

Trustee agenda update: current legal issues

For September 2021 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.

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**.

The Pensions Regulator (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.

Changes to DC reporting

Under regulations expected to take effect on 1 October 2021, trustees of relevant schemes 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.

Pension scams **UPDATED**

TPR has urged schemes to be on high alert and to report suspected scams.

The government intends to make related changes to statutory transfer rights (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.

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 (including contact details) 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

- 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](#).
- 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 for transfers, including target timescales, is expected this year. Although aimed at DB transfers, PASA encourages the application of its best practice principles to DC transfers.
- The government has consulted on proposed regulations for collective DC schemes: [read more](#).

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