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DC trustee agenda update: current legal issues

For January 2020 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.

Survivor benefits: action required? **UPDATED!**

The first [opposite-sex civil partnerships](#) in England and Wales are expected to be entered into shortly. Updates may be required to scheme rules/literature.

The government is expected to publish regulations providing for opposite-sex civil partnership and same-sex marriage in Northern Ireland. Legislation to permit opposite-sex civil partnerships in Scotland is still in progress.

ACTION: Check if any changes are required.

Pension Schemes Bill **UPDATED!**

The [Pension Schemes Bill](#) introduced in the last Parliament included proposed changes to the Pensions Regulator's (TPR) powers and sanctions, new duties affecting trustees, and changes to statutory transfer rights. The government is expected to re-introduce the Bill in the new Parliament.

ACTION: Maintain a watching brief.

New Stewardship Code

The 2020 [UK Stewardship 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 issues.

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

Updates to transfer checks

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.

Preparing for the Chair's statement **NEW!**

Many schemes providing DC benefits must prepare an annual Chair's Statement. We have recently updated [A quick guide to preparing for the Chair's Statement](#), which lists suggested actions for gathering the evidence needed for the statement. With TPR issuing numerous fines for non-compliance, trustees may also be interested in our companion guide, [Producing the Chair's Statement: what can go wrong](#).

ACTION: Review your preparatory processes and consider any improvements.

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

[New rules](#) require trustees to run competitive tenders for fiduciary management services and to set strategic objectives for investment consultancy providers. A similar (but not identical) regulatory regime is [expected](#) to come into force in April 2020. TPR has recently [published](#) its finalised guidance to support the new duties.

Schemes with in-house providers may currently be covered by a carve-out but are likely to be required to set objectives under the April 2020 regulations.

ACTION: Check that your scheme is compliant; maintain a watching brief on the new regime (expected April 2020).

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.

Upcoming 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.

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 financial [guidance](#) requirements in relation to occupational schemes.

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