

ALLEN & OVERY

DC trustee agenda update: current legal issues

For December 2019 meetings

Welcome to our monthly update on current legal issues for trustees of DC 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.

Reminder: investment objectives, fiduciary management **UPDATED!**

[New rules](#) requiring pension scheme trustees to run competitive tenders for fiduciary management services and to set strategic objectives for investment consultancy (IC) providers are effective from 10 December 2019. A similar (but not identical) replacement regime is [expected](#) to come into force in April 2020. The Pensions Regulator (TPR) is expected to publish its final guidance shortly.

Schemes with in-house providers may be covered by a carve-out in relation to IC services for the December deadline but are likely to be required to set objectives under the April 2020 regulations.

ACTION: Check that your scheme is compliant by the December deadline (if applicable); maintain a watching brief on the new regime (expected April 2020, subject to political developments).

2020 changes to investment duties

New [requirements](#) will apply to statements of investment principles (SIPs) in 2020, when trustees must report on implementation and update the SIP with further content. Trustees should ensure that upcoming requirements are included in the scheme's business plan.

ACTION: Review information required (for example, on arrangements with asset managers) and prepare for compliance.

Pension Schemes Bill **UPDATED!**

This [Bill](#) included proposed changes to TPR's powers and sanctions, new duties affecting trustees, and changes to statutory transfer rights. The Bill has failed due to the general election, but similar proposals are expected to be introduced in the new Parliament.

ACTION: Maintain a watching brief.

New Stewardship Code **NEW!**

The Financial Reporting Council (FRC) has published its new, voluntary, [UK Stewardship Code](#). The 2020 Code sets out a new definition of stewardship and increased expectations of trustees as asset owners. Trustees should seek advice on the implications for the scheme, and consider carefully whether to sign up.

Separately, the Financial Conduct Authority is continuing its work on stewardship, including barriers to effective stewardship.

ACTION: Review the new Code and consider whether to become a signatory.

Opposite-sex civil partnerships **NEW!**

The government has introduced [opposite-sex civil partnerships](#), and the first of these are expected to be entered into shortly. Updates may be required to scheme rules/literature.

ACTION: Check if any changes are required.

Updates to transfer checks **NEW!**

From December 2019, many individuals will no longer appear on the [Financial Services Register](#). TPR has updated its [DB-DC transfers guidance](#) to reflect this, and to set out its expectations of checks by trustees. This is also relevant to scams due diligence on DC transfers.

ACTION: Ensure administrators update processes for due diligence checks.

Date for your diary



Our next Pensions Academy will be held on the morning of 25 February 2020. Invitations will be sent in due course, but please save the date.



Chair's statement: what can go wrong

Many schemes providing DC benefits must prepare an annual governance statement known as the Chair's statement. TPR has imposed numerous fines on trustees for non-compliant statements.

Our [publication](#) looks at some common issues when preparing the statement, as well as factors to consider if a penalty notice is received.

ACTION: Ensure that the draft statement receives a legal review before it is finalised.

TPR record-keeping guidance

TPR has [updated](#) its guidance for trustees on record keeping. TPR has also [contacted](#) a number of schemes about record-keeping standards. These actions reflect previous announcements by TPR that record keeping would be one of its regulatory priorities.

ACTION: Review the updated guidance, check compliance. Discuss with advisers as appropriate.

Have your say

A [consultation](#) on changes to annual benefit statements closes on 20 December 2019. It covers statement design, costs and charges information, and changes to guidance for Statutory Money Purchase Illustrations.



Watch this space

- Further details about the [accreditation framework](#) for professional trustees are expected.
- TPR is expected to consult on a new [regulatory strategy](#) and its [Codes of Practice](#), and to publish its response to the consultation on the future of trusteeship and DC consolidation.
- Trustees should be aware of future [guidance](#) requirements in relation to occupational schemes.

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