

Trustee pensions survival guide

JANUARY 2012

Important activities that trustees should be considering.

Trustees continue to be kept busy through changes to pensions and tax legislation and other regulatory developments. Funding and risk considerations also remain high on agendas, as a gloomy economic outlook prevails. The issues below will be familiar to trustees but with so many current developments, it is vital that key tasks do not fall through the cracks.

This guide summarises some topical issues and impending deadlines that trustees should be considering and the actions to be taken.

Key event or issue	Action required/matters to consider	LCP comment	Done
Statutory employer on 2011/12 Scheme Return	From November 2011 trustees are required to include the 'statutory employers' information in their scheme return to the Regulator.	For most schemes this will be a necessary formality. But be prepared to react quickly if legal advice reveals that liability for pensions falls on employers in your group structure other than the ones you expected.	
"Scheme Pays" policy to meet tax charges	Agree whether to have a 'Scheme Pays' policy now or when the first case arises. The legislation applies from now on, so the issue could arise any time. Check the administration team has procedures in operation to identify potential cases.	Members who incur a tax charge due to large increases in their pension benefits may be able to require their scheme to pay the tax on their behalf in return for a reduction in the benefits payable.	
Management of PPF levy for 2012/13	There are material changes to the PPF levy regime for 2012/13. Check the impact and investigate whether the cost/benefit ratio of levy mitigation actions has changed. Allow sufficient time to meet the end of March deadlines.	A new requirement is that PPF guarantees must now be certified by the trustees. The D&B scores are now reviewed monthly and cliff edges in the calculation mean that small changes can have a large impact. Schemes larger than £1.5bn also have to carry out bespoke stress calculations for investment risk, for smaller schemes it is optional.	
Reduced Lifetime Allowance from 6 April 2012	Contact members likely to be affected to find if they have registered for Fixed Protection – if they have, make sure this will not be lost accidentally; if they have not, provide information about doing so.	Members are able to register for 'Fixed Protection' before the reduction in the Lifetime Allowance takes effect. Fixed Protection will (broadly) negate this reduction. However, there are several ways this can be lost inadvertently.	
Annual Allowance information requirements	Decide process for responding to information requests from members whose benefits may have increased by more than the Annual Allowance.	Although the first deadline for mandatory 2011/12 reporting is 6 October 2013, in practice, trustees should check now that the necessary data will be available when needed.	
New definition of 'money purchase benefits'	Check for the potential impact of the new statutory definition introduced by the Pensions Act 2011.	If the money purchase arrangements offer guarantees, there is a risk that benefits that were previously thought to be money purchase must be treated as defined benefit.	

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Abolition of DC-based contracting-out from April 2012	DB schemes contracted-out on a money purchase basis will need to change from April 2012.	Information has to be provided by trustees to affected members, so you must act now to complete the process.	
Pensions Regulator guidance and targets for record-keeping	Understand the Regulator's requirements and decide what needs to be done by December 2012. Put in place a plan to address known issues.	The Regulator is moving from education to enforcement. Ultimately, better data will help schemes, even if the current timing to resolve issues is a challenge for some.	

Depending on the circumstances, the following areas may be less urgent to address, but should be kept on an action list to consider.

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Scheme funding	Consider obtaining an updated assessment of your scheme's financial position. Consider whether an 'out of cycle' valuation is needed.	The impact of market changes since the summer may have led to a significant deterioration in the funding position.	
Investment strategy	Are there diversification opportunities available which could result in better returns and the removal of investment risks?	Understanding the sponsor's risk tolerance and longer-term objectives remains important.	
DC benefits	Consider whether your scheme is fit for purpose. Does your employer intend to use it to meet the auto-enrolment requirements?	DC is rapidly becoming the main form of UK pension provision and the Regulator's focus on this area is growing.	
Scheme de-risking	If there is a long term objective of de-risking through buy-in and buy-out, consider putting monitoring in place to make sure opportunities are not missed.	Prices currently available from insurers reflect increased appetite in the market for pensioner buy-in transactions.	
Covenant	The economic uncertainty highlights the reliance on company support and the need to monitor it.	Early engagement with employers can be crucial to protect members' interests.	

The individual circumstances of your scheme will mean that some of the items above may not apply or there are other critical steps you need to take. Lane Clark & Peacock LLP can take no responsibility nor accept any liability for your use of this checklist without seeking specific advice.

LCP is a firm of financial, actuarial and business consultants, specialising in the areas of pensions, investment, insurance and business analytics.

Lane Clark & Peacock LLP
London, UK
Tel: +44 (0)20 7439 2266
enquiries@lcp.uk.com

Lane Clark & Peacock LLP
Winchester, UK
Tel: +44 (0)1962 870060
enquiries@lcp.uk.com

Lane Clark & Peacock Belgium CVBA
Brussels, Belgium
Tel: +32 (0)2 761 45 45
info@lcpbe.com

Lane Clark & Peacock Ireland Limited
Dublin, Ireland
Tel: +353 (0)1 614 43 93
enquiries@lcpireland.com

Lane Clark & Peacock Netherlands B.V.
Utrecht, Netherlands
Tel: +31 (0)30 256 76 30
info@lcpnl.com

LCP Libera AG
Zürich, Switzerland
Tel: +41 (0)43 817 73 00
info@libera.ch

LCP Libera AG
Basel, Switzerland
Tel: +41 (0)61 205 74 00
info@libera.ch

LCP Asalis AG
Zürich, Switzerland
Tel: +41 (0)43 344 42 10
info@asalis.ch

Lane Clark & Peacock UAE
Abu Dhabi, UAE
Tel: +971 (0)2 658 7671
info@lcpgcc.com

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