

THE PENSIONS BRIEF

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21ST CENTURY TRUSTEESHIP

Guidance on obtaining value for DC members added to the Pension Regulator's web resource

DC GOVERNANCE

Updated Pensions Regulator guidance on the chair's annual governance statement, administration, and communicating and reporting

▲ Action required

▲ Follow development and keep under review

Issues affecting all schemes

Trustee investment and disclosure duties

The government has [confirmed](#) that it will introduce new investment and disclosure duties for trustees of UK pension schemes from October 2019 and October 2020. The government intends to proceed with the majority of its original proposals, but has made a couple of changes. The most significant of these is removal of the requirement for schemes to prepare a statement on members' views. In summary:

- Trustees of all schemes will need to update their statement of investment principles (SIP) to include new information, including the extent to which (if at all) they take into account members' views. They will also need to include new information in the scheme's annual report.
- Trustees of schemes providing DC benefits other than additional voluntary contributions (AVCs) must also update the SIP for the scheme's DC default arrangement and include new information in the scheme's annual report. Trustees must also publish the scheme's SIP and certain other information on a website which is publicly available free of charge. Trustees are already required to publish certain sections of the scheme's annual governance statements for scheme years ending on or after 6 April 2018 on this website.

The [regulations](#) making the changes have been laid before Parliament. For more information, please see our [legal update](#).

Action

Trustees should ensure that they factor the new requirements into their scheme planning, and make arrangements to comply with the requirements by the relevant deadlines.

Pensions Ombudsman/TPAS signposting

The government and the Pensions Regulator have released a [joint statement](#) confirming that, although legislation has not yet been amended to reflect the transfer of TPAS' dispute resolution function to the Pensions Ombudsman, the Regulator will not apply penalties where schemes have updated their signposting wording to reflect the transfer and, as such, are technically in breach of the legislation.

Action

If they have not done so already, trustees should consider updating their scheme's signposting wording to reflect the transfer of TPAS' dispute resolution function to the Ombudsman.

Non-financial injustice – Pensions Ombudsman compensation

The Pensions Ombudsman has published revised guidance on compensation for non-financial injustice such as distress and inconvenience. The guidance introduces fixed amounts for such compensation as follows:

- nominal injustice – no award
- significant injustice – £500
- serious injustice – £1,000
- severe injustice – £2,000
- exceptional injustice – more than £2,000

Action

No action required, but schemes may wish to factor the revised guidance into any decisions they make on offering compensation to members who make complaints under the scheme's internal dispute resolution procedure.

Pensions Ombudsman – provision of information to terminally ill members

The Deputy Pensions Ombudsman has decided that an employer should have given a terminally ill member the option of bringing forward his retirement date to ensure that he died in retirement, thereby increasing the benefits payable on his death.

Action

Employers and trustees should consider carefully what information and options should be given to terminally ill members.

Workplace pensions regulation – Pensions Regulator approach

The Pensions Regulator has announced a new approach to workplace pension regulation which will see an increasing number of schemes coming under greater Regulator scrutiny.

Action

No action required.

Issues affecting DB schemes

2019/2020 Pension Protection Fund levy – draft rules

The Pension Protection Fund (PPF) has published its draft 2019/2020 levy rules and accompanying guidance for consultation. The draft rules contain relatively minor changes to the rules for the 2018/2019 levy, but include new rules for charging a levy for commercial DB consolidation vehicles. The PPF has also announced a levy estimate for the 2019/2020 levy year of £500 million, down from £550 million for the 2018/2019 levy year. The consultation closes on 25 October 2018.

Action

Trustees and employers of DB schemes should keep the progress of the consultation under review. In addition, trustees of schemes with a Type A contingent asset (group company guarantee) should check whether they will need to re-execute the guarantee in order for it to be re-certified for the 2019/2020 levy.

PPF compensation regime – compliance with EU law

The Court of Justice of the EU (CJEU) has held that the EU Insolvency Directive requires member states to ensure that, where an employer enters insolvency, each member of its occupational pension scheme(s) receives at least 50% of their benefits under the scheme. The decision means that the PPF compensation regime does not fully comply with the Insolvency Directive as some members with particularly large pensions may receive less than 50% of their benefits as a result of the PPF compensation cap and the restrictions that the PPF applies to pension increases.

Action

No action currently required – the government has not yet responded to the CJEU's decision.



Issues affecting DC schemes

Master trusts – authorisation applications

The Pensions Regulator has published [forms and guidance](#) for use by master trusts in applying for authorisation. The areas covered by the forms include:

- the fit and proper person checks;
- systems and processes;
- scheme financial details; and
- the scheme funder.

An application index has also been published. In addition, the Regulator has published a [report](#) on the authorisation readiness review that it conducted in the summer. The report sets out four key tips for schemes applying for authorisation, as well as providing detailed feedback on each of the authorisation criteria.

Action

Trustees of schemes which fall within the definition of a “master trust scheme” should ensure that they submit their authorisation application by 31 March 2019.

DC reporting obligations – statutory guidance

The government has updated its [statutory guidance](#) on reporting DC costs, charges and other information to reflect the new DC disclosure duties which came into force from 6 April 2018, and those which will come into force from 1 October 2019 and 1 October 2020.

Action

Trustees of schemes which provide DC benefits other than AVCs should ensure that they have made arrangements to comply with the disclosure duties that came into force in April 2018, and that they make arrangements to comply with the duties that will come into force in October 2019 and October 2020.

21st century trusteeship – new guidance

The Pensions Regulator has added [guidance](#) on obtaining value for DC members to its 21st century trusteeship web resource.

Action

No action required, but trustees of DC schemes may find the guidance useful when carrying out their value for members assessment.

DC governance – updated guidance

The Pensions Regulator has updated the following DC governance guidance documents:

- its [quick guide](#) to the chair’s annual DC governance statement; and
- its guidance on [administration](#) and on [communicating and reporting](#) (which accompany the DC code of practice).

Action

No action required, but trustees of DC schemes may find the updated guidance helpful.



Mayer Brown events and publications

Upcoming events

If you are interested in attending any of our events, please contact Katherine Carter (kcarter@mayerbrown.com) or your usual Mayer Brown contact. All events take place at our offices at 201 Bishopsgate, London EC2M 3AF.

Trustee Foundation Course

11 December 2018

Our Foundation Course aims to take trustees through the pensions landscape and the key legal principles relating to DB funding and investment matters, as well as some of the specific issues relating to DC schemes, in a practical and interactive way.

Trustee Building Blocks Classes

13 November 2018 – internal controls and risk management

Our Building Blocks Classes look in more detail at some of the key areas of pension scheme management. They are designed to be taken by trustees who have already taken our Foundation Course.

Annual Pensions Conference

7 November 2018

FULLY BOOKED

(please email LON-Events@mayerbrown.com to be added to the waitlist)

Our Annual Pensions Conference will address some of the ways in which pension scheme stakeholders can collaborate to achieve good outcomes.

The View from Mayer Brown – UK Pensions Law Podcasts

Every month [Richard Goldstein](#), a partner in our Pensions Group, places a spotlight on key developments that could affect your scheme in a podcast. Just 10-15 minutes long and available on iTunes, the podcasts provide a quick and easy way to stay on top of current issues in pensions law.

Listen to or subscribe to The View from Mayer Brown UK Pensions Law Podcasts via iTunes here:



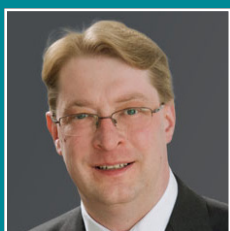
Please note – subscribing above will only work on a device with iTunes installed. Alternatively, if you don't have iTunes, you can access the podcasts via our [website](#).

Mayer Brown media comment

- [Jane Childs](#) was quoted in a Pensions Age article on longevity swaps.
- [Beverly Cox](#) was quoted in a Pensions Age article on bulk member option exercises.

Please speak to your usual contact in the Pensions Group if you have any questions on any of the issues in this Brief.

For more information about the Pensions Group, please contact:



Ian Wright

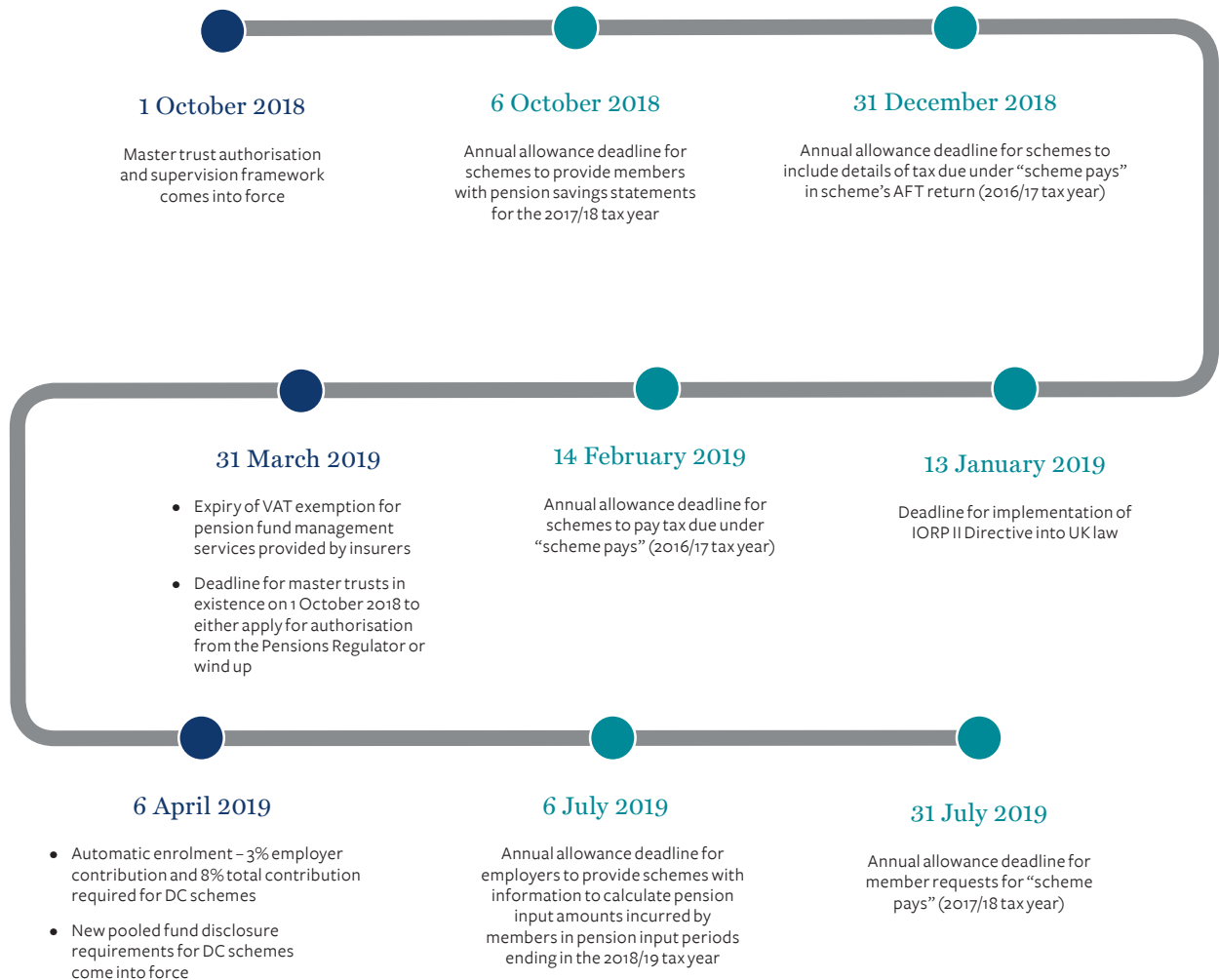
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Dates to note over the next 12 months



Key:



Important dates to note



For information

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