With the nation collectively holding its breath to see what the next few weeks bring, it has been a quiet month on the pensions front for the most part, with the most notable development being announcements from the UK Statistics Authority and the Government on the future of the RPI.

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**RPI/CPI developments**: Government rules out changing legislation to end publication of RPI and refuses consent for interim steps to be taken by UKSA to address flaws the meantime

The Government has announced that it will not bring forward primary legislation to bring to an end the publication of RPI at the present time, given the high level of disruption it would cause to RPI users as the country prepares for Brexit. In addition, the Government has said that it will not give its consent for the UK Statistics Authority (“UKSA”) to take interim steps to address shortcomings in the retail prices index (“RPI”) by bringing the methods of CPIH into the RPI measure. The Government has said that this is because the effects of taking such steps were not sufficiently well known.

The announcement follows a report by the Economic Affairs Select Committee in January 2019 that was critical of the authorities for allowing flaws in RPI to remain unaddressed and concluded that the UKSA should propose a “fix” to RPI. The chair of UKSA did this on 4 September 2019, proposing,
firstly, that RPI be stopped entirely at a point in future and, secondly, that in the interim the shortcomings be addressed by bringing the methods of the CPIH into it. The latter, would, as the law currently stands, require consent from the Government.

The Government may have ruled out taking any action on RPI in the short term but it has left the door open to making changes in the future. Significantly, the Government has expressly acknowledged that there are flaws in the RPI. It has also committed to consulting in January 2020 on the interim steps proposed by the UKSA, although has indicated that if it proceeds with such interim steps, they would not happen until 2025-2030.

The importance of the ongoing RPI/CPI debate in a pension scheme context has been highlighted by reports this month that Britvic is seeking the Court's approval to switch from RPI to CPI.

"This is an important announcement which follows a number of years during which the flaws in RPI have been acknowledged but not addressed. We will have to wait and see what the consultation brings. However, if RPI becomes CPIH in all but name, schemes which do not have the power to change index could see a significant impact on their liabilities. CPIH has historically been around 1% lower than RPI."

Tom McNaughton
Senior Associate

DWP publishes tailored review of the Pensions Ombudsman

The Department for Work and Pensions ("DWP") has published a periodic review of the Pensions Ombudsman for the first time (having previously assessed the Ombudsman in 2014 along with other related pensions bodies such as the Pensions Regulator and The Pensions Advisory Service).

The review concluded that the Pensions Ombudsman is a well-respected and effective organisation. Recognising ongoing priorities and with little scope for legislative change at the current time, no recommendation was made to merge the Pensions Ombudsman with the Financial Ombudsman Service ("FOS"). In terms of the main recommendations made, the Pensions Ombudsman was urged to continue building its relationship with the FOS and develop a collaborative process to reduce the potential for confusion and duplication of efforts when dealing with contract-based pension scheme issues, and to agree a timetable and resourcing to update its website.

Law Commission publishes report on the electronic execution of documents

The Law Commission has published a report (together with a summary document) on the use of electronic signatures in contracts and deeds.

The report concludes that an electronic signature is capable in law of being used to execute a document (including a deed), provided that the person signing the document intends to authenticate the document and any formalities relating to execution of that document are satisfied. However, where there is a legal requirement for a deed to be signed in the presence of a witness, the Law Commission's view is that that witness must be physically present at signature and there is no scope for "remote" witnessing of document (for example, by video link).

The Law Commission recommends in the report that an industry working group should be convened to consider practical issues relating to the electronic execution of documents and best practice and that the law should be further codified in the area of electronic signatures. In addition, it recommends a future review of the law of deeds that should consider the efficacy of deeds and whether they remain fit for purpose.

*While this is an interesting development, given the lack of current legal certainty in this area, particularly in the context of the electronic execution of deeds, until the law itself is clarified and further guidance provided, we would urge caution when considering the use of electronic signatures.*

PPF alters compensation payments to members affected by the Hampshire ECJ ruling

Following on from the reports provided in our Updates from September 2018, November 2018, January 2019 and February 2019, the PPF has confirmed that it has started to make increased payments to
pensioners affected by the Court of Justice of the European Union ECJ’s ruling in *Grenville Hampshire v The Board of the Pension Protection Fund [2018]*. The PPF has also confirmed that it will not pay arrears in respect of the relevant increases to affected members on the basis that there are ongoing court proceedings about the way the PPF is calculating increases.

**Baker McKenzie webinar - 'No-deal' Brexit: Key Impacts and Recommendations for Preparing your Businesses**

This webinar offers an overview of the current political landscape, and looks at the impact of a possible no-deal Brexit on key areas including: supply chains (trade/customs); commercial contracts; people/immigration; as well as product regulation. It is focused on the impact on businesses rather than specifically on pension schemes, but may be of general interest to readers, with Baker McKenzie experts from across the UK and EU sharing their experience on steering clients through the key issues surrounding Brexit. View the webinar [here](#).

And as events continue to unfold, stay up to date with our Brexit [blog](#).

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