

THE PENSIONS BRIEF

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High Court decision that a closed DB scheme which retains a final salary link is a "frozen" scheme for employer debt purposes

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Issues affecting DC schemes

CHAIR'S ANNUAL DC GOVERNANCE STATEMENT

Updated Pensions Regulator guide on the chair's annual DC governance statement

▲ Action required

▲ Follow development and keep under review

Issues affecting all schemes

Proposed new trustee investment and disclosure duties

The government is [consulting](#) on [draft regulations](#) that would:

- Make changes to the information that must be set out in a scheme’s statement of investment principles (SIP) (and, in the case of a “relevant scheme”, to the information that must be included in the SIP for the scheme’s DC default arrangement).
- Introduce a requirement for trustees to prepare a “statement on members’ views” setting out how they will take account of members’ views on the matters covered in the SIP.
- Introduce a requirement for trustees of relevant schemes to include an implementation statement in the scheme’s annual report detailing various matters, including how the SIP has been followed in the scheme year.
- Make related changes to the information that trustees must include in the investment report section of the scheme’s annual report.
- Introduce a requirement for trustees of relevant schemes to (a) publish their SIP, statement on members’ views, and implementation statement on a website, and (b) inform members of this via the annual benefit statement.

These requirements are expected to come into force on 1 October 2019, except for the requirements in relation to the implementation statement which are expected to come into force on 1 October 2020. The government is also consulting on related [changes](#) to its statutory guidance on reporting DC costs and charges.

The consultation closes on 16 July 2018. For more information, please see our [legal update](#).

Action

Trustees should keep the progress of the government’s proposals under review.

Pension scams – revised industry code of practice

The Pension Scams Industry Group has published a revised version of its [code of good practice](#) on combating pension scams. The code sets out practical steps that trustees can take to protect their members from scams, particularly when processing transfer requests. The code has been revised, among other things, to reflect legal and industry developments since the code was first published in 2015, and to include expanded template letters and case studies.

Action

No action required, but schemes may find the revised code useful when considering what actions they can take to help protect members from pension scams.

Gender reassignment – discrimination

The Court of Justice of the European Union has [held](#) that that the requirement that existed prior to the introduction of same sex marriages in the UK for a transgender woman to annul their marriage in order to obtain a full gender recognition certificate and thereby obtain a state pension payable from age 60 was unlawful discrimination on the grounds of sex contrary to the Social Security Directive as a woman who retained her birth gender could obtain payment of her state pension from age 60 regardless of whether or not she was married.

MB v Secretary of State for Work and Pensions [2018]
EUECJ C-451/16

Action

No action required.

¹ Broadly, a scheme providing DC benefits other than additional voluntary contributions

Pensions Ombudsman – compensation for distress and inconvenience

The Deputy Pensions Ombudsman has decided that, although a scheme's provision of incorrect benefit quotations amounted to maladministration, the £1,000 compensation offered by the scheme for the distress and inconvenience caused was in line with the awards that the Ombudsman would normally make in similar circumstances. The Deputy Ombudsman therefore refused to uphold the complaint against the scheme.

Mr D (PO-17984)

Action

No action required.



Issues affecting DB schemes

Pensions Regulator – proposed new powers and sanctions regime

The government is consulting on [proposals](#) designed to enable the Pensions Regulator to intervene more effectively to protect members' DB pensions. The proposals include improving:

- The role of the Regulator and trustees in scrutinising corporate transactions by, among other things, expanding the range of employer-related notifiable events and introducing a requirement for companies to produce a “declaration of intent” where certain corporate transactions are proposed.
- The Regulator’s sanctions regime to deter wrongdoing and to punish it where necessary, including introduction of criminal sanctions and of a new power to issue a civil penalty of up to £1 million for more serious breaches.
- The Regulator’s existing powers to issue contribution notices and financial support directions.

The consultation closes on 21 August 2018.

Action

Employers and trustees of DB pension schemes should keep the progress of the government’s proposals under review.

Multi-employer DB pension schemes – private members’ bill

A [private members’ bill](#) which seeks to amend the way in which liabilities under multi-employer pension schemes are calculated and attributed has been laid before Parliament.

Action

Relatively few private members’ bills become law, but trustees and employers of DB pension schemes should keep the bill’s progress under review.

Final salary linkage in closed schemes – employer debt

The High Court has held that a DB scheme that was closed to accrual, but retained a final salary link, was a frozen scheme for the purposes of the employer debt legislation.

G4S plc v G4S Trustees Limited and another (2018)
(unreported)

Action

No action required.

Company voluntary arrangements – PPF guidance

The PPF has published updated [guidance](#) on company voluntary arrangements (CVAs) which explains the approach that employers and their advisors should take when presenting a CVA proposal to the PPF.

Action

No action required, but employers with DB pension schemes who are contemplating making a CVA proposal may find the guidance helpful.

Issues affecting DC schemes

Chair's annual DC governance statement – updated guide

The Pensions Regulator has updated its [quick guide](#) on the chair's annual DC governance statement to, among other things, reflect the new requirements that came into force in April 2018 on the information on costs and charges to be included in the statement. The updated guide also includes a new [technical appendix](#) setting out the various legislative requirements that the chair's statement must meet.

Action

No action required, but trustees of DC schemes may find the updated guide helpful when preparing their chair's annual DC governance statement.



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 September 2018
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.

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.

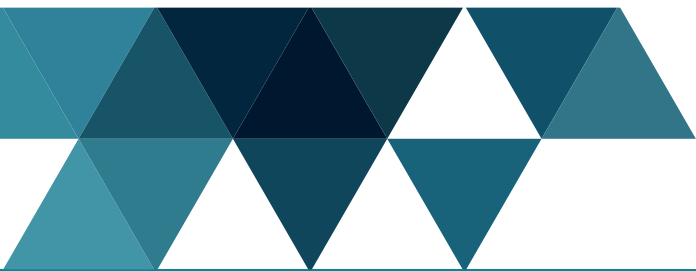
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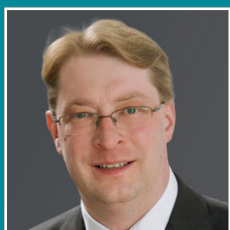
Mayer Brown media comment

- Jay Doraisamy was quoted in a Pensions Expert article on the government's consultation on new trustee investment and disclosure duties
- Jane Childs wrote an article for Pensions Expert on insurance longevity swaps



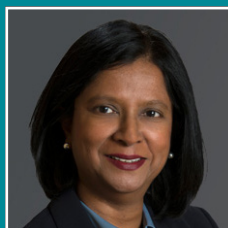
Please speak to your usual contact in the Pensions Group if you have any questions on any of the issues in this Brief.

For more information about the Pensions Group, please contact:



Ian Wright

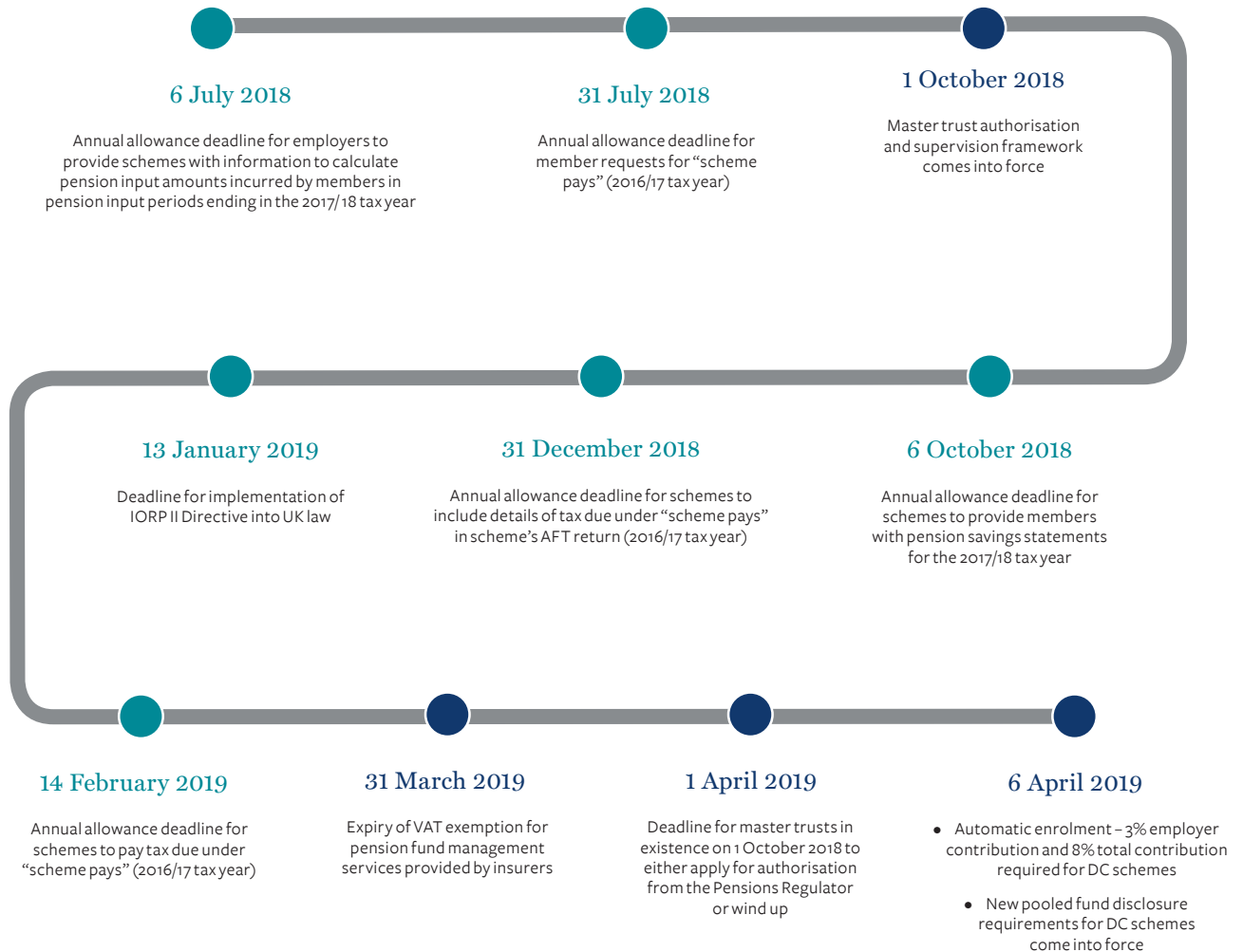
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Dates to note over the next 12 months



Key:



Important dates to note



For information

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