

Trustee agenda update: current legal issues

For August 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

Trustees of 'relevant schemes' (broadly, schemes that provide money purchase benefits except where these are limited to AVCs) 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 1 October 2021.

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**.

ACTION: Ensure that trustees receive training on the new duties and that appropriate TKU is in place before the applicable date for your scheme. Schemes in the first phase of the rollout will need to review and update processes.

Latest scams code of practice

The updated industry code of practice on combating pension scams includes an increased emphasis on

telephoning members, documenting evidence, and wider reporting: **read the code**.

TPR has urged schemes to be on high alert and to report suspected scams; changes to statutory transfer rights are planned. **Watch our webinar on scam-related developments**.

ACTION: Review scheme practices against the code and update promptly, as required.

Providing support with financial matters

TPR and the Financial Conduct Authority (FCA) have published updated guidance on providing members with support on financial matters without requiring authorisation: **read the guidance**. Issues covered include adviser arrangements and the

provision of modellers and illustrative examples. **Watch our webinar on the new guidance**.

ACTION: Review current scheme practices and seek advice as appropriate.

Pensions dashboards **UPDATED**

PASA has published **guidance on preparing for dashboards**; the Pensions Dashboards Programme has an information hub for data providers including pension schemes: **visit the hub**. Onboarding is expected from 2022 (voluntary) and 2023 (mandatory).

ACTION: Arrange training and schedule relevant projects into your business plan.

Have your say

- TPR is consulting on its approach to regulating the upcoming climate change-related duties; the consultation closes on 31 August 2021. **Read the consultation**.
- The government is consulting on proposed regulations for collective DC schemes; the consultation closes on 31 August 2021. **Read the consultation**.
- The government is consulting on draft regulations to implement its 'stronger nudge' to pensions guidance; the consultation closes on 3 September 2021. **Read the consultation**.
- 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 contained in the Pensions Act 2021 are expected to be brought into force in autumn.
- The government is planning to make changes to statutory transfer rights in the autumn: **read more**.
- The government has consulted on changes to permitted charges in default arrangements in DC schemes used for auto-enrolment: **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.

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).

Looking for resources on a range of DC-related issues? Visit [allenoverly.com/DCHQ](https://www.allenoverly.com/DCHQ).

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

Allen & Overy means Allen & Overy LLP and/or its affiliated undertakings. Allen & Overy LLP is a limited liability partnership registered in England and Wales with registered number OC306763. Allen & Overy (Holdings) Limited is a limited company registered in England and Wales with registered number 07462870. Allen & Overy LLP and Allen & Overy (Holdings) Limited are authorised and regulated by the Solicitors Regulation Authority of England and Wales. The term partner is used to refer to a member of Allen & Overy LLP or a director of Allen & Overy (Holdings) Limited or, in either case, an employee or consultant with equivalent standing and qualifications or an individual with equivalent status in one of Allen & Overy LLP's affiliated undertakings. A list of the members of Allen & Overy LLP and of the non-members who are designated as partners, and a list of the directors of Allen & Overy (Holdings) Limited, is open to inspection at our registered office at One Bishops Square, London E1 6AD.

© Allen & Overy LLP 2021. This document is for general guidance only and does not constitute advice. | UKS1: 2005549269.4