

# ALLEN & OVERY

## Joint DB and DC trustee agenda update: current legal issues

### For July 2017 meetings

Welcome to our monthly update on current legal issues for trustees responsible for DB and DC pension arrangements, 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. A separate DC-only briefing is also available.

#### Money laundering compliance duties **NEW!**

Trustees of occupational pension schemes have additional compliance duties under new money laundering regulations from 26 June 2017.

The most immediate duties relate to record-keeping and to provision of information when entering into a transaction/business relationship with parties (such as banks/some advisers) that are required to carry out money laundering checks. Additional HMRC reporting requirements could be more burdensome, but require further clarification. [Read more](#)

**ACTION:** Note the new duty to maintain records and the disclosure requirement on entering into a transaction or business relationship with a 'relevant person'. Keep a watching brief on further developments.

#### Reduction in MPAA? **UPDATED!**

The government had planned to reduce the money purchase annual allowance (MPAA), which applies where members have accessed DC pension savings, from GBP10,000 to GBP4,000 from 6 April 2017.

However, the provision was omitted from the Finance Act 2017 when the Parliamentary process was expedited in light of the general election. The government indicated that, if re-elected, it intended to press ahead with its shelved policies, so we expect that this may be included in the Summer Finance Bill 2017 – but that implementation may be postponed to 6 April 2018. [Read more](#)

**ACTION:** Liaise with administrators about any changes to systems, and communications to members, made in anticipation of the expected reduction; consider whether action is required once the position is clarified for FY2017/18. Contact us for help with member communications.

#### TPR annual funding statement

The Pensions Regulator's latest annual funding statement sets out a robust approach to intervention in valuation processes where it believes schemes are not being treated fairly. There is a particular emphasis on assessing the impact of dividend payments on the sponsor covenant. More generally, the statement emphasises the need to implement contingency plans where a scheme's funding position is worse than was expected at the last valuation (which it expects to be the case for many schemes). [Read more](#)

**ACTION:** Trustees should review the statement and be familiar with the Regulator's expectations and the circumstances in which it may intervene.

#### Auto-enrolment: upcoming changes

Statutory minimum auto-enrolment contributions for DC schemes will increase on 6 April 2018 (and again a year later) – to find out more, see Part 1 of our [updated guide](#) to the auto-enrolment regime. The Pensions Regulator has recently published additional guidance on a range of issues linked to the increase in statutory minimum contributions. [Read more](#)

Where an employer has used the transitional arrangement in relation to DB schemes, which permitted auto-enrolment to be postponed until 1 October 2017, preparations for auto-enrolling relevant jobholders should be on the agenda.

**ACTION:** Liaise with employers about the impact of the forthcoming changes. Prepare to make any necessary rule amendments in relation to member contributions, including consultation as appropriate.

## Reminder: Cybersecurity

Recent ransomware attacks are a reminder of the importance of identifying and addressing cybersecurity risk. Our [detailed guide](#) to cybersecurity issues for pension schemes will help you identify simple steps to mitigate some types of risk; others will require ongoing action and monitoring as part of your duty to have appropriate technical and organisational measures to ensure member data is held securely. Our [checklist](#) summarises key issues and actions.

**ACTION:** Assess your scheme's preparedness, including in light of the recent attack. Seek input from administrators and other data processors; contact us for further assistance and/or training.

## TPR investment guidance

The Pensions Regulator has published guidance covering a range of DB investment governance issues, including setting and implementing an investment strategy and monitoring investments. The guidance includes a focus on the security of DB assets, and recommends that trustees review the terms of agreements with investment managers and advisers. [Read more](#)

**ACTION:** Review practice against the guidance. Contact us for assistance with assessing the security of assets and/or reviewing adviser terms.

## Reminder: Protecting DB and DC assets **NEW!**

Trustees of both DB and DC arrangements should understand the protection mechanisms that apply to scheme assets – see, for example, the 2016 DC Code and recent investment guidance for DB schemes. Our updated guide to asset protection provides an overview of the types of protection available for both DB and DC assets. [Read more](#)

**ACTION:** Contact us for a tailored checklist of questions to obtain relevant information; and for a legal review to identify any gaps in protection and ways to mitigate these.

Need help with a pensions dispute? Visit [www.allenoverly.com/pensionsindispute](http://www.allenoverly.com/pensionsindispute) for practical help with pensions problems, including our new case tracker.

Need help managing DB pension risk? Visit [www.allenoverly.com/pensionrisk](http://www.allenoverly.com/pensionrisk)

Looking for resources on a range of DC-related issues? Visit [www.allenoverly.com/DCHQ](http://www.allenoverly.com/DCHQ)

Contact us at [pensions.team@allenoverly.com](mailto:pensions.team@allenoverly.com) for more information or to be added to our mailing list.

## Pensions advice allowance **UPDATED!**

A new tax-free 'pensions advice allowance' was introduced from April 2017. Members can withdraw up to GBP500 tax-free from DC funds, on up to three occasions, to pay for regulated advice on pensions/retirement. Offering this new authorised payment is optional; schemes which do so will pay the funds directly to the adviser. [Read more](#)

However, in the rush to enact the Finance Act 2017 before the general election, the government shelved the additional proposed allowance for employer-arranged pensions advice. This may be included in the Summer Finance Bill 2017. [Read more](#)

**ACTION:** Consider whether to offer the new payment. Contact us for assistance with member communications and to assess whether a rule change would be required.

## Have your say

- The FCA is consulting on a draft financial guidance factsheet for trustees (deadline 11 July 2017). [Read more](#). Our [quick guide](#) discusses the risks of breaching financial services regulatory rules.

## Watch this space

- There is uncertainty about the government's plans for DB pensions reform. No commitments in this area featured in the Queen's Speech. [Read more](#)
- TPR is due to set out its approach to determining whether trustees are acting in a professional or lay capacity (relevant to enforcement and penalties for breach) shortly. [Read more](#)