

Trustee agenda update: current legal issues

For December 2020 meetings

DC schemes

Welcome to our monthly update on current legal issues for trustees of DC 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.

Covid-19 **UPDATED**

As the economic impact of the Covid-19 pandemic unfolds, trustees should continue to monitor developments and take appropriate action.

- The Pensions Regulator (**TPR**) has updated its **guidance** on self-select funds that were suspended (or 'gated') and the redirection of contributions and accumulated assets. If funds were gated, take legal advice on next steps. Ongoing monitoring of investment options remains important (in light of both the pandemic and the end of the Brexit transition period).
- Trustees should be aware of the risk of transfer scams. TPR has launched a **new campaign**, Trustee toolkit module and scams pledge.
- The easement on reporting late payment of contributions will be **phased out**.
- We have published several **blog posts** to help trustees and employers avoid potential pensions pitfalls in relation to redundancy or pay reduction exercises.

ACTION: Liaise with employer about any relevant plans for their workforce; review arrangements for redirecting contributions to previously gated funds.

Reminder: January reporting deadline **UPDATED**

Many schemes are subject to rules from the Competition and Markets Authority (**CMA**) on setting strategic objectives for investment consultancy providers and tendering for fiduciary management services. Trustees of relevant schemes must submit an **annual compliance statement**, and signed certificate, to the CMA by 7 January 2021. The government plans to replace the CMA regime, but this will not be in place before the reporting deadline.

ACTION: Ensure the statement and certificate are submitted before the deadline.

Pension Schemes Bill/TCFD reporting **UPDATED**

The **Pension Schemes Bill** includes new regulation-making powers for governance and risk management arrangements relating to climate risks and opportunities. The government has **consulted** on proposed requirements, including reporting in line with the recommendations of the Task Force on Climate-related Financial Disclosures.

The Bill also includes proposed changes to TPR's powers and sanctions, new duties affecting trustees and changes to statutory transfer rights. It is currently at the final Parliamentary stage before Royal Assent.

ACTION: Maintain a watching brief.

Changes to investment duties

Trustees are now required to produce an **implementation statement** as part of their annual report, setting out how they have complied with matters set out in their statement of investment principles; and to publish the implementation statement.

ACTION: Prepare an implementation statement; ensure it is published in line with requirements.

Fraud risk: signed online documents

There have been **recent reports** of attempted fraud using signatures in online pension scheme documents.

ACTION: Review online documents and consider redacting signatures or substituting a typed name. Seek advice as appropriate.

Watch this space

- We are expecting TPR to consult on changes to its **Codes of Practice**. It also plans to **update TKU materials**.
- The government has **consulted** on changes to DC governance and reporting requirements.
- The government is **planning** to introduce new advice and guidance requirements for members.
- The government is expected to **consult** on draft regulations and guidance on mandatory requirements for annual benefit statements for DC auto-enrolment vehicles. It also plans a further consultation on mandating the timing for sending annual written pension benefit statements (a 'statement season').
- Further guidance on data protection is expected in light of the *Schrems II* decision and the upcoming end of the Brexit transition period (latest statement on *Schrems II* **here**; Brexit guidance **here**).
- A new industry **code of practice** for transfers, including target timescales, is expected shortly. Although aimed at DB transfers, PASA encourages the application of its best practice principles to DC transfers.

Need help with a pensions dispute? Visit [allenoverly.com/pensionsindispute](https://www.allenoverly.com/pensionsindispute) for practical help with pensions problems, including our case tracker.

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

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