

17 February 2020

## 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.

TPR: response to consultation on trusteeship | Climate change: new trustee obligations | PASA consults on DB transfers code | HMRC updates Pensions Tax Manual

### TPR: response to consultation on trusteeship

The Pensions Regulator (TPR) will not require professional trustees to be appointed to scheme boards, seek to amend TKU legislation to require qualifications or CPD requirements, or impose mandatory reporting on trustee board diversity, according to the [response](#) to its consultation on these issues. However, it may revisit some positions in future, including on requirements for professional trustees and diversity reporting. Other points to note include:

#### TKU requirements

TPR plans to review and revise its TKU content to set out a range of acceptable methods for demonstrating TKU – a consultation on this is expected in early 2021. As part of this, it will explore whether to set expectations around ongoing learning (for example, TPR considers it reasonable to set 15 hours per year as an indicative baseline for lay trustees, and to expect professional trustees to follow industry-based standards (currently 25 hours per year)). It is also planning to review and update the Trustee Toolkit. Acceptable methods for demonstrating TKU may include completion of the Trustee Toolkit, relevant work experience and other industry-based training and/or, for professional trustees, industry accreditation – the Pensions Management Institute has recently [launched](#) its accreditation process, and the Association of Professional Pension Trustees is expected to launch one shortly. Once TPR's new TKU materials are in place, it plans to run a regulatory initiative to test levels of TKU (and to consider appropriate action where these fall below expectations).

#### Trustee recruitment and diversity

TPR is planning a campaign to remind employers of their obligations towards employees who are trustees of the employer's scheme, and to highlight where employers can have a positive impact (for example, trustee recruitment).

Although TPR will not impose mandatory reporting about steps taken to achieve trustee board diversity at present, it may look at this as part of its supervision and enforcement activity. TPR intends to be clearer about how trustees with different backgrounds can work with expert advisers to bring about effective decision-making and positive outcomes for savers. It has also expressed support for a selection-based recruitment process (particularly in improving diversity and filling knowledge gaps), but is not seeking changes to the legislation. TPR will establish an industry working

group on board diversity (this is also mentioned in its new [blog post](#)) and is inviting applications to join the group.

### Other matters

TPR will continue to scrutinise schemes that use a sole trustee (an individual or professional trustee company appointed to replace a 'traditional' board of trustees), but is not proposing changes to regulation at present.

TPR has also given a brief update on its delayed 'single Code of Practice' project, which would consolidate all 15 existing Codes into a single web-based code, and include new content on ESG and climate change. It plans to consult on this in the first half of 2020. In the meantime, it is running an [online questionnaire](#) on the design of the new Code.

TPR's press release is available [here](#). Separately, TPR has also published a further [blog post](#) confirming that it plans to consult on the principles of a revised DB funding code in March, with another consultation on the detail later in 2020.

## Climate change: new trustee obligations

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The government has announced proposals to introduce further climate change risk management and reporting requirements for trustees. These have been drafted as [amendments](#) to the Pension Schemes Bill, which is currently being considered by Parliament.

The proposed legislation would allow regulations to impose requirements on trustees with the aim of ensuring effective governance of the scheme with respect to the effects of climate change (including risks and opportunities), and to require trustees to publish certain information free of charge. Requirements may include: reviewing the exposure of the scheme to certain risks (and developing and reviewing a strategy for managing the risk exposure); assessing the assets of the scheme in a prescribed manner; developing and reviewing targets relating to the scheme's exposure to certain risks and measuring performance against these targets; and reporting requirements. Trustees would be required to have regard to statutory guidance when complying with the regulations, and non-compliance could result in a compliance notice or a fine.

The government announced in 2019 as part of its Green Finance Strategy that it intended to require large asset owners to make disclosures in line with the recommendations of the Financial Stability Board's Taskforce on Climate-related Financial Disclosures (TCFD), and the new proposals appear directed at implementing this commitment. The details of any scheme size thresholds for disclosure remain to be confirmed.

The House of Lords has not yet considered the proposed amendments. However, given the government's previous statements on this issue, it appears likely that these (or similar) proposals will become law. We will report further in due course.

## PASA consults on DB transfers code

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The Pensions Administration Standards Association is [consulting](#) on a new industry code of practice for DB transfers – this follows good practice guidance that PASA published last year (see [WNTW](#), 15 July 2019). The code covers both standard and non-standard cases, and aims to create faster, safer transfers, and improve efficiency for administrators. Although it is aimed at DB transfers, PASA encourages the application of its best practice principles to DC transfers. However, some types of transfer are out of scope, including bulk transfers and bulk member option exercises.

The draft code sets out five high level principles, including that members should be kept informed of any delays, and that transfer processes should be designed to comply with the target timescales given in the code. The total maximum target times are:

- from a request for a guaranteed quote to issuing the quote to a member: 7-10 working days (or 12-15 where actuarial referral/sign-off is required) – non-standard cases might take up to four additional days compared to standard cases;
- cases calculated by an actuary: 9-12 days; and
- making payment once correct application forms have been received (and assuming there is no scam risk): 9-11 days.

PASA is seeking feedback on whether these timescales are realistic and achievable. The draft code also sets out expectations about information and materials to be sent to members, and includes example paperwork, including a quote acknowledgment letter and a settlement forms checklist.

PASA is seeking feedback on multiple areas, including whether there is support for the code recommending particular approaches (for example, on methods of payment), and whether practices such as ID verification should be harmonised. It also plans to include Practitioner Notes and additional example communications with the final code, and is seeking input on what should be included in these.

The consultation closes on 30 April 2020 and publication of the code of practice is expected in September 2020.

## HMRC updates Pensions Tax Manual

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HMRC has published a number of updates to its PTM guidance on death benefits – the list of updates is available [here](#) (under 7 February 2020). A number of the changes are designed to clarify the tax years to which particular guidance is applicable, and the ‘essential principles’ guidance has been expanded to include several new pages.

## Contact information

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