

A&O SHEARMAN

Pensions: what's new this week - November 11, 2024

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Welcome to your weekly update from the A&O Shearman pensions team, covering all the latest legal and regulatory developments in the world of workplace pensions.

Data breaches: New ICO resources on communications

The Information Commissioner has published research highlighting the impact of data breaches on individuals and has called for organisations to show greater empathy and action in their responses, rather than treating a data breach as simply an administrative error. It has published new resources including a recorded webinar entitled '*What's the harm? Reframing how we think about data breaches*', together with guidance on communicating with empathy after a data breach.

[Read the new data breach communications guidance.](#)

FTT dismisses appeal against loss of FP2014: Lefort v HMRC

The First-Tier Tribunal has dismissed an appeal against the revocation of an individual's fixed protection 2014 (FP2014) certificate: *Lefort v Commissioners for HMRC*.

HMRC revoked the certificate because a final employer pension contribution was made after 5 April 2014 (the statutory cut-off date for FP2014). Mr Lefort argued that his employer had made the contribution late and that the timing was outside his control. He also suggested that he had not been entitled to the final contribution and that it had been paid by mistake, such that it would be possible for the High Court to order that the transaction should be rescinded. HMRC argued that the evidence did not indicate that there had been a mistake and noted that the employer had refused to agree to the contribution being reversed. In any event there was no requirement under the relevant legislation for the member to have been entitled to the payment, only that a payment had been made.

The Tribunal held that its jurisdiction was limited to considering whether the requirements of the FP2014 regulations were met. Although a previous FTT decision (*Hymanson*) had allowed an appeal based on a mistake, that was on the basis that HMRC's decision to revoke the certificate had been unreasonable. That earlier decision was not binding on the FTT in this case, and it was

satisfied that the evidence did not support a finding that rescission of the payment would be granted by the High Court. The FTT did not have jurisdiction to order rescission nor to apply the tax legislation as if the High Court had done so.

[Read the decision of the FTT here.](#)