

# Pension News Update (April 2021)

## DWP launches call for evidence on the social element of ESG

1. On 24 March 2021, the DWP published a call for evidence seeking views on whether occupational pension scheme trustees' policies and practices on social factors are sufficiently robust and what the government could do to ensure that trustees are able to meet their legal obligations.
2. Whilst the call for evidence recognises climate change as the most urgent risk to society and the economy there is a concern that trustees have tended to focus solely on climate change to the exclusion of the other elements of ESG.
3. The DWP acknowledges that there is no single "right" way to consider social factors but sets out a number of approaches that could be adopted.
4. The DWP see stewardship (voting and engagement) as a core approach that trustees can utilise to consider social factors but at present, it is not clear that stewardship is happening at a high standard across the pension sector. As a result, the DWP are considering two options:
  - 4.1. Schemes to be required to explain how their stewardship policies and activities are in scheme members' best interests; and
  - 4.2. The establishment of a dedicated council to promote and facilitate high standards of stewardship of pension assets.
5. The call for evidence closes on 16 June 2021.

## TPR consults on their approach to the investigation and prosecution of the new criminal offences

6. On 11 March 2021, TPR published a consultation on its approach to investigating and prosecuting the new criminal offences introduced by the Pension Schemes Act 2021.
7. The two criminal offences are:
  - 7.1. Avoidance of employer debt – a person commits this offence if, without a reasonable excuse, they intentionally do an act or engage in a course of conduct (including a failure to act) that:
    - Prevents the recovery of all or any part of a statutory employer debt (under section 75 of the PA95)
    - Prevents that debt becoming due
    - Compromises or otherwise settles that debt, or
    - Reduces the amount of the debt which would otherwise become due.
  - 7.2. Conduct risk accrued scheme benefits – a person commits this offence if, without a reasonable excuse, they:
    - act or engage in a course of conduct that detrimentally affects in a material way the likelihood of scheme benefits being received (whether or not the benefits are to be received under the scheme);
    - knew or ought to have known that what they were doing would have that effect; and

- did not have a reasonable excuse for the act

8. The consultation closes on 22 April 2021.

## TPR publishes consultation on draft single code of practice

9. On 17 March 2021, TPR published a consultation on a new single code of practice. The draft code consists of 51 shorter, topic-based modules and will replace ten of the 15 existing codes of practice. The draft code includes new content on areas including the need for trustees to maintain effective systems of governance and to carry out an annual own risk assessment (ORA) introduced by the Occupational Pension Schemes (Governance) (Amendment) Regulations 2018. Other new material includes sections on cyber security and climate change.
10. The code has been written to apply to 'governing bodies' of pension schemes (including trustees of occupational schemes and scheme managers of public service schemes). As some content is not applicable to all governing bodies or schemes, TPR has said it is aiming to make this clear in the relevant modules, and is asking for feedback where this is unclear. The new code is designed to be web-based.
11. The current consultation is the first phase of TPR's project on the single code of practice. It plans to review and incorporate other materials (both codes and guidance), including content relating to the Pension Schemes Act 2021, and TPR's work on the future of trusteeship, in later phases.
12. The consultation closes on 26 May 2021.

## DWP consults on TPR's Contribution Notice and information gathering powers

13. On 18 March 2021, the DWP launched a consultation seeking views on the proposed drafting of two sets of regulations concerning TPR's powers, following changes introduced by the Pension Schemes Act 2021.
14. The draft regulations are the Pensions Regulator (Contribution Notices) (Amendment) Regulations 2021, which outline the reasoning and proposed approach for the "employer resources test", and the Pensions Regulator (Information Gathering Powers and Miscellaneous Amendments) Regulations 2021.
15. The consultation closes on 29 April 2021.

## DWP consults on incorporating performance fees within DC charge cap

16. On 19 March 2021, the DWP published a consultation on measures to allow pension schemes to smooth performance fees within the charge cap and a call for evidence on look-through as indicated in this year's Budget announcement.
17. The government seeks views on draft regulations on the treatment of performance fees, including the extent to which these would achieve the policy intent of facilitating investment by DC pension schemes in illiquid assets. It is also seeking input from trustees on whether certain cost within the DC charge-cap is a potential barrier for pension schemes to invest in alternative asset classes, particularly venture capital and growth equity. The government plans to publish a response to the consultation (including final draft regulations and final statutory guidance) in June 2021. The regulations on performance fees are intended to come into force in October 2021.
18. The consultation closes on 16 April 2021. No response will be provided for this consultation, as there is no potential impact on the DC investment strategy with the proposal.

## MaPS to launch MoneyHelper

19. On 18 March 2021, the Money and Pensions Service (MaPS) announced plans to launch a new consumer-facing brand 'MoneyHelper' from June 2021.
20. Since MaPS was established in 2019, it has operated three consumer-facing brands: the Money Advice Service, The Pensions Advisory Service and Pension Wise. MaPS believes that consolidating the three legacy brands into one single service will provide 'a better and enhanced consumer experience' and enable information and guidance to be found in one place.
21. Once MoneyHelper goes live, the existing websites of the MAS, TPAS and Pension Wise will be replaced and redirected to the new MoneyHelper website.