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## “Trustees face climate change time bomb” say accountants



A new report from the Association of Chartered Certified Accountants and the Economic and Social Research Council, *Pension Fund Trustees and Climate Change*, says trustees ignore the impact of climate change on their pension funds at their peril.

This is the first study to address pension fund trustees’ attitudes to climate change and its impact on pension fund investment. It comes at a time when the latest scientific evidence shows that the speed and impact of climate change is now far

greater than previously anticipated and requires a global response.

The author of the research, Professor Jill Solomon from King’s College London, said: “As individuals the trustees were not complacent about climate change but they simply did not appreciate the links between climate change and the performance of their pension funds.”

Professor Solomon continued: “Pensions are among the most significant consumer products and investments purchased by society.

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## Editorial

Welcome to the December issue of member trustee news, with apologies for the rather longer than normal interval since the last edition.

It has been a busy period, as always, in the pensions world; while, thankfully, there has been a bit of a respite from new regulation, the financial context has continued to be extremely volatile, and there has been no let up in the bad news stories of scheme closures. More and more trustees are finding for themselves that running a closed DB scheme together with a live DC section can bring many new challenges, and effectively double the trustee workload.

I would love to know what you think of this newsletter. Is it useful, or just another piece in the flood of pensions information that comes your way? Any comments welcome, to the contact email/phone number shown on the front cover.

And finally, a date for your diary: the TUC's Northern Pensions Conference will take place on 25–26 June 2010.

**Fiona Draper**



**Best wishes for 2010  
to you, your families  
and your scheme members**



## Climate change

> continued from page 1

Protecting pensions against material financial risk is crucial to society's future welfare. Trustees are in a unique position, with significant power. Climate change is a critical issue which requires immediate attention from the pension fund community."

The report offers a series of policy recommendations, including:

- a code of practice on climate change for trustees
- more training within the investment community about the risks and opportunities arising from climate change
- raising the awareness of pension fund members
- more engagement between trustees and their fund managers on climate change issues
- the composition of trustee boards should reflect not just short-term but also long-term interests, with an appropriate mix of senior and more junior members of the pension fund.

Another recent report from Fair Pensions found that fund managers blamed trustee apathy for their inaction on climate change risks.

The report, *Preparing for the Storm?*, says managers are giving "lack of client demand" as a reason for doing nothing.

Fair Pensions surveyed 39 of the UK's largest fund management companies and found that almost 90 per cent of fund managers consider climate change as an important investment issue. But lack of demand from their clients – including many pension schemes – and insufficient data is stopping them from doing much to manage climate change risks.

"Climate change and the regulatory efforts to reduce it are now certain to have serious impacts on companies and their investors," commented Duncan Exley, campaigns director at Fair Pensions. "Our research shows that there is good practice by some fund managers – but fund managers' clients and their advisors need to be assertive about their interests and be aware that all fund managers are not the same."

The reports can be downloaded from [www.accaglobal.com/general/activities/research/reports/sustainable\\_and\\_transparent/rr\\_106](http://www.accaglobal.com/general/activities/research/reports/sustainable_and_transparent/rr_106) and [www.fairpensions.org.uk](http://www.fairpensions.org.uk)

# Pensions at TUC Congress

**A composite motion – incorporating motions from GMB, UNISON and six other unions – was carried at Congress this year.**

The full text is too long to include here, but can be found at [www.tuc.org.uk/congress](http://www.tuc.org.uk/congress). The actions called for by the motion included the following:

“Congress calls on the General Council to:

- i) mount a properly resourced, coordinated campaign to promote and defend good quality defined benefit pension schemes
- ii) promote wider understanding of the critical role of occupational pension provision
- iv) lobby all major political parties on the critical importance of

maintaining existing occupational pension provision. The TUC must counter negative employer lobbying which exploits the current economic climate. It must also continue to rebut the argument that public sector provision should be levelled down to the standards increasingly seen in the private sector. Maintaining decent public sector provision is in the interests of all. The last thing Britain needs is a race to the bottom in pension provision

- v) lobby the Government and pensions regulators on the need to ensure that effective regulation is best achieved by balancing security in the short to medium term with the long term sustainability of decent quality defined benefit provision.

ix) highlight the savings to the

taxpayer from occupational pension saving and the cost generated by inadequate provision and increased reliance on state benefits

- x) explain the contribution to the economy made by funded schemes which invest billions in UK businesses
- xi) work to introduce regulatory changes to bring in 50 per cent member nominated representatives and trustees on occupational pension schemes. Scheme members must have a decisive voice in governance and direction of investment
- xii) challenge the hypocrisy of the pensions industry and politicians seeking to force workers to work longer and save for their retirement but refusing to guarantee secure and reliable means of doing so.



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# TUC research on pensions

A research pamphlet published by the TUC in September, *Decent Pensions for All*, highlights the cost of tax relief on pensions contributions. The cost of providing tax relief on pensions in 2007/8 was £37.6bn, according to HMRC figures. Tax relief is heavily skewed towards the better off: 60 per cent of tax relief goes to higher rate taxpayers, including 25 per cent – nearly £10bn a year – going to earners on more than £150,000 a year.

You can download the pamphlet from [www.tuc.org.uk/extras/decentpensionsforall.pdf](http://www.tuc.org.uk/extras/decentpensionsforall.pdf)

Other recent TUC research has

found a rapidly growing gap between directors' pensions and those of the workforce. The TUC's seventh annual PensionsWatch survey, which analyses the pension arrangements of 373 directors from 103 of the UK's top companies, shows that bosses have amassed pension pots worth an average of £3.4m, providing an average annual pension of £247,785 a year. The average directors' pension is now 30 times the amount of the average workplace pension (£8,320 a year), compared to 25 times last year.

The TUC is calling for greater clarity in the reporting of pensions, so that

shareholders are able to scrutinise directors' pension arrangements and ensure they are fair and reasonable.

The TUC believes that directors and employees should be members of the same pension schemes, and be offered the same terms. Companies should make clear any differential treatment for directors, which would make it easier for ordinary employees to see the pension arrangements of their bosses, says the report.

PensionsWatch 2009 is available to download from [www.tuc.org.uk/extras/PensionsWatch2009.pdf](http://www.tuc.org.uk/extras/PensionsWatch2009.pdf)

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## TUC submission to Walker review of bank governance

It can no longer be assumed that shareholders will act in the long-term interests of a company, says the TUC, because a growing proportion of UK-listed company shares are owned by short-term traders. According to ONS data, the proportion of UK companies owned by UK insurance and pension funds has fallen from 52 per cent in 1990 to just 27 per cent in 2006.

The submission calls for measures to distinguish long-term shareholders from short-term traders in terms of the governance of companies. These could include making right-to-vote shares conditional on a minimum ownership period and increasing the voting power of a share according to the length of ownership.

Greater long-term share ownership is necessary to ensure that shareholders have a genuine

interest in engaging with and influencing the decisions of the companies whose shares they own, says the TUC.

The TUC wants to see a fundamental re-think of remuneration policies and a new approach to filling non-executive director posts. The submission recommended:

- All non-executive director posts are publicly advertised.
- All directors should be elected on an annual basis.
- The Government should use its reserve power in the Companies Act to bring in mandatory voting disclosure for institutional investors.
- Bonuses and incentive pay should comprise no more than ten per cent of total pay.

- Incentive pay should be linked to long-term indicators that reflect stability, risk management and wider corporate goals, not just bald profit numbers.

The TUC submission to the Walker Review of Bank Governance is available at [www.tuc.org.uk/extras/walkerreviewsubmission.pdf](http://www.tuc.org.uk/extras/walkerreviewsubmission.pdf)

The Walker review recommendations were published on 26 November and can be found on [www.hm-treasury.gov.uk](http://www.hm-treasury.gov.uk)



## Ombudsman case reinforces guidance on proper use of discretion

The Pensions Ombudsman has again upheld a complaint because a pension provider failed to take all the relevant factors into consideration in the exercise of its discretion. The case was brought by two sons of a deceased member who were aggrieved that, despite them being the only nominated beneficiaries for the death benefits under their father's personal pension plan, the provider failed to pay all of the benefits under the policy to them. The member had completed an expression of wish form nominating his two adult sons for equal shares of the pension death benefits; his wife was provided for separately. The provider, however, awarded 50 per cent of the death benefits to the member's wife and 25 per cent each to his two sons.

The Ombudsman found that the way in which the decision was made amounted to maladministration and directed that the provider should reconsider it. He ruled that since the provider did not seek details of the member's sons' or his wife's financial circumstances, the decision was not made taking all material factors into account, and so the provider had not properly exercised its discretion.

## Children's pensions: easing of Finance Act restrictions

Under the Finance Act 2004, children's pensions could only be paid up to age 23, unless the child was dependent by reason of incapacity. This conflicted with many scheme rules, which allowed payment to a later date if the child was still in full time education. An amendment has now come into force which extends the transitional provisions in some cases where there is continuing financial dependency.

# New guide for trustees on how to deal with the media

PR consultants Penrose Financial have published a guide to dealing with the media for trustees. The guide – *Shaping Reputations... Making Connections* – explains how trustees can ensure that their views are fully and accurately represented in the media.

Penrose warns that journalists and other stakeholders are increasingly asking pension funds to justify their investment strategies. Occasions when journalists are likely to be in contact are on the announcement of the poor performance of a scheme, or if there's been a change in policy on asset allocation. "You may wonder why you should bother

taking the call. There are numerous reasons but, in general, if a story is going to be written anyway, it is better to respond directly," it advises.

There's also a useful 'dos and don'ts' section, and advice on building up a good working relationship with key journalists, and what to do in crisis situations, or when there are disagreements between trustees and sponsoring

employer. The guide can be downloaded from [www.penrose.co.uk](http://www.penrose.co.uk) via the "pension fund trustee guide" icon.



# Responsible investment briefs

## UNPRI has delisted 5 signatories – but gained 93

Five financial institutions were delisted as signatories from the UN Principles for Responsible Investment Initiative (PRI) in August for not participating in the Initiative's annual reporting and assessment process. Participation in the annual survey is mandatory for asset owner and investment manager signatories. There were 93 new signatories this year: you can find out whether your fund managers and advisers are signatories by checking the list at [www.unpri.org/signatories](http://www.unpri.org/signatories). There are now 573 signatories to the PRI, including 182 asset owners, and 282 investment managers.

## FSA to allow collaboration between activist investors

Investors can work together to change a corporate board's behaviour without fear of breaching market-abuse rules, the FSA said in August. The regulator confirmed that collaboration would not be deemed market abuse as long as it was restricted to "ad hoc discussions between investors on particular corporate issues". The FSA's statement can be found in the library section of their website [www.fsa.gov.uk](http://www.fsa.gov.uk)

## Shareholder voting is on the way up

Shareholders in the UK are increasingly making their voices heard at FTSE100 firms by voting at annual meetings, says Manifest Research. In the year to 31 July 2009, votes were cast by more than 67 per cent of investors, compared with 53 per cent in 2002–3.

## ESG considerations a legal requirement for trustees

A report by the United Nations Environment Programme (UNEP) published in July, *Fiduciary Responsibility: Legal and Practical Aspects of Integrating Environmental, Social and Governance Issues into Institutional Investment* argues that if investment consultants and others do not incorporate environmental, social and governance (ESG) considerations into their services, they face "a very real risk that they will be sued for negligence."

Fiduciary law expert Paul Watchman, one of two main contributors to the report, explained the implications for trustees. "It is necessary for investment management agreements to use ESG language in order to clarify the expectations of the parties to the contract. In particular, it is important that it is made absolutely clear to beneficiaries, pension fund

trustees and asset managers that ESG is regarded as a mainstream investment consideration."

The report can be downloaded from [www.unepfi.org](http://www.unepfi.org)

## Mercer study shows ESG has positive effect on investment returns

ESG factors can have a positive impact on portfolio returns, according to a growing body of academic research, says investment consultant Mercer. *Shedding Light on Responsible Investment: Approaches, Returns and Impacts* summarises and comments on 16 peer-reviewed academic studies – the majority of which show a positive relationship between ESG factors and companies' financial performance. Only two showed a neutral-to-negative relationship, while four were neutral.

"The idea that responsible investment does not have to come at a cost to performance is becoming well established in the institutional investment industry. In fact, the *Shedding Light* report further builds the already strong case that considering ESG factors can add real and measurable value to an investment portfolio," say Mercer.

The report, and other ESG information, can be downloaded from [www.mercer.com/ri](http://www.mercer.com/ri)

# Round up from the Regulator



The Pensions Regulator (TPR) has announced a number of new initiatives and publications over the past few months.

## Defined contribution

As part of an ongoing campaign focused on addressing the risks facing DC scheme members, TPR and the FSA have jointly published a *Guide for Employers: Talking to your Employees About Pensions*. While this is aimed at employers, it is also a useful reminder for trustees of occupational DC schemes about how far they can go in giving information (but not advice) to their members. The guide can be found in the guidance for employers section of TPR's website, [www.thepensionsregulator.gov.uk](http://www.thepensionsregulator.gov.uk)

The Regulator has also published results of a survey of pre-retirement literature provided to members of DC trust-based schemes. Material from 97 schemes was assessed on adherence with legislative requirements, good practice in areas such as the description and prominence of the open market option (i.e. the member's right to buy a pension from a different provider), and the use of plain English. The review has highlighted that levels of compliance and good practice vary widely across the DC market. More than half the schemes surveyed left room for improvement, whilst a third were in breach of disclosure requirements.

The report can be found at [www.thepensionsregulator.gov.uk/pdf/RetirementInfoDCMembers.pdf](http://www.thepensionsregulator.gov.uk/pdf/RetirementInfoDCMembers.pdf)

## Scheme governance

The Regulator launched in November a campaign aimed at encouraging good governance and administration and better management of pension scheme risks.

As part of this campaign, TPR has published for consultation revised internal controls guidance, alongside new 'bite-sized' e-learning modules which provide an overview of the topic.

The new guidance aims to ensure that trustees, especially of smaller schemes, have the tools to perform their critical role in protecting pensions, particularly in the current economic climate.

The implementation of robust internal controls is a legal requirement for trustees and failure to put processes in place can result in scheme members being exposed to a number of risks. The revised guidance, which provides assistance with key governance areas like trustee knowledge and understanding, conflicts of interest, record keeping, employer covenant, and investment, applies to all schemes but pays particular attention to trustees of smaller schemes where there is a recognised need for greater support.

Both the e-learning modules and the guidance reinforce the key message in the code of practice – that trustees must have processes in place to identify and manage the most critical risks in their scheme.

The draft revised guidance will replace the existing guidance and should be read in conjunction with the code of practice on internal controls. Responses to the consultation should be submitted by 1 March 2010.

## Actuaries: new guidance

The Financial Reporting Council has updated its guidance for users of actuarial services: *Challenges for Users of Actuarial Information Arising from Current Market Conditions, 2009 Update* includes a number of useful questions that trustees should pose to their actuaries, such as:

- Do you have the right models in place to enable you to examine the impacts of actuarial assumptions and adverse circumstances? Are the methods that are used robust, particularly in the light of recent events?
- How extreme are any scenarios that have been analysed? Has the probability of the scenarios been assessed?
- Do the scenarios cover the full range of adverse effects on the business or pension scheme? Has the range of plausible scenarios been revisited in the light of recent events?
- Do they allow for two or more separate adverse events to occur simultaneously?

The guidance can be downloaded from [www.frc.org.uk](http://www.frc.org.uk)



Under the Pensions Act 2008, from 2012, employers will be required to enrol employees automatically into a qualifying workplace pension scheme (i.e. a scheme which meets the requirements under the Act) and make a minimum contribution of 3 per cent of pay to an employee's pension scheme.

TPR will be responsible for making sure employers comply with these duties. Employers will have the option of using their own workplace scheme as the vehicle for auto enrolment, or may use Personal Accounts, the new national pension arrangement.

The decision on whether to use an existing scheme as their qualifying workplace pension scheme is one for the employer to make. However, if the employer decides to use an existing occupational scheme, DB or DC, for some or all of their employees who are not currently scheme members, the trustees will need to work with the employer and the scheme administrators both to review the scheme rules, but also to overhaul processes to ensure that the requirements of auto-enrolment (including the need regularly to re-enroll employees who have opted out) can be met in practice.

## Heyday past for default retirement age

Yet another court case has upheld the legality of the UK's current default retirement age (DRA) of 65 while at the same time it has surely driven a further nail in its coffin.

On 25 September the High Court gave its ruling on the Heyday case. The court concluded that the exemption in UK age discrimination law allowing employers to retire employees against their wishes does not infringe EU law. This leaves employers for the moment free to continue to dismiss employees who have reached age 65 (or the normal retirement age for the job, if that is older) provided that they adhere to procedure scrupulously. However, Justice Blake, while upholding the current law, stated that there was now a "compelling" case for setting the age higher than 65. In his judgment he stated: "I cannot presently see how 65 could remain as a DRA after the [Government's] review



[of the operation of the default retirement age]."

This review was originally scheduled by the Government for 2011 but has been brought forward to 2010. The Government has called for evidence from employers by 1 February on the following:

- the operation of the DRA in practice
- the reasons that businesses use mandatory retirement ages
- the impact on businesses, individuals and the economy of raising [or removing] the DRA

- the experience of businesses operating without a DRA
- how any costs of raising or removing the DRA could be mitigated and benefits realised.

Minister for Pensions and the Ageing Society, Angela Eagle MP, said: "As people live and work longer, it's sensible we debate what works for both business and individuals. The laws around employment and retirement need to reflect changes in economic and social circumstances."

With the drift of the legal rulings and public opinion it seems likely that the nub of the review is hinted at in the third bullet point above: should the DRA be raised or removed? Either course of action will have ramifications for pension schemes, increasing the likelihood that more members might choose to take their benefits later rather than sooner.