

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 UK Stewardship Code published | TPR updates employer debt guidance | Government consults on increasing industry levy | FCA publishes update on stewardship

New UK Stewardship Code published

The Financial Reporting Council (FRC) has published its new, voluntary, [UK Stewardship Code](#) that sets out a new definition of stewardship and significantly raises expectations about investment and reporting, including a specific focus on environmental, social and governance factors, including climate change.

The Pensions Regulator has previously encouraged schemes to sign up to the Code, and to adhere to it in their stewardship activities. In the light of new disclosure requirements (including setting out the scheme's policy on stewardship in the statement of investment principles – click [here](#) for more details), schemes should consider their approach to the new Code and its separate reporting obligations. Details of the transition arrangements are set out below.

Key elements of the new Code include:

- A broader definition of stewardship, referring to the creation of 'long-term value for clients and beneficiaries, leading to sustainable benefits for the economy, the environment and society'. The Code covers investment decision-making (including pre-investment analysis), monitoring and engagement, and also applies to investments other than listed equities.

For asset owners (including pension scheme trustees), the Code includes 12 'apply and explain' Principles. These are divided into the same headings of purpose and governance, investment approach, engagement, and exercising rights and responsibilities, but there have been some changes to the individual Principles. For each Principle, the FRC has set out its reporting expectations covering the expected activity and outcome. For example:

- As asset owners, trustees would be asked to explain the relationship between their investment beliefs, policies, governance structures and stewardship. They also need to disclose, for example, how effective the governance structures and processes have been in supporting stewardship. There are also expectations around engagement with beneficiaries and issuers.
- Trustees would need to explain how material environmental, social and governance (ESG) issues are taken into account, including how they have ensured that tenders and mandates include requirements to integrate stewardship and investment, and how they have monitored service providers. This includes explaining how the monitoring of

asset managers and investment consultants has ensured that assets have been managed in alignment with their investment and stewardship strategy/policies (and any action taken where expectations were not met).

- Reporting requirements: to become (and remain) a signatory, organisations will need to submit an annual Stewardship Report that meets the FRC's expectations and demonstrates how they have applied the Code in the preceding 12 months.

Key dates

- The FRC will accept statements against the 2012 Code until 31 December 2019; organisations will remain signatories to the UK Stewardship Code until the first list of signatories to the 2020 Code is published (expected Q3 2021).
- Organisations that wish to confirm their commitment to the 2020 Code before applying to become a signatory may request to be listed on the FRC's website from 1 January 2020.
- Organisations that wish to be listed as 2020 Code signatories (in Q3 2021) must submit Stewardship Reports by 31 March 2021. Applicants reporting in the first year will not be graded or tiered.

Trustees should ensure that a discussion on their approach to the new Code, and whether to affirm commitment to it in advance, is on the agenda of the next trustee board meeting.

TPR updates employer debt guidance

The Pensions Regulator (TPR) has updated its [guidance](#) on employer debt issues for multi-employer schemes. The new version covers the deferred debt arrangement mechanism and other changes introduced from April 2018 (for more information, see [WNTW](#), 5 March 2018).

In addition, TPR has made a number of other updates to the guidance, including urging trustees to contact it as soon as possible if they have concerns about the possibility of material detriment or scheme abandonment.

Government consults on increasing industry levy

The government is [consulting](#) on significant changes to the industry levy used to fund the Pensions Regulator, the Pensions Ombudsman and pensions aspects of the Money and Pensions Service, as it anticipates a rapidly increasing deficit. The government estimates that if levy rates were to remain unchanged, there would be a deficit of around GBP540 million at the end of 2029/30.

The consultation document discusses four possible options for introducing the increases; its preferred option is to make an initial increase of 10% of 2019/20 rates from April 2020, with further increases from April 2021 informed by a wider review of the levy.

The consultation closes at midday on 15 November 2019.

FCA publishes update on stewardship

The Financial Conduct Authority (FCA) has [published](#) its response to its joint discussion paper with the FRC on building a regulatory framework for effective stewardship (see [WNTW](#), 4 February 2019). The FCA has confirmed that it will not impose further stewardship-related requirements on life insurers and asset managers at present, but will continue work on areas including:

- examining how asset owners set and communicate stewardship objectives and promoting arrangements between asset owners, asset managers and service providers to support these

objectives. The FCA is also planning to hold an industry workshop with other regulators in Q1 2020 to discuss these issues;

- addressing barriers to effective stewardship practices, including by its forthcoming consultation on enhancing climate change disclosures (see [WNTW](#), 21 October 2019);
- promoting better disclosure of firms' stewardship practices and outcomes; and
- monitoring the need for any further actions, as the new Stewardship Code is rolled out.

The statement also sets out the response to feedback on the discussion paper – for example, the section on barriers to stewardship includes a discussion of some of the difficulties experienced by asset owners, including asset manager voting policies and pooled funds.

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