

ALLEN & OVERY

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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.

Changes to employment particulars | PLSA stewardship and voting guidelines | LGPS exit credits: new regulations | New TPR blog post | Pension liberation: transfer to void trust: *Clark* | Consultation: expansion of dormant assets scheme | Pensions Academy: 18 March 2020

Changes to employment particulars

From April, employers will need to give more information to new recruits – this applies to both employees **and** workers. These obligations are separate from employer obligations under the auto-enrolment regime – you can read more about auto-enrolment in our guide '[Auto-enrolment and re-enrolment deconstructed](#)'.

Employers will need to provide information about most terms and conditions in a single document, but information on pensions and pension schemes can still be provided in instalments, or by referring to another document within two months of work commencing. However, risk benefits such as life assurance cover would fall within the requirement to provide details of 'any other benefits' in the principal statement, at least where they are provided separately from the pension scheme. Particular care will be required if different pension, life cover or other arrangements apply to different segments of the workforce. You can read more about the changes in this [guidance](#) and a [checklist](#) produced by our Employment team; further guidance is awaited from Acas which should help employers apply the new rules.

Employers should check whether their current procedures and templates comply with the new requirements, and update them if required.

PLSA stewardship and voting guidelines

The Pensions and Lifetime Savings Association has [published](#) its 2020 Stewardship guide and voting guidelines. The guidelines set out voting recommendations for pension schemes and/or their asset managers, including circumstances in which investors are recommended to vote against resolutions in relation to remuneration, and for or against resolutions on climate change and sustainability.

Trustees will soon be required to explain their voting behaviour, including significant votes cast, in publicly available implementation statements. You can read more about this in our briefing '[ESG, stewardship and transparency in pension scheme investing](#)'.

LGPS exit credits: new regulations

The government has published new [regulations](#) making changes to exit credits under the Local Government Pension Scheme (that is, the amount refunded to an employer if their pension liabilities have been overfunded at the employer's date of exit). The regulations provide that the amount of an exit credit will be determined by a discretionary decision of an administering authority – any amount due is to be paid within six months of the exit date (or a longer period, if agreed). The regulations come into force on 20 March 2020; the changes will have effect from 14 May 2018 (but do not apply to exit credits paid before 20 March 2020).

The government [consulted](#) on making changes to exit credits, together with other issues, in 2019. It has now published a [partial response](#) to that consultation which only deals with the exit credit issue.

New TPR blog post

The Pensions Regulator (TPR) has published a new [blog post](#) on 'innovation' in DB pensions – in particular, TPR is seeking discussions with advisers and providers who are exploring and promoting new models including:

- various structures to consolidate benefits (including superfunds);
- increasing scale and sharing risk; and
- solutions for schemes where there is no substantive business attached or there is a risk of insolvency.

TPR states that it is looking to support innovation in the market where it can improve outcomes for savers.

Pension liberation: transfer to void trust: *Clark*

The Court of Appeal has upheld the view that a transfer to a trust that is void for uncertainty is an unauthorised member payment under the Finance Act 2004: [Clark v HMRC](#).

Mr Clark had transferred over GBP2 million to the LML Pension arrangement from a SIPP, but the trusts of the LML Pension arrangement were later held to be void for uncertainty. Even though this gave rise to a resulting trust in favour of the transferring scheme, the transfer was still a 'payment' for the purposes of the charging provisions in the Finance Act 2004. You can read more about the background [here](#).

The transfer in this case occurred a number of years ago, and the issue of a potentially void trust is likely to be relevant only in rare cases. However, it is a reminder of the need to undertake appropriate due diligence on transfer requests, including on the receiving arrangement.

Consultation: expansion of dormant assets scheme

The government is [consulting](#) on expanding the [dormant assets scheme](#) which relates to funds in accounts that have lain dormant for at least 15 years, and where the customer is no longer contactable. The scheme channels dormant funds towards good causes, subject to the ability for an individual to reclaim their money at any point.

A report to government recommended expanding the scheme to include certain pension products (such as DC personal pensions). The government does not support their inclusion at this time (partly because of other changes in the pensions landscape including the introduction of pensions

dashboards), but is seeking feedback via the consultation on any objections to excluding pensions. The consultation closes on 16 April.

Pensions Academy: 18 March 2020

Please join us on Wednesday 18 March 2020 for our Pensions Academy – a free update on current issues for pension schemes and the people that run them. The session will run from 9am to 12.30pm, with breakfast and registration available from 8.30am. Topics to be covered will include:

- The Pension Schemes Bill
- Cybersecurity – practical tips on dealing with a breach
- An update on ESG, implementation statements and other legal developments

To reserve your place, please email pensions.team@allenoverly.com.

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