ALLEN & OVERY

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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.

New TPR blog post: DB funding changes | TPR fines professional trustee firm over GBP100,000

New TPR blog post: DB funding changes

TPR has published a new blog post with an update on its forthcoming consultation on a new DB funding framework. It confirms that TPR does not intend to pursue a 'one size fits all' approach, and that the new regime will retain flexibilities to allow trustees and employers to reach balanced outcomes. There will be two separate consultations:

- an initial consultation on options for 'a clearer framework' for DB funding (expected this summer, depending on the legislative timetable); and
- a subsequent consultation on a draft version of the new funding code – this is expected next year once TPR has more clarity on the intended changes to legislation.

One of the central concepts in the new code will be how schemes should set, and achieve, a suitable long-term objective (LTO) (as discussed in the government's 2018 White Paper on protecting DB pension schemes). TPR will consult on options for setting clearer parameters around journey plans and associated technical provisions based on scheme-specific factors and in the context of the LTO.

The consultation will also cover:

- clearer guidelines on acceptable lengths of recovery plans for different covenant strengths, including whether stronger employers should be required to fund deficits in a shorter period;
- how contingent funding arrangements can support long recovery plans or the assumption of greater risk; and
- the use of (for example) stress tests to help trustees demonstrate that the risk in their investment strategy is supported.

For more information about TPR's current position on scheme funding, as set out in its annual funding statement, see WNTW, 11 March 2019.

TPR fines professional trustee firm over GBP100,000

A corporate professional trustee (Link Pensions Trustees Ltd) has been fined over GBP100,000 for breaches of the law in relation to a small master trust (the McDonald's Franchisees Pension Scheme).

The Pensions Regulator (TPR) contacted the scheme in April 2017 as part of its engagement with schemes falling within the definition of a 'master trust'. It identified that the trustee had failed to obtain audited accounts for four successive years, had failed to provide members with statutory money purchase illustrations for two years and had failed to report these breaches of the law (treated as six separate breaches) to TPR as soon as reasonably practicable. To read more about the duty to report breaches of the law, read our briefing 'When to approach the Pensions Regulator'. The trustee was also fined for failing to have the minimum number of trustees for a 'relevant multi-employer scheme'.

The Determinations Panel commented that:

> *'These were breaches of several important statutory obligations, which had occurred over several years. While the breaches may not have caused identifiable financial detriment to members, they deprived members of information and a level of protection regarding their pension pots. The Panel would have expected better of a corporate professional trustee...'*

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