# Guidance from the Pensions Regulator on DB scheme funding and investment

## Overview

On 27 March, the Pensions Regulator (TPR) provided guidance "designed to support trustees facing difficult decisions and circumstances" in the current COVID-19 crisis.

The key areas addressed in the Regulator's guidance are:
- schemes completing their valuation now,
- employer requests for "easements", both in respect of deficit reduction contributions and future service ones,
- investments, and
- cash equivalent transfer values.

Broadly, the Regulator is not authorising, encouraging or compelling a particular course of action. Instead, it is highlighting some good practice ideas and outlining its current "easements" in response to legislative breaches or trustee actions.

To be clear, the Pensions Regulator is not suspending legislation during this period. Trustees will still need to report any legislative breaches such as contributions not being paid in line with the Schedule of Contributions.

The Regulator's easements summarised in this note will be maintained for three months until 30 June 2020. This timescale will be reviewed in light of future developments.

The following is only a summary of the TPR's guidance so please do speak to your Deloitte consultant for more details.

**What does this latest guidance mean for DB pension trustees?**

Although legislative breaches which could arise from following TPR's latest guidance must still be reported to the Pensions Regulator, the Regulator has stated that it will not use its enforcement powers in respect of any such breaches during this time.

However, before agreeing to any course of action, trustees should ensure they seek appropriate advice. This could be advice in respect of covenant or legal issues, in addition to working with their regular advisers such as the scheme actuary. Such advice should not be a one-off but should be ongoing throughout the affected period.

Trustees should ensure that the board, including any sub-committees, remain quorate and operating in line with their remit and any integrated risk management policies. Alternative governance structures may be introduced if more appropriate. Trustees should be particularly aware of any conflicts of interest on the trustees board.

Finally, trustees should be prepared to support any decisions with a full audit trail which could be shared with the Pensions Regulator.

| Area | Summary of new TPR Guidance |
|---|---|
| **Schemes completing their valuation now** | TPR does NOT require the valuation assumptions to be revisited, although trustees may do so. Trustees do not need to allow for post valuation date experience in their recovery plan. Trustees should consider if the proposed recovery plan remains affordable by the employer, including considering any recent requests by the employer.<br><br>The valuation submission to the Regulator can be delayed by up to three months. |
| **Requests to suspend or reduce deficit reduction contributions (DRCs)** | Corporate sponsors may wish to revisit existing schedules of contributions, and trustees should consider how they might respond to any such requests. Time constraints may make it difficult for trustees to fully analyse an employer's request, and for an employer to provide detailed evidence to support their request. If so, trustees can still agree to a short-term change of up to three months, but the employer should commit to providing trustees with all the evidence the trustees need.<br><br>Employers will have to provide legally binding commitments not to provide any shareholder return such as dividends, or taking other actions which reduce the employer covenant. Trustees should also consider equitability of treatment with other creditors. It is unlikely trustees could agree to security (e.g. contingent assets) being released as this is unlikely to be in members' best interests, although trustees may wish to consider such as request. This is all particularly important where DRCs falling due in the suspension period are significant.<br><br>Trustees should ensure they continue to monitor relevant factors during the suspension period. They should also ensure that agreeing to suspension or reduction of contributions does not have any adverse consequences due to the scheme rules, e.g. by inadvertently triggering the scheme wind-up.<br><br>These easements are deferrals only, and any contributions so deferred should be made good within the current recovery plan timeframe. |

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| **Future service contributions** | The same principles apply for future service contributions as for DRCs (see previous page). Trustees should check whether any rule changes would be needed to accommodate this.<br><br>TPR believes it is unlikely that pausing or ceasing future accrual is likely to be an appropriate option, but trustees may wish to confirm this with their legal advisers.. |
| **Investments** | Trustees should consider the following:<br>• how cash outflows (e.g. pension payments) over the short term will be met,<br>• possible short-term variations in cash outflows (for example, arising from early retirements or deaths),<br>• changes to short term cash inflows such as deficit recovery contributions, and<br>• whether the investment strategy should be refined. |
| **Transfer values** | Trustees should be aware of the heightened risk of scams, whether the current CETV basis remains appropriate, and whether CETVs provide an additional administration pressure. Trustees may wish to review other factors such as cash commutation and early retirement terms.<br><br>Trustees may decide to suspend CETV processes for up to three month. |

**Deloitte perspective**

At a challenging time for pension scheme trustees and employers, the Pensions Regulator has provided useful guidance on how trustees can address some of the immediate challenges presented.

Trustees should be prepared to work closely with the scheme sponsor if they are to agree to any changes in contributions payable over the next few months. Trustees are likely to need relevant information from sponsors before agreeing to any changes.  Likewise, sponsors may need some time to prepare the information needed, at a time when there are many other demands on management time.

Any decisions made by trustees should be appropriately documented. The earlier trustees and sponsors engage in this process, the more likely an appropriate solution will be agreed.

**Get in touch**

Deloitte's experienced pension professionals, employer covenant adviser and restructuring specialists combine into a powerful team to help trustees and employers navigate through the complex pension steps and stakeholder discussions required. If you would like to discuss these issues further, feel free to get in touch with our specialists or your usual Deloitte contact.

**Paul Geeson**
Tel: +44 20 7303 0878
Email: pgeeson@deloitte.co.uk

**Tony Clare**
Tel: +44 161 455 8392
Email: tclare@deloitte.co.uk

**Richard Jarvis**
Tel: +44 113 292 1619
Email: rijarvis@deloitte.co.uk

**Matt Cowlishaw**
Tel: +44 121 695 5294
Email: mcowlishaw@deloitte.co.uk

**Tom Partridge**
Tel: +44 20 7007 4011
Email: tompartridge@deloitte.co.uk

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