

# Trustee agenda update: current legal issues

For October 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.

## Climate change-related duties **UPDATED**

New climate change-related duties come into force from 1 October 2021, including: trustee knowledge and understanding requirements; governance, strategy and risk management activities; and reporting requirements. Visit our new information hub: **Sustainability and UK pension schemes: Preparing for the new TCFD 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) is due to confirm its regulatory approach: **read more**.

**ACTION:** Ensure trustees receive training on the new duties and that appropriate measures are in place before the applicable date for your scheme.

## Reminder: changes to TPR powers **NEW**

New TPR regulatory powers and sanctions come into force on 1 October 2021, including the new 'headline' criminal offences. TPR is expected to publish guidance on its new powers shortly, including on the new criminal offences.

**ACTION:** Review the guidance and schedule training. Seek legal advice as appropriate.

## Changes to DC reporting **UPDATED**

Under regulations expected to be published shortly, trustees of 'relevant schemes' (schemes that provide money purchase benefits except where these are AVC-only) will be required to publish net investment returns on DC default and self-select funds in the chair's statement. This will apply for the first scheme year ending after 1 October 2021: **read the draft regulations**.

Schemes with under £100 million in assets that have been operating for at least three years 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. This will apply for the first scheme year ending after 31 December 2021.

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 to meet the new requirements.

## Pension scams **UPDATED**

TPR has urged schemes to be alert and to report suspected scams. Related changes to statutory transfer rights are expected shortly (the industry code of practice on scams will also be updated to reflect the changes).

**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.

## PPF levy: Covid-19 extension **NEW**

The Pension Protection Fund may waive interest on late payment of levy invoices, where there are

difficulties due to Covid-19, subject to a successful application and confirmation post-payment.

**ACTION:** If appropriate, consider with the scheme sponsor whether to make an application.

## Signposting: MoneyHelper

The Money and Pensions Service now provides access to the pensions guidance function and Pension Wise via its new MoneyHelper website; legacy contact details remain unchanged at present.

**ACTION:** Check the member booklet, scheme website and other communications and update signposting information, as required.

## Have your say

- The government is consulting on proposed regulations to extend the notifiable events regime, including new obligations on employers to provide information to TPR and trustees on some proposed transactions/events (the duties are expected to apply from April 2022). The consultation closes on 27 October 2021. **Read more.**
- TPR and the Financial Conduct Authority have published a discussion paper on value for money in DC pensions, which proposes a common framework for disclosing information on investment performance; scheme oversight; and costs and charges. The deadline for comments is 10 December 2021. **Read more.**

## 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.**
- **Watch our webinar on TPR's proposed single code of practice. Read TPR's interim response.**
- Consultations on new DB funding regulations and TPR's draft code are expected this year: **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.
- The government has consulted on proposed regulations for collective DC schemes: **read more.**

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).

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