

ALLEN & OVERY

Joint DB and DC trustee agenda update: current legal issues

For November 2018 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.

Changes to the scheme SIP

New regulations will make changes to investment duties and disclosure obligations in the statement of investment principles (**SIP**).

From 1 October 2019, the SIP for DB and DC schemes with more than 100 members must state: how ‘financially material considerations’ (including environmental, social and governance considerations) are taken into account over the time period needed for funding future benefits; the extent (if at all) to which members’ views are taken into account in the selection, retention and realisation of investments; and the policy on stewardship of investments (e.g. voting rights).

Additional requirements will apply to schemes with more than 12 members offering money purchase benefits (other than AVCs). From 1 October 2020, schemes with more than 100 members must produce an implementation statement detailing how matters set out in the SIP have been actioned. This statement and the SIP must be published as set out in the regulations.

The government has also updated its statutory guidance on the reporting of costs, charges and other information relevant to DC schemes. [Read more](#)

ACTION: Consider the changes required and the actions necessary to implement them by the 1 October 2019 and 1 October 2020 deadlines.

TPO, TPAS and signposting

The government and the Pensions Regulator (**TPR**) have told schemes they may update ‘signposting’ to the services of the Pensions Ombudsman (**TPO**) and the Pensions Advisory Service to reflect current arrangements, despite a delay in amending legislation to provide for this.

Schemes may also use TPO’s new Early Resolution Service (**ERS**) without completing a scheme’s internal dispute resolution process if the parties are happy to do so. [Read more](#)

ACTION: Consider the scheme’s approach to the ERS and updating signposting in communications.

GMP reconciliation: PASA guidance **NEW!**

The Pensions Administration Standards Association has issued more guidance on GMP reconciliation, looking at options and solutions for schemes reaching the end of their reconciliation exercise with ‘stalemate’ issues that cannot be resolved with HMRC. [Read more](#)

ACTION: If relevant to your scheme, review the guidance to help close off outstanding queries.

Simpler annual statement template **NEW!**

The Pensions Minister has published a simple annual statement template intended to provide all relevant information to members in a plain English, two-page, two-minute read format. The template is accompanied by a separate technical guide. [Read more](#)

ACTION: When considering an update to your DC benefit statement, review the template and guide as a comparator.

Ombudsman’s guidance on compensation for non-financial injustice

TPO has published new guidance on compensation for non-financial injustice caused by maladministration. It splits compensation awards into five categories with compensation bands ranging from nil in trivial cases to GBP2000 (or more in exceptional cases). [Read more](#)

ACTION: Review the guidance and use as a reference for compensation in appropriate cases.

Updated Chair’s statement quick guide

TPR has updated its quick guide to the Chair’s statement for DC schemes. There is a new section on common mistakes relating to costs and charges and value for members. [Read more](#)

ACTION: Review the updated guide when preparing the contents of the Chair’s statement.



TPR governance expectations

TPR's latest guidance in its '21st Century Trusteeship' campaign covers [managing conflicts of interest](#), [ensuring effective board meetings and timely decision-making](#) and [value for members](#) for both DB and DC schemes.

TPR has also updated its DC guidance on communicating and reporting to reflect the new requirements on costs and charges that came into force on 6 April 2018. [Read more](#)

ACTION: Review the guidance and consider whether your scheme meets TPR's expectations.

Action on PPF contingent assets

Schemes with Type A or B contingent assets with a fixed cap must update these to the new Pension Protection Fund (PPF) standard forms in order for them to be recognised for the purposes of the PPF levy in 2019/20. [Read more](#)

ACTION: Contact your usual Allen & Overy adviser as soon as possible if affected.

PASA DC guidance

The Pension Administration Standards Association (PASA) has published DC-specific administration guidance covering areas such as data, decumulation, controls and processes. [Read more](#)

A PASA checklist also contains guidance on governance of non-PASA-accredited administrators. [Read more](#)

ACTION: Review the guidance against the scheme's standards and practices.

Watch this space

- The new **Single Financial Guidance Body** is due to launch in January 2019. It will provide money and pension guidance and debt advice to the public replacing the Money Advice Service, Pension Wise and the Pensions Advisory Service. [Read more](#)
- TPR has announced that the largest workplace schemes will receive **one-to-one supervision**; all schemes can expect more intervention. [Read more](#)
- The government does not support an automatic bar on companies paying **dividends** where their pension schemes are in significant deficit, but is considering other changes to the dividend payment framework (more details expected shortly). [Read more](#)
- The government's response to a [consultation](#) on **strengthening TPR's powers** is awaited. The consultation followed a [White Paper](#) on DB pensions reform proposing changes to TPR's powers and trustee governance, and a new duty for companies to make a statement, before a sale or takeover of a DB scheme employer, that any detrimental impact to the scheme has been considered and mitigated.
- Forthcoming **standards for professional trustees** could particularly affect trustees who fall within TPR's professional trustee description without being part of a wider organisation. [Read more](#)
- The government is proposing a number of changes to help **combat pension scams**, including [changes to statutory transfer rights](#) and [banning pensions cold calling](#). Provisions to require members to receive (or opt out of receiving) guidance in relation to a transfer or flexible access request are included in the Financial Guidance and Claims Act. [Read more](#)

Need help with a pensions dispute? Visit allenoverly.com/pensionsindispute for practical help with pensions problems, including our case tracker.

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

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

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