Pensions – regulatory change

Outcome requested:	Council is asked to **note** the changes to the Pension Regulator's (TPR) powers and possible new reportable events.
Executive Summary:	The pensions landscape is undergoing significant regulatory change. The Pension Scheme Act 2021 includes from 1 October 2021: • Three new criminal offences in relation to pension schemes • Higher civil penalties – up to £1m for the same three offences but on a basis TPR can more easily prosecute. There are also changes to the Notifiable Events regime planned for 2022. The situations giving rise to the new offences and notifiable events principally link to financial distress and consequent impact on the ability to meet pension obligations. Having reviewed the changes, we have assessed that there is currently a low likelihood of the situations arising that would give rise to the new offences and notifiable events. Such situations should be identified by the University's current governance arrangements in advance of them occurring.
Alignment with: • **QMUL Strategy**	Financial sustainability
Consideration of Strategic Risks:	Breach of pension regulations impacting financially and reputationally
Subject to Prior and Onward Consideration by:	None
Confidentiality and Distribution:	Not confidential
Equality Impact Assessment:	No specific equality issues identified
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Pension Scheme Act 2021

New offences and contribution notices

The Pension Scheme Act 2021 includes from 1 October 2021 the following three new criminal offences:

i. Conduct risking accrued scheme benefits – conduct that detrimentally affects in a material way the likelihood of accrued scheme benefits being received. In reality this refers to a material weakening of the covenant. The TPR has emphasised that it only intends to use its powers on the more extreme examples of intentional or reckless behaviour.

ii. Avoidance of employer debt (ie under section 75 of PA95) – an act (or failure to act) which prevents the scheme from recovering all or any part of the debt that is due under s75 of the Pensions Act 1995. The debt (an annuity buy-out debt) is triggered in certain circumstances, including the employer becoming insolvent, the employer leaving the scheme and the employer failing to employ any active employees into the pension scheme.

iii. Failure to comply with a contribution notice (CN)

These offences are punishable by an unlimited fine and potentially a prison sentence. As an alternative to a criminal sanction the three offences could impose a civil penalty of up to £1m.

There are also new TPR powers to impose a contribution notice on Employers to pay monies to pensions schemes in specific circumstances:

- Employers in distress or near distress where business and financing decisions could have direct impact on pension scheme outcomes;

- Some specific instances of relatively normal corporate behaviour (e.g. asset disposals) where the action reduces the value of the resources of the employer in a material way, relative to the estimated s75 debt. Examples given where these actions are not likely to be detrimental are: poor trading due to market conditions; sale of assets at market value with those proceeds reinvested; covenant is reduced by the action but there is still sufficient covenant to meet s75 debt.

These situations do not seem likely for QMUL based on our current financial forecasts. The current governance arrangements should protect the university from such situations arising.

Notifiable Events

There are also changes to the Notifiable Events regime planned for 2022. Two new Employer Notifiable Events will be added:

a. selling a material proportion of a scheme employer where that employer has responsibility for 20% of the scheme's liabilities;

b. intended granting of relevant security on a debt to give it priority over any scheme debt. A relevant security is a security granted (fixed or floating charge) comprising more than 25% of either consolidated revenues or gross assets. For Queen Mary that

would be c.£133m. There are some proposed exemptions for security for specific assets/ financing for company vehicles.

Both items would be significant, and would require approval through Council. In the case of (b), this is already covered under the USS debt monitoring requirements.