

Trustee agenda update: current legal issues

For your September 2022 meetings

DB and DC schemes

Welcome to our monthly update on current legal issues, 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.

DB funding regulations consultation **NEW**

A consultation has been published on draft regulations outlining what schemes will need to do to comply with the Pension Schemes Act 2021 requirement to have a funding and investment strategy (FIS) in place. The deadline for consultation responses is 17 October 2022.

The FIS is intended to ensure that pensions can be provided over the long term. A key principle is that schemes should be in a state of low dependency on their sponsoring employer by the time they are significantly mature, and the regulations prescribe requirements related to meeting that goal. Schemes will need to set out the FIS in a written statement of strategy, along with other disclosures. **Read more.**

Further detail (including what counts as ‘significantly mature’) will be set out in a revised DB funding Code of Practice – the Pensions Regulator (TPR) is due to consult on this later this year.

ACTION: Consider whether you’d like to input on the consultation and take the draft regulations into account when considering funding strategy.

Dashboards developments

The pace of work towards the introduction of pensions dashboards is increasing: the government has published a response to its consultation on the dashboards regulations (**read more**), a summary of dashboards policies (**read more**) and a further consultation (**read more**). The Pensions

Dashboards Programme is consulting on the standards that schemes will need to meet: **read more**. TPR has published initial guidance on complying with dashboards requirements: **read more**.

ACTION: Ensure your scheme is taking steps to meet the requirements in the regulations and standards, taking TPR’s guidance into account.

Investment consultancy (IC) and fiduciary management (FM) requirements **UPDATED**

Regulations on strategic objectives for IC providers and competitive tenders for FM services will come into force on 1 October 2022. They largely replicate the existing requirements, but there are some changes to be aware of: **read more**. TPR has updated its guidance to reflect the new regulations: read the updated guidance on **fiduciary management tenders** and **investment consultant objectives**.

ACTION: Check whether your IC/FM arrangements are impacted by the new rules.

TCFD reporting requirements and SIP/implementation statement guidance

Schemes in scope for TCFD reporting requirements (including £1bn+ schemes in the second wave of the rollout) will have to include ‘Paris alignment’ reporting from 1 October 2022 for scheme years

ending after that date. The government has produced updated statutory guidance to reflect these new requirements.

The government has also updated its guidance on reporting in statements of investment principles (SIPs) and implementation statements, to provide greater clarity on stewardship. Compliance with statutory elements of the guidance is required for scheme years ending on or after 1 October 2022.

Read more.

ACTION: Discuss the new requirements and guidance with your investment advisers.

HMRC GMP equalisation guidance

HMRC has published guidance on payment of interest on pension scheme arrears where a pension has been underpaid because it did not account for GMP equalisation: **read more.**

ACTION: Consider this guidance as part of any ongoing GMP equalisation project.

TPR transfers guidance

TPR has updated its transfers guidance in relation to transfers being prevented where they trigger a flag because they involve overseas investments or small-scale incentives (in particular, 'refer-a-friend' rewards). Among other things, the guidance encourages trustees to consider whether non-statutory transfers should be considered where a statutory transfer is prevented. **Read more.**

ACTION: Consider whether your transfer processes should be updated to reflect this guidance.

TPR guidance: reporting pension scams

TPR has published a guide on reporting pension scams, including when to report, what information to provide and what will happen next. **Read more.**

ACTION: Make sure your processes for reporting suspicions of scams follow the new guide.

Watch this space

- The government has consulted on changes to the notifiable events regime. There is currently no revised date for the delayed regulations, but the industry expectation is that this may be October 2022: **read more.**
- TPR has consulted on its proposed single code of practice: **watch our webinar on the proposals** and **read TPR's interim response**. On timing, TPR's recent corporate plan states only that the code will be published 'during 2022'.
- A revised code on transfers, and other materials from the Pension Scams Industry Group, are expected imminently.
- TPR will be launching a joint consultation with the Financial Conduct Authority (FCA) and DWP on a Value for Money Framework by the end of the 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).

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