

# Trustee agenda update: current legal issues

For December 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.

## Changes to transfer rights **NEW**

Changes to statutory transfer rules and processes apply from 30 November 2021: **read our briefing**.

The Pensions Regulator (TPR) has published guidance on the new rules; an updated industry code of practice on scams is expected soon.

**ACTION:** Review the changes with administrators and update processes promptly. Maintain a watching brief on scam risks and upcoming industry guidance.

## Climate change-related duties

New climate change-related duties came into force from 1 October 2021 – read more at our information hub: **Sustainability and UK pension schemes: Preparing for the new TCFD requirements**.

The duties are being rolled out in phases, starting with the largest pension schemes (£5bn+ in assets) and master trusts. Schemes with £1bn+ in assets will follow a year later. The government is consulting on expanding the requirements from 1 October 2022 to include a portfolio alignment metric (see Have your say). 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: CMA reporting deadline **NEW**

Trustees of many schemes are subject to rules on setting strategic objectives for investment consultancy providers and tendering for fiduciary management services. Trustees of relevant schemes need to submit an annual compliance statement, and signed certificate, to the Competition and Markets Authority by 7 January 2022 – in-scope schemes will be familiar with this from last year.

**ACTION:** Complete and submit the statement and certificate before the deadline.

## Simpler annual benefit statements

New requirements for simpler annual statements will be implemented from 1 October 2022. The requirements will apply to statements provided to members by DC automatic enrolment schemes (where the member is not in receipt of benefits).

## Read the regulations and statutory guidance.

**ACTION:** Discuss with administrators.

## Finance Bill **NEW**

Pensions-related measures include raising normal minimum pension age from 2028 and changes to the mandatory scheme pays facility: **read the Bill**.

**ACTION:** Maintain a watching brief.

### Reminder: changes to TPR powers

New TPR regulatory powers and sanctions came into force on 1 October 2021, including criminal offences. TPR has published guidance on its new powers and updated its clearance guidance. It is also consulting on new enforcement policies (see Have your say).

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

### PPF levy: Covid-19 extension

The Pension Protection Fund (PPF) may waive interest on late payment of levy invoices, where there are difficulties due to Covid-19 (subject to a successful application): **read more**.

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

### Changes to asset class information

TPR plans to introduce changes to the asset class information provided by DB schemes in scheme returns from 2023.

**ACTION:** Discuss with investment consultants, so that appropriate information-gathering processes are in place ahead of the first reporting deadline.

### Changes to DC reporting

New requirements have been introduced for the DC chair's statement: **read the regulations**. Statutory guidance has been published on the new requirements: **read more**. Existing statutory guidance on reporting costs and charges has been updated: **read the guidance**.

**ACTION:** Review the changes; make appropriate changes to processes and information flows.

## Have your say

- The government is consulting on increasing the ceiling for the fraud compensation levy from the levy year 2022/23. The consultation closes on 10 December 2021. **Read more**.
- TPR is consulting on new enforcement policies on overlapping powers, monetary penalties and information-gathering powers. The consultation closes on 22 December 2021. **Read more**.
- The government is consulting on introducing Paris alignment reporting for trustees in scope for the new climate change-related duties, plus proposed new guidance on statements of investment principles and the implementation statement. The consultation closes on 6 January 2022. **Read more**.

## Watch this space

- Further information on the dashboards rollout is expected shortly: **visit the information hub; read the latest progress report**. Onboarding is expected from 2022 (voluntary) and 2023 (mandatory).
- New requirements for a 'stronger nudge' to pensions guidance are expected from April 2022: **read more**.
- The government has consulted on changes to the notifiable events regime: **read more**.
- From April 2022, the government will restrict the charging of flat fees on small pots in default arrangements of DC auto-enrolment schemes: **read more**. It will also consult on further changes to the DC charge cap.
- TPR has consulted on its proposed single code of practice: **watch our webinar on the proposals**. The consultation response is expected next year: **read TPR's interim response**.
- Consultations on new DB funding regulations and TPR's draft code are expected by Q1 2022: **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**.

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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