

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: updated DC investment guidance | Latest HMRC newsletter | *McCloud*: Government refused permission to appeal | TPR to consult on new regulatory strategy

TPR: updated DC investment guidance

The Pensions Regulator (TPR) has [updated](#) its DC investment guidance – the press release is available [here](#). The new guidance is twice as long as the earlier version, and trustees should familiarise themselves with the new content and TPR's expectations. As part of the update, TPR has included a number of illustrative examples for trustees – some of the changes are highlighted below.

TPR expects that trustees will have suitably documented investment governance arrangements for their scheme. The guidance includes new content on working with investment advisers, monitoring investment governance, strategy and performance and investment managers, and reviewing fund performance and documentation.

TPR has updated the guidance to address the new obligations for the content of statements of investment principles (SIPs), and the publication of SIPs and implementation statements – to read more about these obligations, see our publication '[Updating your SIP: new content requirements and disclosure deadlines for pension schemes](#)'. New content includes:

- TPR has provided more detailed guidance on considering environmental, social and governance (ESG) factors and non-financial factors, and how to assess whether a financial factor is material, together with related examples.
- TPR has also expanded its guidance on investment stewardship and is encouraging trustees to sign up to the UK Stewardship Code – a new version of the Code is expected to be published in July following a consultation earlier this year (for more information, see [WNTW](#), 4 February 2019). TPR expects trustees to ensure, as far as they are able, that stewardship activities are done throughout the investment chain – TPR's guidance adopts a new (broader) definition of stewardship from the consultation version of the new Code.
- TPR has also provided guidance on trustees' obligations to produce an implementation statement. The guidance notes that the trustees should indicate where decisions have diverted from policy, as well as explaining how the policy has been followed and the extent to which its objective has been achieved. It should also state any remedial actions by trustees. TPR has emphasised that it is important that trustees 'include the relevant useful information and do not simply produce a 'tick box' report'.

Finally, the existing guidance on fiduciary management has also been expanded. TPR refers to the recent order by the Competition and Markets Authority imposing requirements on trustees in relation to fiduciary management and investment consultancy services, but does not cover these in detail. TPR is expected to issue related guidance shortly. For more information, see [WNTW](#), 17 June 2019.

Latest HMRC newsletter

HMRC's latest [Pension Schemes Newsletter](#) (no. 111) contains an update on HMRC's GMP Equalisation Working Group. According to the newsletter, the group is currently focusing on delivering certainty through existing legislation (insofar as possible), including through further guidance – it is unlikely that guidance will be updated before the autumn. HMRC has also stated that it is 'committed to finding a pragmatic and proportionate outcome to all of the pension tax issues.'

The newsletter also includes updates on other areas including relief at source and new features for the Managing Pension Schemes service.

McCloud: Government refused permission to appeal

The government has been refused permission to appeal to the Supreme Court in the long-running *McCloud* and *Sargeant* cases, according to the [Fire Brigades Union](#). In December, the Court of Appeal [ruled](#) that transitional scheme closure arrangements in relation to the Judicial Pension Scheme and the Firefighters' Pension Scheme were unlawfully discriminatory. Earlier this year the government [stated](#) that, as a provisional estimate, the impact of the litigation could amount to approximately GBP4 billion a year. It is expected to comment on this development in due course.

TPR to consult on new regulatory strategy

The new CEO of TPR has given a [speech](#) on TPR's goals and priorities, and changes to TPR's processes. He stated that TPR is aiming to launch a consultation on its long-term regulatory strategy at the end of 2019.

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