

Trustee agenda update: current legal issues

For September 2021 meetings

DB and DC schemes

Welcome to our monthly update on current legal issues for trustees of DB and hybrid pension schemes, designed to help you stay up to date with key developments between trustee meetings, and to support the legal update item on your next trustee agenda. We also have a separate DC-only briefing.

Annual funding statement

The Pensions Regulator's (TPR) latest annual funding statement is relevant for all DB schemes and sponsors. It covers issues relevant to long-term scheme funding and investment including the impact of Covid-19, Brexit, climate change and scheme maturity: **read the statement**.

TPR has also published a blog post on managing scheme liquidity risk: **read the post**.

ACTION: Read the statement and consider how your scheme aligns with TPR's analysis.

Changes to DC reporting

Under regulations expected to take effect on 1 October 2021, trustees of 'relevant schemes' (broadly, schemes that provide money purchase benefits except where these are AVC-only) must publish their net investment returns on DC default and self-select funds as part of the chair's statement, with effect from the scheme year ending after that date.

In addition, small (under £1 million in assets) schemes will have to undertake a specific DC value for members assessment, measured against three comparator schemes, and report on whether or not the scheme provides good value.

Statutory guidance has been published to support trustees with these new requirements. **Read the guidance**.

Statutory guidance on reporting costs and charges has been updated to reflect changes in relation to the smoothing of performance fees and to clarify points on the illustrations used in the chair's statement. **Read the guidance**.

ACTION: Review the changes and implement appropriate changes to processes and information flows.

Climate change-related duties **UPDATED**

New climate change-related duties will come into force from 1 October 2021, including: trustee knowledge and understanding (TKU) requirements in relation to climate-related risks and opportunities; governance, strategy and risk management activities; and reporting requirements.

The duties will be rolled out in phases, starting with the largest pension schemes (with £5bn+ in assets) and master trusts. Schemes with £1bn+ in assets will follow a year later. Read the regulations (**here** and **here**) and **statutory guidance**.

TPR has also consulted on its approach to regulating these new duties: **read the consultation**.

ACTION: Ensure that trustees receive training on the new duties and that appropriate TKU and governance updates are in place before the applicable date for your scheme.

Signposting: MoneyHelper **NEW**

The Money and Pensions Service has launched its new MoneyHelper brand. The pensions guidance function and Pension Wise are now accessed via the new MoneyHelper website, although legacy contact details are still operational at present.

ACTION: Check the member booklet, scheme website and other communications and update signposting information as required.

Pension scams **UPDATED**

TPR has urged schemes to be alert and to report suspected scams. Related changes to statutory transfer rights are planned (the industry code of practice on scams is also due to be updated).

ACTION: Maintain a watching brief on scam risks and upcoming changes to statutory transfer rights and the industry scams code. Ensure processes are in place to review scheme practices against the changes and update promptly, as required.

Save the Date: Investing pension funds sustainably – a lawyer and provider's view

What are the legal requirements trustees need to consider when making sustainable investment decisions and how can they achieve a sustainable strategy that isn't to the detriment of financial return? Matt Townsend, Co-Head of Allen & Overy's Sustainability Working Group, will chair a session with Jessica Kerslake, Partner in Allen & Overy's Pensions team, and Steve Waygood, Chief Responsible Investment Officer at Aviva Investors. Invitations will be sent out shortly for 28 September 2021 at 11am; we hope you can join us.

Have your say

- The government is consulting on draft legislation to implement the planned increase to normal minimum pension age (from age 55 to 57) in 2028, and to make changes to the mandatory scheme pays facility. The consultation closes on 14 September 2021. **Read the consultation.**

Watch this space

- New criminal offences and regulatory powers for TPR are expected to be brought into force in autumn.
- The Pensions Dashboards Programme is expected to provide further information on the dashboards rollout in winter: **visit the information hub for pension schemes**. PASA has also published **guidance** on preparing for dashboards. Onboarding is expected from 2022 (voluntary) and 2023 (mandatory).
- The government is planning to implement its 'stronger nudge' to pensions guidance; draft regulations indicate this may be introduced from April 2022: **read more**.
- The government has consulted on changes to permitted charges in default arrangements in DC schemes used for auto-enrolment: **read more**.
- TPR has consulted on its proposed single code of practice: **watch our webinar on the proposals**.
- TPR's consultation on its draft new DB funding code is expected later this year: **read more**.
- The government has consulted on the case for greater consolidation in the DC market: **read more**.
- Regulations to replace the current regime on strategic objectives for investment consultancy providers and competitive tenders for fiduciary management services are now expected in the first half of 2022.
- The government is considering solutions to the proliferation of small, deferred DC pension pots: **read more**.
- A new industry code of practice (from PASA) for transfers is expected this year.
- The government has consulted on proposed regulations for collective DC schemes: **read more**.

Need help with a pensions dispute? Visit [allenoverly.com/pensionsindispute](https://www.allenoverly.com/pensionsindispute).

Need help managing DB pension risk? Visit [allenoverly.com/pensionrisk](https://www.allenoverly.com/pensionrisk).

Contact us for more information or to be added to our mailing list.

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