

Pensions: what's new this week

Welcome to your weekly update from the Allen & Overy Pensions team, bringing you up to speed on all the latest legal and regulatory developments in the world of occupational pensions.

HMRC: GMP equalisation guidance due in December | TPR reminder on outsourcing, internal controls | High Court orders rectification: *Blatchford Ltd* | DWP updates no-deal Brexit overview for members

HMRC: GMP equalisation guidance due in December

HMRC is aiming to issue initial guidance on GMP equalisation in December, according to its latest [Pension Schemes Newsletter](#) (no. 114). This high-level guidance will cover the annual allowance (AA), lifetime allowance (LA), and LA protections (for example, enhanced protection). It will also provide a progress update on issues including serious ill-health lump sums and trivial commutation. Issues around equalisation through GMP conversion are still being explored.

The newsletter also covers issues such as how to move pension recipients to another payroll; the annual return templates to be used by schemes operating relief at source; and new guidance for members on paying the AA charge covering mandatory and voluntary 'scheme pays' options.

TPR reminder on outsourcing, internal controls

The Pensions Regulator (TPR) has published a new [regulatory report](#) on an Improvement Notice issued to a local government pension fund, based solely on internal control failures. The fund was over-reliant on third-party service providers with limited and inconsistent oversight of the work undertaken, and there were issues with late payment of contributions and with data accuracy. Following a long history of engagement over improvements to be made, TPR issued the notice to ensure that failures were rectified within a specified timescale. Improvements in internal controls have revealed further historic errors to be remedied, but TPR sees this as evidence of the effectiveness of new processes and is not taking further action.

The report includes a reminder that, where services are outsourced, trustees must implement controls to ensure that the work being done on their behalf is of a suitable standard and is being completed on time. TPR is expected to consult on a new internal controls code of practice shortly as part of the implementation of IORPII (see [WNTW](#), 22 July 2019).

High Court orders rectification: *Blatchford Ltd*

The High Court has ordered two rules relating to pension increases to be rectified to remove a drafting error which, taken at face value, had significantly changed indexation under the scheme: [Blatchford Ltd v Blatchford](#). Rectification is a discretionary, court-ordered remedy which allows the claimant, usually the employer, to fix a mistake in the trust deed or rules with retrospective effect.

The scheme had been administered since 1992 on the basis that a particular category of members was entitled to indexation subject to a cap of 5%, but a set of rules drafted in 1996 mistakenly referred to the greater of 5% per annum or the increase in RPI. Chief Master Marsh was satisfied that the wording of the rules did not accord with the continuing common intention of the employer and trustees that the original indexation basis applied. The decision includes a review of recent cases on rectification; you can read more about this type of claim [here](#).

DWP updates no-deal Brexit overview for members

The government has updated its [guidance](#) about the impact of Brexit on benefits and pensions for UK nationals in the EU, EEA or Switzerland, in the event of a no-deal Brexit. The updates relate to state pension uprating from 2023 for residents of certain countries.

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