

ALLEN & OVERY

Joint DB and DC trustee agenda update: current legal issues

For December 2017 meetings

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.

TPR guidance on Chair's statement **NEW!**

The Pensions Regulator has published guidance clarifying its expectations as to the content of the DC Chair's statement, and highlighting where more detailed information about scheme processes and evaluation methods is expected. [Read more](#)

Our [guide to preparing for the Chair's statement](#) will help you identify the processes you need to have in place to meet the legal requirements of the statement.

ACTION: Review whether your scheme's processes require updating to meet the Regulator's expectations for the Chair's statement.

Scheme return requirements **NEW!**

The Pensions Regulator has published a checklist of information required to complete DB/hybrid scheme returns for 2017/18. New information on data standards will be required; the Regulator expects to engage with schemes about improvement in this area. [Read more](#)

ACTION: Ensure that you have the new information available ready ahead of the scheme return deadline. Consider whether to update your data improvement plan for 2018.

PPF levy 2018/19

Final rules for the 2018/19 PPF levy will be published in December. The standard form contingent asset agreements will be updated; other changes include revised reporting requirements to support the certification of Type A guarantees. [Read more](#)

Schemes must use the revised standard forms for new contingent asset agreements; existing contingent assets (and any executed before publication of the revised forms) can be submitted for the 2018/19 levy, but new forms are likely to be required for 2019/20. [Read more](#)

ACTION: If you plan to certify a new or existing contingent asset for levy purposes, ensure that your timetable for Q1 2018 will enable you to meet relevant deadlines.

TPR governance expectations **UPDATED!**

The Pensions Regulator has published three tranches of guidance as part of its '21st Century Trusteeship' campaign, which aims to improve governance standards. The themes are 'good governance', 'clear rules and responsibilities' and 'clear purpose and strategy'.

The guidance includes links to other material, including a newly-published guide to data improvement plans, example committee terms of reference, a sample business plan and a sample annual planner. [Read more](#)

ACTION: Review the guidance and consider whether scheme practices should be updated.

Update on VAT recovery **NEW!**

HMRC has updated its position on how VAT should be calculated for DB pension schemes, confirming that its 70/30 concessionary treatment, which allows scheme sponsors to reclaim 30% of VAT costs on combined supplies of administration and investment management services, will remain available. [Read more](#)

ACTION: Review the guidance to consider whether current VAT treatment practices remain the most appropriate for your scheme and sponsor.

Transaction cost disclosure **UPDATED!**

The government is consulting on plans to require schemes that provide DC benefits (not including the AVC element of DB schemes) to publish details of investment charges annually and to provide more detailed disclosure on costs and charges in the Chair's statement. The changes are due to take effect from 6 April 2018 (and in relation to the Chair's statement, for the first scheme year ending on or after 6 April 2018). [Read more](#)

ACTION: Liaise with asset managers to gather cost information from Q1 2018 and update processes as required for future Chair's statements.

Prepare for GDPR compliance

Preparation for compliance with the General Data Protection Regulation (deadline 25 May 2018) requires schemes to undertake a wide-ranging review of data protection issues and practices. Standard processes, contracts with administrators and other data processors, and member communications will need to be updated. Our guide to GDPR compliance planning will help you to prioritise actions to achieve compliance in good time.

[Read more](#)

ACTION: Ensure that you have a plan in place to achieve GDPR compliance, including updating administration agreements and other provider contracts, plus member communications.

Anti-money laundering duties

Trustees of occupational pension schemes have additional compliance duties under new anti-money laundering regulations from 26 June 2017.

The most immediate duties relate to record-keeping and to provision of information when entering into a transaction/business relationship with parties (such as banks/some advisers) that are required to carry out money laundering checks.

There is also a requirement to provide HMRC with information, normally by 31 January following a tax year in which specified tax charges have been triggered (first deadline: 31 January 2018). Schemes will be required to register with the Trust Registration Service to provide this information. [Read more](#)

ACTION: Review the data required and implement a process to fill any gaps. Confirm whether the HMRC reporting duty has been triggered by a relevant tax charge in 2016/17.

Changes for 'safeguarded-flexible' benefits **UPDATED!**

New rules will apply from 6 April 2018 when members with 'safeguarded-flexible benefits' (such as benefits with a guaranteed annuity rate) seek to transfer, convert or access their benefits flexibly, and when those benefits are valued for the purposes of the independent advice requirement.

Trustees will be required to provide a personalised risk warning highlighting the guarantee and its value. The government has published [guidance](#) explaining the information requirements, implementation processes and best practice. [Read more](#)

ACTION: If your scheme offers safeguarded-flexible benefits, liaise with administrators to ensure appropriate processes are in place for valuing benefits and providing risk warnings in line with the new rules and the government guidance.

Watch this space

- The government's White Paper on DB pensions reform is expected in early 2018. [Read more](#)
- The government proposes changes to statutory transfer rights from late 2018, to help combat pension scams. [Read more](#)

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Need help managing DB pension risk? Visit allenovery.com/pensionrisk

Looking for resources on a range of DC-related issues? Visit allenovery.com/DCHQ

Contact us at pensions.team@allenovery.com for more information or to be added to our mailing list.