

30 September 2019

Pensions: what's new this week

Welcome to your weekly update from the Allen & Overy Pensions team, bringing you up to speed on all the latest legal and regulatory developments in the world of occupational pensions.

PPF consults on 2020/21 levy documents | Chair's statement: TPR report and new A&O guide | New TPR guidance: record-keeping

PPF consults on 2020/21 levy documents

The Pension Protection Fund (PPF) has increased its levy estimate for 2020/21 by approximately 8% to GBP620 million. The PPF states that this is due to external factors, such as gilt yields, and does not intend to change the levy scaling factor or scheme-based levy multiplier; any increase for individual schemes will vary depending on scheme-specific risk characteristics.

The PPF has also published its 2020/21 [draft levy determination](#) and [consultation document](#), as well as other draft levy documents (the full set is available [here](#)). The PPF is not proposing major changes to the rules this year, but some points to note include:

- **Contingent assets:** the PPF is proposing changes to the rules and guidance around guarantor strength, including revised guidance on the content to be included in a guarantor strength report which is intended to be less prescriptive. The PPF is also proposing to make changes in respect of guarantor-employers and service companies.

The PPF is also interested to hear from any stakeholders who experienced difficulties with the requirement to re-execute documents in respect of certain types of contingent asset on new standard forms for this year's levy (for more information, see [WNTW](#), 17 December 2018).

- **GMP equalisation:** the PPF has updated its [Q&A page](#) referring to the *Lloyds* decision, and has published an [information note](#) for actuaries preparing s179 valuations. The PPF has rejected a request to provide for an adjustment to accounting information in respect of GMP equalisation liabilities. However, it expects actuaries to include the value of any additional liabilities arising from GMP equalisation in section 179 valuations going forward, calculated on a best estimate basis and using either the method that the trustees and employer have agreed to adopt, or (if no decision has been reached) an appropriate and permissible basis consistent with the figures calculated for scheme funding valuations or corporate accounts.

The consultation closes on 5 November 2019.

Chair's statement: TPR report and new A&O guide

TPR has published a [regulatory intervention report](#) discussing appeals by trustees of two schemes against fines for non-compliant Chair's statements. In both cases the trustees had asked TPR to review the fine, and then appealed TPR's decision to the First-tier Tribunal. The report confirms that TPR will carefully scrutinise the contents of these statements for compliance, and that where trustees are issued with a fine, the scheme will be named on TPR's website.

Our new publication '[Producing the Chair's statement: what can go wrong](#)' looks at some of the common compliance issues TPR has identified in statements to date, and factors for trustees to consider if they receive a penalty notice. Given TPR's strict approach on compliance, we recommend that trustees seek a legal review of the draft statement before this is finalised.

New TPR guidance: record-keeping

The Pensions Regulator (TPR) has updated its guidance on [record-keeping](#) for trustees. The new guidance emphasises that trustees remain responsible for ensuring that the scheme has good records and should take an active role in monitoring data. It includes less detail than previously on common and scheme-specific data and instead refers to the guidance issued by PASA earlier this year (see [WNTW](#), 11 March 2019).

TPR expects trustees to review scheme data at least once a year. If this data review identifies issues, trustees should put an improvement plan in place; the guidance sets out TPR's expectations for designing and delivering a data improvement plan. Scores for both common and scheme-specific data will need to be included in each annual scheme return. TPR also expects trustees to monitor administration reports and discuss record-keeping regularly at board meetings.

Finally, the new guidance addresses the GDPR and cyber security, as well as business continuity planning (including a link to the PPF's [contingency planning guidance](#)) and disaster recovery plans.

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