to risks, returns or the interests of beneficiaries may only be taken into account in limited circumstances, such as for a DB scheme set up by a religious group, charity or political organisation or where a DC scheme allows members a choice of investment strategies.
Longevity risk: consultation	
Consultative report issued August 2013. Consultation ended 18 October 2013	The Bank for International Settlements has published a consultation paper "Longevity risk transfer markets: market structure, growth drivers and impediments, and potential risks". Its observations and recommendations include the following. • Although the longevity swap market is relatively small, there is potential for significant growth and systematic risk concerns could arise in future without appropriate supervision. • The complexity and specialist nature of the market may result in there being a limited number of providers with a concentrated build-up of risk. • In addition, significant medical developments, such as a cure for cancer, could cause a sharp rise in longevity and could result in a general failure among the counterparties holding the risk. • Regulators should communicate and cooperate on longevity risk transfer internationally and across sectors to reduce the potential for regulatory arbitrage. • Regulators should seek to ensure that holders of longevity risk have the appropriate knowledge, skills, expertise and information to manage it.
Pensions Ombudsman: permission to appeal	
The Civil Procedure (Amendment) Rules 2014/407 in force (in relation to appeals from the Pensions Ombudsman or PPF Ombudsman) on 6 April 2014	The Civil Procedure Rules will be amended to introduce a requirement for permission from the High Court to bring an appeal against a determination of the Pensions Ombudsman or the Pension Protection Fund Ombudsman.
Pension reform: defined ambition	
Consultation paper, "Reshaping workplace pensions for future generations" issued 7 November 2013. Consultation period ended on 19 December 2013 The Government aims to consult on draft legislation in the New Year	The DWP has issued a consultation paper on potential reform to the regulatory framework for future workplace pension provision. The DWP believes that regulation should focus on ensuring that any promise or guarantee, whether from a sponsoring employer or scheme provider, is delivered. Proposals include: **Flexible defined benefit** • Additional flexibilities would apply to future accruals only in existing DB schemes; • A statutory override to enable employers to make changes to future accrual;

- Removing indexation requirements for pensions in payment;
- With the cessation of DB contracting-out, the removal of statutory requirements for survivors' benefits;
- Making it easier to change pension age to reflect improved longevity, for example by allowing future pension provision to be based on the projected number of years in retirement based on an index produced by the Government Actuary's Department (GAD); or for a scheme's normal pension age (NPA) to be linked to changes to state pension age. Employers would not be able to adjust the NPA of members within 10 years of their scheme's existing NPA;
- Allowing compulsory transfers out to a nominated DC fund for active members who cease service before retirement;
- Designs the DWP considers might be possible under the DA proposals include:
  - Allowing employers to choose to provide additional benefits above the simplified DB level when the scheme funding level allowed, for example discretionary indexation which fluctuated in payment from year to year;
  - Allowing the employer to provide discretionary, one-off additional payments in any year, on top of the simplified DB level, with no obligation to pay the additional benefit in any future year;
- Employers would not have power to transfer or modify benefit already accrued, beyond what is allowed under current legislation;
- The DWP is considering whether there should be a requirement to provide independent financial advice where an employer offers to transfer accrued rights from a traditional DB scheme to a new arrangement.

DC plus

Four models are considered:

- **Model 1 - Money-back guarantee**
- **Model 2 - Capital and investment return guarantee**: the guarantee would be purchased by a fiduciary on behalf of the member to secure a guarantee (using standardised insurance terms and conditions) against part of the capital and possibly an investment return, for a fixed period;
- **Model 3 - Retirement income insurance:** each year from, for example, age 50, a fiduciary would use part of a member's fund to buy, on the member's behalf, an income insurance product insuring a minimum level of income. At retirement, the member draws their pension directly from their remaining fund and only if the fund is reduced to zero would the income guarantee insurance be drawn. The full guarantee would remain, provided that the individual does not draw more than the guaranteed income from the fund. The DWP considers that introduction of this option is unlikely in the short or medium term;
- **Model 4 - Collective risk sharing** that could provide a guaranteed pension income ("pension income builder"): a proportion of the member's fund would be used each year to buy a deferred annuity, payable from current pension age. The residual contributions are invested in a collective pool of risk-seeking assets, used to provide future indexation on a conditional basis.

Indexation would become a guaranteed right once granted. The aim would be to revalue nominal rights in accrual as well once the pension is in payment;

Legislative changes

- DB schemes will be defined in their own right (as opposed to simply not being money purchase schemes, as at present). A personal pension scheme could be a DB scheme if it provides complete certainty to the member;
- New definitions of defined ambition ("DA") and DB schemes will be included in primary legislation. The distinct requirements applicable to each type of scheme will be set out in regulations;
- DA schemes will be outside the automatic (pot follows member) transfer system.
- The definition of money purchase schemes would exclude a DC scheme which obtained a guarantee on behalf of the member but which does not bear the liability for meeting the guarantee (for example, because the scheme buys an insurance policy for the member which then directly matches the liability to the member);
- Legislative changes will be needed, for example to remove indexation requirements for future accrual;
- A collective defined contribution ("CDC") scheme offering some form of promise or guarantee could operate within the proposed DA regulatory framework and would be subject to the technical provisions funding requirements. The DWP is looking to provide an enabling framework for such schemes to use a Regulatory Own Fund, or other vehicles that may be developed, to provide a CDC arrangement;
- The DWP is exploring where CDC schemes which do not provide a promise or guarantee should sit within the legislative framework;
- The DWP has identified governance, member communications and scheme funding as areas requiring particular consideration in relation to DA schemes;
- For DA schemes, the DWP intends that pension protection levies will be proportionate to the extent of the guarantee given, who stands behind the guarantee and the risks of not being able to meet the liabilities.

Scottish independence: pension questions

Report issued 3 February 2014

In February 2014, the Institute of Chartered Accountants of Scotland (ICAS) issued a report calling on the Scottish Government to clarify the position on pension provision should Scotland become independent. ICAS' particular concerns include:

- Scotland's demographics, with a higher projected ratio of pensioners to those of working age mean that affordability of state pensions will be especially challenging.
- How would residence in Scotland at the date of independence (or other criteria) be determined for the purpose of allocating responsibility for paying

	state pension already accrued? • Who would be responsible for unfunded public sector pension liabilities built up prior to independence? • For private sector pensions, what regulatory and protection arrangements would an independent Scotland need and would new industry bodies be established to perform the functions of the Pensions Regulator and the Pension Protection Fund? • How would EU solvency requirements for defined benefit schemes apply across the UK if Scotland became independent? The ability of the Scottish Government to deliver policies set out in its papers on pensions issued in April 2013 would depend to a large extent on future negotiations with the UK Government, the European Union and other bodies.
State pension reform: pension ages	
White Paper issued January 2013 Pensions Bill issued 9 May 2013. The Pensions Bill completed Report Stage in the House of Lords on 26 February 2014. Autumn Statement issued 5 December 2013 DWP note "The core principle underpinning future State Pension age rises" issued 5 December 2013	**January 2013 White Paper** • The Government intends to review State pension age every five years, with the first review taking place in the next Parliament. The first report will be published before 7 May 2017; • the reviews will be based around the principle of maintaining a given proportion of adult life in receipt of a State pension; • the review will be informed by analysis from the Government Actuary's Department and a report commissioned from an independently-led body on wider factors will be taken into account, including variations in life expectancy; • the intention is to provide a minimum of ten years' notice for individuals affected by changes to State pension age; • any decision by the Government to change State pension age will need inclusion in primary legislation and Parliamentary approval. **Autumn Statement 2013** • The guiding principle for future reviews of State pension age will be that people should expect to spend, on average, up to one third of their adult life in receipt of the State pension. This principle implies that the increase in State pension age to 68 is likely to come forward to the mid-2030s, from the current date of 2046, and is likely to increase to 69 in the late 2040s. The DWP has stated that adult life will be considered to start at age 20. The intention is to give individuals affected by changes to State Pension age at least 10 years' notice.
State pension reform: White Paper (see also Contracting-out: abolition of DB contracting-out)	
Green Paper issued April 2011 Written Ministerial Statement issued 12 July 2012	In March 2013, the Pensions Minister announced that the launch of the single tier state pension would be brought forward to April 2016. Accrual of the State Second Pension (S2P) will cease at that point. Points to note from the November 2012 White Paper include:

White Paper issued 22 November 2012

White Paper issued on 14 January 2013

Pensions Bill issued 9 May 2013

The Pensions Bill completed Report Stage in the House of Lords on 26 February 2014.

Written Ministerial Statement issued 19 March 2013

Written Ministerial Statement on minimum qualifying period made 3 December 2013

Autumn Statement issued 5 December 2013

- individuals over State Pension Age when the reforms are implemented will continue to receive their State pension (and Savings Credit, where applicable) in line with existing rules;
- the single-tier pension will be set above the basic level of means-tested support (currently £142.70 per week for a single pensioner). The initial figure for the single-tier pension will be decided closer to the implementation date;
- the single-tier pension will be increased at least in line with average earnings growth. The White Paper assumes uprating of the single-tier pension by the "triple lock" (the highest of earnings growth, prices growth or 2.5%) for illustrative purposes only;
- individuals will need 35 qualifying years of National Insurance contributions (NICs) or credits to receive the full single-tier pension. There will also be a minimum qualifying period of between 7 and 10 qualifying years (subsequently confirmed to be 10 qualifying years), below which an individual would not receive any single-tier pension;
- it will not be possible to inherit or derive rights to the single-tier pension from a spouse or civil partner;
- individuals will be allowed to defer claiming their single-tier pension and receive a higher weekly State pension in return. It will no longer be possible to receive deferred State pension as a lump sum payment;
- NICs paid by the self-employed will be treated in the same way as employee contributions for State pension purposes;
- there will be transitional arrangements to recognise shared or inheritable additional State pension in the current system and for certain women who have paid reduced rate NICs;
- contracting-out on a defined benefit basis will cease (please see separate entry);
- the requirement to consult affected members will apply;
- in relation to guaranteed minimum pensions (GMPs), the Government believes that it is not possible to make any further significant simplifications, beyond the GMP conversion legislation introduced in 2009, without interfering with employees' property rights;
- in relation to public sector pensions, following the Government's commitment to Parliament that reforms to public service pensions should endure for 25 years, public service employers will not be able to pass the cost of increased NICs to their employees by reducing the value of benefits or increasing employee contributions.

Transitional arrangements

- Individuals' pre-implementation NI records will be translated into a starting amount for the single-tier pension, known as the "foundation amount";
- an individual's NI record will be valued under the rules of the single-tier system as follows:
- (number of pre-implementation qualifying years)/35 x £144
- for individuals who have been contracted-out, a deduction (the "rebate-derived amount") will be applied to the single-tier valuation as at the date of

the implementation of the single-tier pension;

- a further calculation will be performed to test whether an individual would have a higher valuation under the rules of the current system. In such cases, the higher valuation would be the individual's foundation amount. Individuals with a foundation amount above the level of the single-tier pension will keep any amount above the level as a "protected payment" when they reach State pension age. However, they will not be permitted to accrue extra pension for further qualifying years;
- the protected payment will be revalued in deferment and uprated in payment in line with price inflation.

Autumn Statement 2013

Current pensioners, and those who reach State pension age before the introduction of the single tier pension, will be given the option to pay a new class of voluntary NICs to top up their Additional State Pension entitlement.

Tax: Scottish income tax

Technical note issued May 2012.

HMRC will issue guidance on identifying a taxpayer's main place of residence

Statement on application of tax relief issued 12 December 2013

Scottish rate of income tax expected in force April 2016

Administrators expected to identify Scottish taxpayers from April 2018

In May 2012, HMRC issued a technical note on the Government's policy intentions where the power to set a Scottish rate of income tax for non-savings income of Scottish taxpayers will interact with other parts of the income tax system. In relation to pensions:

- The operation of the net pay arrangement by occupational pension schemes will be unaffected.
- Individuals contributing to retirement annuity contracts (RACs), who claim tax relief on contributions through self-assessment, will continue to receive tax relief at their marginal rate.
- No changes are initially intended to rates of pension tax charges. However, if Scottish and UK income tax rates diverge significantly then the introduction of a parallel set of tax charges for Scottish taxpayers may be considered.
- Trusts generally will retain their current (UK or non-UK) residence status and will be taxed at UK rates where appropriate.

In December 2013, HMRC issued a statement on the application of tax relief on pension contributions paid by Scottish taxpayers following the implementation of a Scottish rate of income tax.

The Government has decided that relief at source (RAS) will also be paid at Scottish rates. Administrators will need to differentiate between Scottish taxpayers and those from the rest of the UK. However, in response to industry concerns, for a transitional period from April 2016 to April 2018 administrators may claim RAS for all members at UK rates. HMRC will identify Scottish taxpayers and make appropriate adjustments though self-assessment or PAYE coding in respect of contributions paid in the transitional period.

Established: already in force for three to 12 months

Auto-enrolment: changes to NEST order and rules	
Consultation issued October 2012. Consultation response issued January 2013 The *National Employment Savings Trust (Amendment) Order 2013/597* in force 1 April 2013	The DWP has issued a response to consultation, confirming that changes proposed in consultation will be made. These include: • extending NEST's discretion whether or not to admit self-enrolling members to 1 March 2018, to reflect the lengthening of the auto-enrolment staging period; • making clear that employers may voluntarily cease to participate in NEST by giving notice to the NEST Trustee; and • allowing NEST discretion as to the recipient of a member's funds where a member dies and has an account of less than £5,000 and no traceable beneficiary.
Auto-enrolment: guidance notes	
Updated guidance notes issued 28 November 2013	The Pensions Regulator has issued updated guidance notes on auto-enrolment, revised to reflect changes to regulations in force on 1 November 2013. New guidance has also been added on automatic re-enrolment.
Auto-enrolment: guidance on qualifying schemes	
Guidance for employers on certifying DB and hybrid schemes; Guidance for actuaries on certifying defined benefits and hybrid pension schemes; and Guidance on certifying money purchase schemes issued September 2013	The DWP has issued updated three guidance papers on certifying defined benefit, hybrid and money purchase schemes. Points to note include the following. • The guidance is intended to help employers to ascertain whether their scheme meets the test scheme standard and when the scheme actuary should be involved. • The updated guidance includes information on certifying a contracted-out scheme where not all jobholders are in contracted-out employment (for example, because they are over state pension age). Where benefits for jobholders who are not contracted-out are calculated in the same way as those for jobholders who are contracted-out, the scheme will satisfy the test scheme standard. Where there are differences in calculation, the standard approach to assessing whether the quality standard is met must be applied in relation to the non-contracted-out jobholders. • Examples of who may certify a money purchase scheme on behalf of the employer include the head of payroll, the scheme administrator, an actuary and other professional advisers.
Benefits: alternative funding arrangements	
Press notice issued 15 January 2014	The Financial Reporting Council (FRC) has issued a press notice warning company boards against entering into arrangements (often using a Scottish limited partnership) that turn pension obligations into equity instruments in their accounts. The FRC has acknowledged the genuine commercial reasons for establishing such alternative arrangements for supporting pension scheme funding. Its

	concern has focussed on companies that have used an alternative funding arrangement to reclassify pension liabilities as equity instruments in the company's consolidated accounts.
Bridging pensions	
Following consultation, the DWP has issued final regulations giving trustees a statutory power to modify their scheme rules regarding bridging pensions, to take account of the increasing state pension age. Points to note include the following:	Following consultation, the DWP has issued final regulations giving trustees a statutory power to modify their scheme rules regarding bridging pensions, to take account of the increasing state pension age. Points to note include the following: • Schemes with rules providing for a pension to be reduced at a specified age between 60 and 65 may be modified to provide for a reduction at any time between 60 and the member reaching state pension age. • Schemes with rules providing, as at 5 April 2010, for a pension to be reduced at state pension age may be modified to provide for a reduction at any time between age 60 and 65. Modifications under this provision may not be made in respect of pensions in payment. • Modifications made under the regulations must be "reasonable" in consequence of changes to state pension age. The draft regulations had included a "necessary or desirable" test. Modifications under the regulations will not be a "listed change" for the purposes of the employer consultation regulations.
CPI/RPI: amended indices	
Statement issued 19 March 2013	The Office for National Statistics (ONS) has issued a statement announcing that: • It has launched two new measures of consumer price inflation: CPIH (which includes owner-occupiers' housing costs) and RPIJ (a variant on RPI, but calculated using the geometric (Jevons) method which meets international standards). • The designation of RPI as a National Statistic has been cancelled. This means that RPI is no longer a national standard used in official statistics. • CPIH and RPIJ are currently experimental statistics but are being assessed for National Statistic status.
Defined contribution: Auto-enrolment - consultancy charges	
The Occupational and Personal Pension Schemes (Automatic Enrolment)(Amendment) Regulations 2013/2328 in force on 14 September 2013	Regulations have come into force prohibit the deduction of consultancy charges from benefits of members in defined contribution automatic enrolment schemes. Deductions will not be allowed: • from payments to the scheme made by or on behalf of the jobholder; • from income or capital gains arising from contributions paid by or on behalf of the jobholder; or • that reduce the value of the jobholder's rights under the scheme

	where the amount deducted is to be paid to a third party under an agreement between the employer and the third party. The prohibition will apply in relation to occupational money purchase schemes and personal pension schemes. The prohibition will not apply to agreements entered into before 10 May 2013.
Defined contribution: Office of Fair Trading market study	
Market study issued 19 September 2013 Decision not to make market investigation reference announced February 2014	In September 2013, the Office for Fair Trading (OFT) issued a market study of defined contribution workplace pensions in the UK, following its investigation launched in January 2013 of whether such schemes are set up to deliver the best value for money for savers. To address concerns raised by the study, the OFT has agreed with the DWP, the Pensions Regulator and the Association of British Insurers (ABI) that: • The ABI and its members will carry out an immediate audit, overseen by an independent project board, of old and high charging contract and bundled trust schemes. The audit is intended to understand the charges and any benefits associated with the schemes and to ensure that savers receive value for money. • ABI members will establish independent governance committees, which will recommend changes to providers and escalate issues to regulators where they identify risks of poor outcomes for savers. • The Pensions Regulator will assess which smaller trust based schemes are not delivering value for money. The DWP has agreed to consider whether the Regulator needs new enforcement powers to deal with this issue. The OFT has also recommended that the DWP should consult on: • Improving the transparency and comparability of information about schemes' costs and quality, to make employers' initial choice of scheme easier; and • Preventing schemes being used for auto-enrolment that have built-in adviser commissions or active member discounts. In February 2014, the OFT announced that it had decided not to make a market investigation reference of the DC workplace pension market to the Competition Commission. It considered that in light of the remedies and recommendations set out in the market study report, a reference to the Competition Commission would be a disproportionate response.
Defined contribution: Pensions Regulator – reporting late payment of contributions	
Codes of practice in force on 20 September 2013	The Pensions Regulator has issued a response to consultation, guidance and final versions of codes of practice 5 (reporting late payment of contributions to money purchase occupational pension schemes) and 6 (reporting late payment of contributions to personal pension schemes). The revised codes have been amended following consultation. Points to note include: • Trustees and managers should have in place effective monitoring processes (preferably documented in writing), which should be proportionate and risk-

based. The Regulator makes clear that it was not its intention to require the monitoring of every contribution received or the duplication of calculation procedures undertaken by payroll.

- Trustees and managers may take information from employers at face value, unless they have reason to believe it is incorrect.
- The proposed requirement for schemes to make nil returns when there is nothing to report has been dropped.
- The revised codes and guidance apply to all defined contribution schemes, including those with fewer than five active members.
- Employers should provide payment information requested by the trustees or managers to enable effective monitoring within seven working days. Trustees or managers should report failures to supply information requested within 14 days of the request.
- Trustees or managers should report payment failures to the Regulator where the failure is likely to be of material significance and, in any case, where contributions are outstanding for 90 days (reduced from 120 days proposed in consultation).
- Payment failures should be reported to the Regulator within 10 working days of the trustees or managers having reasonable cause to believe that a material payment failure exists.
- A material payment failure should be reported to members within 30 days of its having been reported to the Regulator.
- Where there is a payment failure, trustees or managers should make at least three attempts to contact the employer within 90 days of the date the contribution should have been paid.

In addition, the Regulator makes clear that it disagrees with comments that managers' legal obligations are limited to monitoring the fact and timing of contributions received. In its view, legislation provides that managers should understand what falls to be paid to the scheme under direct payment arrangements and should have a process in place to identify underpayments or overpayments.

Defined contribution: statutory money purchase illustrations

Consultation paper issued on 15 November 2013. Consultation ended on 13 December 2013

The Financial Reporting Council has issued a consultation paper on proposed amendments to Technical Memorandum 1 (TM1), which sets out the method and assumptions to be used in producing statutory money purchase illustrations (SMPIs). The amendments reflect changes introduced by the new disclosure regulations in force on 6 April 2014, including:

- allowing a cash lump sum to be shown within the SMPI;
- allowing SMPIs to show dependents' pensions of a varying percentage of the member's pension.

Directors' remuneration	
Final regulations published 24 June 2013 *The Large and Medium-sized Companies and Groups (Accounts and Reports) (Amendment) Regulations 2013/1981* in force 1 October 2013, to apply in respect of financial years ending on or after 30 September 2013 General Counsel 100 (GC 100) and Investor Group guidance published 12 September 2013 and subsequently reissued on 14 October 2013	The Department for Business, Innovation and Skills has issued final form regulations, following consultation on reforming the disclosure and corporate governance requirements in relation to the remuneration of directors of quoted companies. The requirements include the disclosure of an annual remuneration report, in which the cash value of pension scheme membership (calculated as prescribed) and of payments in lieu of pension must be given for each director. In addition, for each director who has a prospective entitlement to defined benefits or cash balance benefits, the report must include: • details of those rights at the year end, including the person's normal retirement date; • a description of any additional benefit that the director will be entitled to in the event of early retirement; • where the person has rights to more than one type of pension benefit, separate details of each type. (For changes to the Listing Rules, please see "Mid-term".)

Directors' remuneration: changes to Listing Rules	
Consultation paper published 28 August 2013. Consultation ended on 9 October 2013 Changes to the rules in force on 1 January 2014	The Financial Conduct Authority (FCA) has issued consultation paper CP 13/7 on consequential changes to the Listing Rules resulting from changes to the Directors' Remuneration and Reporting Regulations and Narrative Reporting Regulations (please see "Imminent"). The FCA has concluded that, overall, the proposed Regulations do not appear to impose substantially different requirements to those set out in the Listing Rules. The FCA proposes that: • to avoid duplication, the Listing Rules relating to directors' remuneration will be removed where the Regulations provide substantially the same outcome, unless the relevant Listing Rule applies equally to premium listed UK and premium listed overseas incorporated companies; and • the current regime should be maintained for premium listed overseas incorporated companies that are not within scope of the new Regulations; The changes will be implemented on 1 January 2014 and will apply to any premium listed company incorporated in the UK with a financial year ending on or after that date. UK incorporated listed companies with a financial year ending before 1 January 2014 must comply with current Listing Rule requirements.

Early leavers: revaluation	
The Occupational Pensions (Revaluation) Order 2013/2913 in force on 1 January 2014	The revaluation order for 2014 has been made, setting out the statutory minimum revaluation percentages for deferred members reaching normal pension age in 2014.

European reform: pension plans and products database	
Database announced April 2013	The European Insurance and Occupational Pensions Authority (EIOPA) has announced the establishment of a database intended to provide a comprehensive snapshot of pension arrangements in Europe. The database allows key features of Member States' pension provision to be compared, for example: the investment risk borne by members; defined benefit, defined contribution or hybrid provision; and the financial vehicles used.
Financial services regulation: new regulatory regime	
Financial Services Authority abolished 1 April 2013	The Financial Services Authority (FSA) was abolished on 1 April 2013 and the majority of its functions transferred to the Prudential Regulation Authority (PRA) and the Financial Conduct Authority (FCA). Points to note include: • the PRA is a subsidiary of the Bank of England, with responsibility for micro-prudential regulation of banks, building societies, insurers and some investment firms; • the FCA will be responsible for conduct of business regulation of all firms, including those regulated by the PRA. It has also taken over responsibility for the majority of the FSA's functions in market regulation, including the FSA's role as the UK's listing authority.
Pension liberation: change in HMRC process	
Changes announced in online guidance have effect from 21 October 2013	In October 2013, HMRC made various changes to strengthen existing processes to deter pension liberation and safeguard pension saving. These include the following: • In a departure from its previous "process now, check later" approach, HMRC will no longer automatically confirm that a scheme is registered on successful submission of the online registration form. It is intended that this will enable HMRC to conduct detailed risk assessment activity before deciding whether or not to register the scheme. • HMRC will respond to requests from scheme administrators for confirmation of the registration status of a receiving scheme without seeking the consent of that scheme. • HMRC will only confirm the registration status of a receiving scheme where: - the scheme is registered: - HMRC does not hold information to suggest that there is a significant risk of the scheme being set up or used to facilitate pension liberation. In other cases, HMRC will respond setting out the conditions in which it will confirm registration status and explaining that one or both of the conditions are not met. • The guidance makes clear that seeking confirmation from HMRC is not the only check that a transferring scheme carries out and relies on.

[Pensions Ombudsman: annual report	
Annual report and accounts for 2012/13 issued 4 July 2013	The Pensions Ombudsman has issued his annual report. Points to note include the following. • The Ombudsman is piloting a new process under which investigators may issue their "opinion" of a case in a more formal document than a letter. The intention is to make clear to the parties that the investigator is expressing a fully authoritative view of the likely outcome and to allow opinions to be published. • Ill health benefits remain the single highest cause for complaints. Complaints about benefit calculations, or incorrect benefits, were the second highest category and represented a higher proportion of the Ombudsman's workload than in previous years. There has been an increasing number of complaints concerning overpayments, with schemes seeking to recoup benefits to which the member was not entitled.

Pension Protection Fund: compensation cap and levy ceiling 2013/14	
The Pension Protection Fund and Occupational Pension Schemes (Levy Ceiling and Compensation Cap) Order 2013/105 in force 1 April 2013	Regulations have been made raising the PPF compensation cap for 2013/14 from £34,049.84 to £34,867.04, with effect from 1 April 2013. The regulations also set the levy ceiling for 2013/14 at £933,556.533 with effect from 31 March 2013.

Pension Protection Fund: compensation payments	
Consultation on draft regulations issued 18 December 2012 *The Pension Protection Fund, Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations 2013/627* in force 30 April 2013 Consultation response issued 19 March 2013	The DWP has finalised regulations to make various changes to legislation governing the PPF. Changes include: • allowing all pension credit members to access their benefits early; • allowing members not in receipt of pension compensation to postpone taking their PPF benefits; • correct an error relating to pensions for surviving dependents attending a qualifying course, so that payment continues to the earlier of leaving the course or reaching age 23; • align the commutation limit for a PPF trivial compensation lump sum with the limit for trivial commutation lump sums under the Finance Act 2004; • allowing undischarged money purchase pots worth £2,000 or less to be paid to members aged 60 or over as PPF money purchase lump sums; • reducing the period for applying to review the decision of a s143 valuation from two months to 28 days from the date of issue of the valuation summary, to align with other PPF review periods.

Pension Protection Fund: GMP equalisation	
Technical Statement issued November 2011. Announcement, technical guidance	The PPF has issued a Technical Statement giving details of how to adjust PPF compensation to allow for equalising guaranteed minimum pensions (GMPs)

and FAQs issued 5 December 2012 Schemes with a transfer date of 1 June 2013 or later expected to enact PPF's methodology Guidance published 21 March 2013	and applying a statutory minimum underpin. Key points include: • trustees of schemes in a PPF assessment period where the scheme is expected to transfer to the PPF before 1 June 2013 are not expected to calculate PPF compensation using the PPF methodology. The PPF will adjust compensation for such members following the transfer; • schemes transferring to the PPF after 31 May 2013 should apply the PPF GMP methodology before completing the assessment process; • the majority of schemes in assessment periods need not allow for GMP equalisation in their s143 valuation. Schemes with s143 valuations showing funding exceeding the value of PPF compensation will be expected to confirm that the scheme would still be over 100% funded on a PPF basis if GMPs had been equalised; • schemes are not expected to allow for GMP equalisation in their regular s179 valuation; • the PPF has confirmed that it is not seeking to set an industry standard for schemes outside PPF assessment periods. The PPF has issued guidance on reconciling guaranteed minimum pensions (GMPs) for schemes in a PPF assessment period. Where there is a discrepancy between a scheme's records and NISPI's records, the scheme will be expected to undertake one reasonable attempt to resolve the issue. Appropriate notes should be made on scheme records of any unresolved issues, which may be taken up by the PPF following the scheme transfer. The guidance confirms that schemes in assessment periods may accept a difference of up to £2 per week between NISPI and scheme records. Where a difference is within this tolerance, the scheme's record should remain unchanged and PPF compensation will be based on the scheme's GMP figures.
Pension Protection Fund: GMP equalisation – early/late retirement factors	
Statement issued 28 May 2013	The Pension Protection Fund has issued default early and late retirement factors and methodology to be used in certain circumstances by trustees of a scheme in an assessment period when equalising guaranteed minimum pensions (GMPs). The default factors and methodology should be used for periods of retirement where the appropriate scheme factors or methodology are not available. In addition, they should be used where the scheme has calculated early or late retirement pensions using a method more complicated than applying a single factor to either the pension revalued to the date of retirement or the pension projected to normal pension age.
Pension Protection Fund: levy guidance	
A Guide to the Pension Protection Levy 2013/14 issued 9 August 2013	The PPF has confirmed that invoices in respect of the 2013/14 levy will be issued from September 2013. It has also issued its annual guide to the Pension Protection Levy, setting out data that goes into the levy calculation; how the calculation is carried out; and how schemes may query their invoice.

Pension Protection Fund: minor tax amendments	
The Pension Protection Fund (Tax) (Amendment) Regulations 2013/1117 in force 31 May 2013	Regulations have been introduced to ensure that PPF pension compensation payments which are subject to a pension compensation sharing order, or are "PPF money purchase lump sums" (trivial commutation lump sums), will be taxed in the same way as if the payment had been made by the original registered pension scheme.
Pension Protection Fund: postponement of PPF compensation	
Final regulations made 11 July 2013 *The Pension Protection Fund and Occupational Pension Schemes (Miscellaneous Amendments) Regulations 2013/1754* in force on 1 October 2013	The DWP has issued final regulations to correct a drafting error in previous regulations amending the *Pension Protection Fund (Compensation) Regulations 2005/670.* The most recent regulations clarify that, to be able to postpose receipt of PPF compensation in respect of an occupational pension scheme, a member must not have already received any benefit from the scheme or PPF compensation in respect of benefit from the scheme.
Pension Protection Fund: restructuring and insolvency	
Guide issued 13 January 2014	The Pension Protection Fund has issued a guide to its approach to restructuring and insolvency. The guide sets out the main principles the PPF will apply when deciding whether to agree to a restructuring or rescue of a distressed employer: • The employer's insolvency must be inevitable. • The pension scheme would receive money or assets under the restructuring arrangement that are significantly better than the amount it would have recovered through the employer's insolvency. • What is offered to the pension scheme trustees is fair compared to what other creditors and shareholders will receive under the restructuring. • The pension scheme must be given "anti-embarrassment protection" of 10% equity in the new company if the future shareholders are not currently involved in the company, or 33% if the parties are currently involved. • The pension scheme would not be better off if the Pensions Regulator issued a contribution notice or financial support direction.
Pensions Regulator: changes to scheme returns	
Guide issued December 2013 Changes to the scheme return apply from January 2014	The Pensions Regulator has issued a guide to changes made to the scheme return to be completed by trustees or managers of defined benefit and hybrid schemes. Areas about which additional information will have to be provided include: • hybrid schemes, including in relation to any underpin; • the membership, age profile, contributions and value of assets of defined contribution additional voluntary contributions (DC AVCs); • asset-backed contribution arrangements; • incentive exercises carried out or notified to members in the previous 12 months.

Pensions Regulator: DC scheme returns	
Guidance notes issued May 2013	The Pensions Regulator has issued guidance notes for trustees or managers on completing scheme returns for defined contribution schemes (whether trust or contract-based). Two sets of notes have been issued: one aimed at schemes with 2-11 members and the other for schemes with 12 members or more.
Pensions Regulator: double counting in DB schemes	
Statement issued on 25 October 2013	The Pensions Regulator has issued a statement warning schemes against "double counting" and considering payments under a schedule of contributions to be payments towards s75 debts and vice versa. It warns that double counting may jeopardise eligibility for the PPF where it constitutes a legally enforceable agreement to reduce the amount of a s75 debt due to the scheme. According to the Regulator, legislation requires the s75 debt triggered on an employer cessation event to be treated as a separate payment from the on-going contributions to repair the scheme's deficit under a recovery plan. Where the Regulator becomes aware of attempted double counting, it intends to raise this with the trustees and will expect it to be addressed. The statement is intended to apply equally to past occurrences of double counting.
Pensions Regulator: identifying the statutory employer	
Statement issued December 2013	In December 2013, the Pensions Regulator updated its statement for trustees on identifying the statutory employer(s) for their scheme, in the light of the Olympic Airlines case. In that case, the trustees were not permitted to commence secondary insolvency proceedings in the UK against the overseas employer, meaning that the scheme was not eligible to enter the Pension Protection Fund (PPF). Following Olympic Airlines, the Regulator has emphasised that, where a scheme has an overseas employer: • Trustees should be mindful of the fact that any assets located in the UK will be available to a wider group of creditors and may be moved offshore without or at short notice. • Trustees should be vigilant as to the extent of the employer's economic activity in the UK, as this may affect the possibility of commencing a UK insolvency process and therefore the scheme's ability to enter the PPF. • Trustees should be ready to act quickly to protect the scheme's interests if overseas insolvency proceedings are brought against the employer. This may involve petitioning for winding up of the employer in the UK or applying to commence secondary insolvency proceedings.
Pensions Regulator: record keeping survey	
Report issued 23 July 2013 Record-keeping guidance to be updated	In July 2013, the Pensions Regulator issued a report detailing the key findings of its fourth record-keeping survey.

to reflect the main findings of the review	Points to note include: • The majority of large and medium trust-based schemes are engaged with the measurement of common data and over 50% meet the target for common data overall. • Measuring conditional data has been less of a priority for schemes. Only one-fifth of members are in schemes with a conditional data score of more than 90%, broadly unchanged from the previous year. 42% of larger trust-based schemes had not generated a conditional data score.
Pensions Regulator: scheme funding – recovery plan analysis	
Scheme funding documents issued 27 June 2013	The Pensions Regulator has issued an update to its annual analysis of UK defined benefit and hybrid schemes. The update is primarily based on schemes with valuation dates falling from 22 September 2010 and 21 September 2011 (Tranche 6). Points to note include the following: • The average length of recovery plans for Tranche 6 schemes is 7.5 years, compared to 8.4 years in Tranche 3 (suggesting that these schemes have recovery plans that end on average two years later than their original Tranche 3 plans. • On average, 50% of deficit recovery contributions are expected to be paid within 3.4 years of the commencement of the recovery plan. • 19% of schemes in Tranche 6 hold at least one contingent asset.
Public sector: Fair deal	
Fair Deal for staff pensions: staff transfers from central government published 4 October 2013 New guidance in effect from 4 October 2013 Previous Fair Deal policy will continue to apply to transfers before the relevant public sector pension scheme has made the necessary changes to permit continued access New guidance must be followed in all cases from April 2015	HM Treasury has issued a paper setting out revised Fair Deal guidance and the standard practice that the Government will follow when its own staff are compulsorily transferred to independent providers delivering public services. New transfers from the public sector to the private sector • Compulsorily transferred staff must retain eligibility for their public sector scheme while employed in relation to the transferred service or function. • Staff who were eligible to be a member of the public sector scheme prior to the transfer but who did not join must continue to be eligible for membership after the transfer. • Staff must continue to be eligible for the public sector scheme on any subsequent compulsory transfer, while they remain employed on the contracted-out service or function. • In exceptional circumstances, it may be appropriate to provide access to a broadly comparable scheme, rather than continued membership of the public sector scheme, in which case the old Fair Deal policy will apply. Retenders of contracts with staff transferred under old Fair Deal policy • Transferred staff must be permitted to (re)join their public sector scheme. • Incumbent contractors whose staff have a right to access to a broadly comparable scheme under their employment contracts should seek to

renegotiate the employment contracts.

- Transferring staff will have the option of having their accrued pension rights transferred via a bulk transfer to the public sector scheme or a new provider's broadly comparable scheme.
- Deferred members of public sector schemes who return to the scheme will not have the right to a final salary link, unless permitted by the scheme's rules.

Participation in public sector schemes

- Contractors will be required to participate in the public sector scheme.
- Employee contributions will be payable in line with those paid by members working in the public sector.
- Employer contributions will be in line with contributions paid by other employers, although they may be increased to reflect any higher default risk.
- Exit charges may be allowed where the liabilities attributable to the contractor's participation have not been met by the contributions paid up to that point.
- The contractor may be required to provide indemnities, guarantees or bonds to protect the scheme from potential costs arising from their participation.

The new guidance should be reflected in procurement practice as soon as is practicable without disruption to projects which are already at an advanced stage.

Scheme funding: asset-backed contributions

Guidance published 19 November 2013

In November 2013, the Pensions Regulator published new guidance for trustees considering using asset-backed contribution arrangements (ABCs) to fund DB pension schemes. The Regulator acknowledges that ABCs may help employers to meet their obligations to schemes and may, in some circumstances, improve a scheme's security. Before entering into an ABC, trustees should take legal, actuarial, covenant, valuation and investment advice and should take into account the following concerns:

- whether there are any less risky alternatives to support the scheme, such as an appropriate recovery plan and contingent assets;
- whether transferring an asset to the ABC will weaken the employer covenant;
- the present value of the underlying asset and the value of the asset on the insolvency of the sponsoring employer/group. Trustees should also "unpack" the capitalised value of the ABC and instead recognise the asset as a funding stream;
- where the capitalised income stream from the ABC eliminates a deficit on the scheme specific funding basis, the trustees' ability to agree higher payments under a recovery plan may be limited, even where such increased payments would be affordable and appropriate;
- trustees may face increased risks if the ABC provides funding over a longer

period than would be the case under a conventional recovery plan;

- risks may be increased where the payment stream is back-end loaded, especially where a significant proportion of the capitalised value of the ABC derives from a final "bullet" payment at the end of the term;
- the ABC may restrict the trustees' ability to carry out de-risking exercises such as buy-ins; buyouts, and longevity swaps;
- the risk that ABC arrangements will be held to contravene the employer-related investment restrictions and therefore be void. The Regulator expects ABC arrangements to include an underpin to protect the scheme's position in the event that courts find that ABCs are void for illegality or there is a change in the law. Where trustees have entered an ABC arrangement which does not contain an adequate underpin, trustees and employers should rectify the situation as soon as practicable;
- a decision to invest in an ABC arrangement should be reported to the Regulator and should be explained to members in the next available communication.

Takeover Code

Response Statement RS 2012/2 issued 22 April 2013

Amendments to Takeover Code have effect from 20 May 2013. The revised rule on appending or publishing an opinion from the trustees of the offeree's pension scheme has effect from 20 May 2013, even where the document to which the opinion relates was published before 20 May 2013

In July 2012, the Takeover Panel consulted (PCP 2012/2) on proposed amendments to the Takeover Code intended to give the trustees of an offeree company's pension scheme similar rights to those given to the offeree company's employee representatives.

The Takeover Panel has now issued a Response Statement. Key points include:

- The new provisions will apply to defined benefit pension schemes (including schemes providing defined benefit and defined contribution benefits) funded by the offeree or any of its subsidiaries, which are trust-based (if in the UK) or have managers (non-UK schemes).
- Where the new provisions apply, the offeror must state its intentions with regard to:
  - employer contributions to the scheme, including with regard to current arrangements for funding any deficit;
  - benefit accrual for existing members; and
  - admission of new members.
- Following consultation, the offeror will not be required to make statements regarding the impact on the offeree's covenant or the likely repercussions of its strategic plans for the offeree on the offeree's pension scheme.
- The proposal that documents currently available to the offeree's employee representatives should also be made available to the trustees of the offeree's pension scheme has been adopted.
- Trustees of the offeree's pension scheme will have the right to have an opinion from them appended to the offeree's circular. Where the trustees do not provide an opinion in good time, they will have the right to have their opinion published on a website.

	• Agreements between the bidder and the trustees of the target's pension scheme relating to future funding of the scheme are specifically excluded from the general prohibition on "offer-related agreements". A summary of such an agreement must be included in the offer document and offer announcement, but need only be published on a website if it is a material contract.
Tax: annual allowance – scheme pays	
The Registered Pension Schemes (Reduction in Pension Rates, Accounting and Assessment) (Amendment) Regulations 2013/1111 in force 31 May 2013 Provisions relating to reducing a scheme pension have retrospective effect from 6 April 2013	Final regulations have been issued which provide that a scheme pension may be reduced in accordance with a "scheme pays" arrangement under which the member's annual allowance charge is paid from the scheme, without the remaining pension ceasing to be a scheme pension. The regulations also make a minor amendment to the reporting requirements in relation to scheme pays arrangements, to include the tax year to which the charge relates.
Tax: asset-backed contributions	
Updated draft guidance issued 16 August 2013 Initial guidance issued June 2012	HMRC has updated its draft guidance on the Finance Act 2012 concerning the tax treatment of asset-backed contribution (ABC) arrangements. The principal difference between the initial guidance and the revised version is the addition of a new section 3, dealing with the effect of the transitional provisions in schedule 13 Finance Act 2012 on pre-existing ABC arrangements at 29 November and 22 February 2012 (the dates from which the legislation applied). As the guidance explains, the overall purpose of the legislation is to ensure that an employer using an ABC arrangement does not receive tax relief on an amount exceeding that ultimately received by the pension scheme over the term of the arrangement. The transitional provisions require an initial review of the tax treatment of on-going payments into an ABC structure, followed by a further review when the arrangement comes to an end of the overall amount of the tax relief given over the term of the arrangement.
Tax: authorised payments – contracting-out	
The Registered Pension Schemes (Authorised Payments) (Amendments) Regulations 2013/1818 in force on 12 August 2013, with effect in relation to partial short service refunds from 6 April 2013	HMRC has issued final regulations, following consultation. The regulations provide that, when calculating the maximum partial short service refund from a scheme formerly contracted-out on the DC basis, the "member's contributions" will include age-related rebates paid to the scheme by HMRC and minimum payments paid by the employer to the scheme (to the extent that these payments are recovered by the employer from the employee).

Tax: Budget 2013 – NICs, tax rates and thresholds

Budget announced 20 March 2013

	2013/14	**2014/15**	**2015/16**
Employer class 1 secondary NICs	No employment allowance	£2,000 employment allowance	
Corporation tax rates	23%	21 %	20% for 2015 onwards
Income tax personal allowance	£9,440	£10,000	
Income tax basic rate limit	£32,010	£31,865	

Tax: contracting-out – abolition of DC contracting-out

Finance Act 2013 received Royal Assent on 17 July 2013

The Finance Act 2013 makes various consequential amendments to tax legislation to reflect the abolition of DC contracting-out from 6 April 2012, including removing references to contracted-out rebates, and to provide that contracted-out rebates may not be paid to schemes after 6 April 2015.

Tax: contractual collective investment schemes

Legislation allowing authorisation included in the Finance Act 2012

Revised draft regulations issued for technical comment Summer 2012

The Collective Investment Schemes (Tax Transparent Funds, Exchanges, Mergers and Schemes of Reconstruction) Regulations 2013/1400 in force 8 June 2013

The Stamp Duty and Stamp Duty Reserve Tax (Collective Investment Schemes) (Exemptions) Regulations 2013/1401 in force 28 June 2013

The Value Added Tax (Finance) Order 2013/1402 in force 28 June 2013

Final regulations have come into force relating to a new "contract scheme", which is intended to be a UK domiciled tax-transparent fund vehicle which will be attractive to investors, including pension funds. Points to note include:

- schemes may take a co-ownership form;
- income arising will be treated as arising directly to the investor for UK tax purposes, and will be taxable as it arises;
- the fund will not have legal personality and will not be a taxable person.

Tax: employer-financed retirement benefits schemes (EFRBS)	
Letter published in November 2013. Interest in settling enquiries by agreement had to be notified by 31 December 2013 Any settlement between an employer and HMRC will be concluded by 30 June 2014	In November 2013, HMRC issued letters to employers who are the subject of open enquiries about EFRBS entered into before 6 April 2011, offering an opportunity to settle the enquiries by agreement. Broadly, employers wishing to take advantage of the offer will be expected to agree that either: • Option 1: no corporation tax deduction is due for contributions made to the EFRBS until relevant benefits are paid out of the EFRBS; or • Option 2: PAYE and National Insurance contributions (NICs) are payable on the contributions to the EFRBS. A corporation tax deduction maybe made in respect of contributions to the EFRBS. If the amounts taxed and subject to NICs are distributed to beneficiaries shortly after settlement, HMRC would not expect any further PAYE or NICs to be due on those amounts
Tax: family pension plans – anti-avoidance	
Finance Act 2013 received Royal Assent on 17 July 2013	Section 308 Income Tax (Earnings and Pensions) Act 2003 will be amended to provide that the standard income tax exemption for employer contributions to an employee's registered pension scheme must be made "in respect of the employee". The amendment is intended to prevent the circumvention of the restrictions on pension tax relief by employers contributing to pension schemes of members of an employee's family.
Tax: fixed protection	
The Registered Pension Schemes and Relieved Non-UK Pension Schemes (Lifetime Allowance Transitional Protection)(Amendment) Regulations 2013/1740 in force on 12 August 2013 *The Registered Pension Schemes and Relieved Non-UK Pension Schemes (Lifetime Allowance Transitional Protection)(Notification) Regulations 2013/1741* in force on 12 August 2013	Regulations have come into force which: • extend fixed protection 2012 to relieved members of non-UK pension schemes who are not also members of a registered pension scheme; • extend the deadline for members of a relieved non-UK scheme to give notice claiming fixed protection 2012 to 5 April 2014; • provide that certain increases in the value of a member's benefits, such as revaluation of GMPs and some increases in the value of annuity contracts, are disregarded for the purposes of determining whether or not there has been benefit accrual; • set out the requirements for a "paragraph 1" notice under sch 22 Finance Act 2013 for an individual to claim fixed protection 2014.
Tax: fixed protection – Newsletter 58	
Newsletter 58 issued August 2013	HMRC has issued Newsletter 58. Points to note in relation to fixed protection include: • an online tool is available to help individuals decide whether they should apply for fixed protection 2014 (FP14); • an online form is now available to apply for FP14. The deadline for submission is 5 April 2014; • successful applicants will be sent a certificate, to be shown to the pensions

	administrator when benefits are taken; • individuals who have lost previous protection before 6 April 2014 may apply for FP14.
Tax: life insurance – qualifying policies	
Budget announced 20 March 2013 Premium limit to apply from 6 April 2013	Following consultation, it was announced in the Budget that legislation will be introduced to provide an annual premium limit of £3,600 for qualifying policies from 6 April 2013. Transitional rules will apply to policies issued between 21 March 2012 and 5 April 2013.
Tax: lifetime allowance – fixed protection 2014	
"Reducing the pensions tax annual and lifetime allowances" issued 11 December 2012 Finance Act 2013 received Royal Assent on 17 July 2013. The *Registered Pension Schemes and Relived Non-UK Pension Schemes (Lifetime Allowance Transitional Protection) (Notification) Regulations 2013/1741* in force on 12 August 2013 Budget announced 20 March 2013	"Fixed protection 2014", giving a personalised lifetime allowance of the greater of £1.5m and the standard lifetime allowance, will be available for individuals who expect the value of their pension saving at retirement to exceed £1.25m, provided that: • the individual has not already claimed primary protection, enhanced protection or fixed protection; • the individual has no further pension accrual after 5 April 2014, other than revaluation (subject to certain limits) of DB benefits; • the individual files a "paragraph 1 notice" with HMRC before 6 April 2014.
Tax: minor amendments	
The Pension Schemes (Miscellaneous Amendments) Order 2013/1114 in force 1 June 2013 Provision relating to the definition of current standard lifetime allowance has effect from the 2012/13 tax year	Final regulations have been issued to make various minor amendments to tax legislation, including: • allowing HMRC to deregister a scheme for failure to provide information required under Part 1 sch 36 Finance Act 2004; and • correcting a drafting error in the definition of "current standard lifetime allowance" for the purposes of entitlement to lump sums exceeding 25% of the member's uncrystallised rights.
Tax: overseas arrangements – QROPS	
The Registered Pension Schemes and Overseas Pension Schemes (Miscellaneous Amendments) Regulations 2013/2259 in force on 14 October 2013	Regulations have come into force which extend the reporting requirements for qualifying recognised overseas pension schemes (QROPS). Points to note include: • The scheme manager of a QROPS will have to re-notify HMRC that the scheme meets the QROPS requirements every five years, starting with five year periods ending on or after 1 April 2015. • The scheme manager of a QROPS (or former QROPS) that makes a

	payment on or after 14 October 2013 from funds transferred from a UK pension scheme must report the payment to HMRC. • The information requirements applicable to QROPS are extended to former QROPS.
Tax: pension liberation	
Pension Schemes Newsletter 57 issued 14 May 2013	HMRC has amended its website to include a new page explaining pension liberation and to add further text clarifying the tax consequences of pension liberation activities. Scheme administrators are asked to include information on pension liberation in member newsletters and to consider links to information on HMRC and the Pensions Regulator websites.
Tax: reporting requirements	
Draft regulations issued 17 May 2013. Consultation ended 14 June 2013 *The Registered Pension Schemes (Provision of Information) (Amendment) Regulations 2013/1742* in force on 12 August 2013	HMRC has issued final regulations following consultation. The regulations will amend the information that scheme administrators and individuals are required to report, in particular in connection with transfers to qualifying recognised overseas pension schemes (QROPSs) and fixed protection 2014. In addition, scheme administrators who issue a pension savings statement to a member (because the member's pension saving for the tax year has exceeded the annual allowance) will have to report the supply of the statement to HMRC.
Tax: US Tax – Foreign Account Tax Compliance Act (FATCA)	
Model Intergovernmental Agreement published 26 July 2012 UK-US FATCA Agreement signed 12 September 2012 Consultation paper issued 18 September 2012 Draft regulations, guidance and summary of responses issued 18 December 2012 The International Tax Compliance (United States of America) Regulations 2013/1962 in force on 1 September 2013 Withholding tax expected to apply from 1 January 2013 Internal Revenue Service (IRS) notice issued 12 July 2013 HMRC issued revised guidance 14 August 2013 The IRS has issued a notice providing for the delay of certain FATCA obligations. The effect is that reporting will not be	Following inter-governmental negotiations about the introduction of a new withholding tax on payments from US companies to overseas entities, the UK and US governments have signed the "International Agreement to Improve Tax Compliance and to Implement FATCA". Under the Agreement, the scope of information automatically exchanged between both governments will significantly increase. UK financial institutions will have to report information to HMRC, rather than to the US authorities. Following consultation, draft regulations and guidance notes have been issued to implement the US-UK intergovernmental agreement signed on 12 September 2012. Under the regulations: • UK pension schemes will be treated as "Non-Reporting UK Financial Institutions", treated as exempt beneficial owners for the purposes of the US tax code; • registered pension schemes and pension arrangements where annual contributions are limited to £50,000 and funds cannot be accessed before age 55 (other than in serious ill health) will not be "US Reportable Accounts" for the purposes of the agreement. HMRC has finalised its guidance (May 2013) on the implementation of the reporting and information-sharing requirements under FATCA. In relation to pension schemes: • All UK registered pension schemes (including schemes deemed registered by HMRC) will be "exempt beneficial owners" and will not have any reporting or registration requirements in relation to any "Financial Accounts" they

required in relation to 2013 and current deadlines for undertaking due diligence are postponed by six months

maintain. In addition, reporting UK financial institutions will not be required to review or report on accounts held by such pension schemes. The exemption includes separate nominee companies of exempt pension schemes.

- All retirement accounts or products established under a UK registered pension scheme or a non-registered pension scheme (provided that annual contributions are limited to £50,000 and funds can only be accessed before age 55 in cases of serious ill health) are not Financial Accounts. It follows that a financial institution will have no reporting obligations under FATCA in respect of these accounts or products.

The guidance clarifies that this exemption applies during both the accumulation and decumulation phase of a scheme, contract or arrangement. In addition, it makes clear that a deferred annuity securing benefits under a registered pension scheme is treated as a registered scheme from the date of purchase.

A cross border pension provided by a UK financial institution in a jurisdiction outside the UK where it does not have a permanent establishment will not be a Financial Account if the pension is excluded from the definition of Financial Account under a FATCA agreement between the USA and that jurisdiction and certain conditions apply.

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