

# ALLEN & OVERY

## For your DC trustee agenda: current legal issues

### For September 2017 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.

#### Prepare for GDPR compliance **NEW!**

New data protection rules will apply from 25 May 2018 under the General Data Protection Regulation. GDPR preparation will be a significant issue, requiring a wide-ranging review of data protection issues and practices. Standard processes, contracts with administrators and other data processors, and member communications will all need to be updated. [Read more](#)

**ACTION:** Ensure that you have a plan in place to achieve GDPR compliance, including updating administration agreements and other provider contracts, plus member communications.

#### TPR defines 'professional trustee' **NEW!**

The Pensions Regulator has announced that trustees who are remunerated for their trusteeship won't normally be considered to be professional trustees if they have a membership/employment link with the scheme or relevant corporate group, and they do not act or offer to act as a trustee in relation to any unrelated scheme.

Higher standards are expected of professional trustees (for example, in relation to trustee knowledge and understanding); status and remuneration are also relevant to enforcement and penalties. [Read more](#)

**ACTION:** Contact us for help to obtain relevant information, and for a legal review to identify and potentially mitigate any gaps in protection.

#### PSC register requirements

Most UK companies (including corporate trustees) are required to maintain a register of persons with significant control over the company (known as a PSC register) and to file a copy at Companies House each year. Any PSC register changes must now be notified to Companies House within 14 days. [Read more](#)

**ACTION:** Corporate trustees should note the new requirement and notify Companies House as required.

#### Auto-enrolment: minimum contributions increase

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 published additional guidance on a range of issues linked to the increase in statutory minimum contributions. [Read more](#)

**ACTION:** Liaise with employers about the impact of the forthcoming changes. Assess the need for rule amendments and consultation as appropriate.

#### Early exit & commission-based charges **UPDATED!**

From 1 October 2017, early exit charges (charges imposed where members take, convert or transfer scheme benefits before normal pension age) will be subject to a 1% cap and other restrictions.

The existing ban on charging members to recoup the cost of adviser commission payments in relation to auto-enrolment qualifying schemes will also be extended. Statutory guidance on calculating the cap has now been published. [Read more](#)

**ACTION:** Confirm whether your scheme applies charges of either type and liaise with providers and administrators to ensure future compliance.

## Reduction in MPAA

The government has confirmed its intention to reduce the money purchase annual allowance (MPAA), which applies where members have accessed DC pension savings, from GBP10,000 to GBP4,000 with retrospective effect from 6 April 2017. [Read more](#)

Although it is not yet certain that the reduction (in a new Finance Bill) will be retrospective, members should now assume that the reduced MPAA will apply from 6 April 2017 unless informed otherwise.

**ACTION:** Consider whether further member communications about the MPAA reduction are required.

## Money laundering compliance duties

Trustees have additional compliance duties under new money laundering regulations which took effect on 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; further guidance is expected shortly. [Read more](#)

**ACTION:** Note the new duties and keep a watching brief on further developments.

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.

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.

## Protecting DC assets

In the 2016 DC Code, the Regulator underlines the need for trustees to understand the protection mechanisms that apply to scheme assets. Our updated guide to asset protection provides an overview of the types of protection available (the exact position will vary according to the arrangements for specific investments, including the structure and underlying documentation). [Read more](#)

**ACTION:** Contact us for help to obtain relevant information, and for a legal review to identify and potentially mitigate any gaps in protection.

## Watch this space

– The FCA is due to publish a draft financial guidance factsheet for trustees. [Read more](#). Our [quick guide](#) discusses the risks of breaching financial services regulatory rules.

