

# Industry Update – IORP II

## Background

Earlier this year, a new European Pensions Directive came into force. The Directive covers the activities and supervision of Institutions for Occupational Retirement Provisions (“IORPs”). For UK purposes, this broadly encompasses employer funded occupational pension schemes, both defined benefit and defined contribution types.

## Main Provisions

The overarching aim of the new Directive is to harmonise the activities and supervision of IORPs across member states with the overall aim of better protecting the benefits of members and beneficiaries. This is to be achieved over three key areas:

- i) Governance
- ii) Risk Management
- iii) Disclosure

### i) Governance

Schemes will be required to have in place *“an effective system of governance which provides for sound and prudent management”*. It is envisaged that written policies will be in place, which are approved and reviewed at least every three years. The governance system should be *“proportionate to the size, nature, scale and complexity”* of the scheme. In addition, those persons involved in the scheme management will be required to be *“fit and proper”*.

### ii) Risk Management

Schemes will be required to appoint firms or individuals to undertake three key roles covering Risk Management, Internal Audit and Actuarial. Such appointments may be from within the existing trustee board or an external appointment. The holder of such appointment will be required to inform the local supervisory body of any material failing. Schemes will also be required to have a remuneration policy for all those involved in the operation of the scheme and an *“own risk assessment”* report

### iii) Disclosure

Schemes will be required to provide specific information to existing and prospective scheme members. Central to this is what is termed the *“Pension Benefit Statement”* which it is envisaged would be issued on an annual basis to all scheme members. This would include deferred and current scheme pensioners, which is a significant departure from current UK legislation.

The new Directive is principles based. It is left up to each Member State to determine how best to translate these principles into local regulations and how these principles may interact with any existing laws and regulations.



## Timescales and Brexit

Member States have until January 2019 to bring the new Directive into local regulations.

The UK Government triggered Article 50 on 29 March 2017, which started the two-year time limit for the UK to negotiate its terms of withdrawal from the EU. Potentially this would leave a relatively short window during which the new Directive would be in operation, albeit that continued access to the single-market may mean the Government is obliged to continue to comply with various parts of EU legislation.

## Comment

The overall aims of the new Directive are to be welcomed. However, there is already significant UK legislation in place to achieve this. Indeed, many of the requirements under the new Directive may already be considered best practice, especially for larger trustee boards with an independent trustee.

The timing of the new Directive is unfortunate and it will be interesting to see what, if anything, the UK government does about bringing this onto the UK statute books. Given the forthcoming Brexit negotiations and the uncertainty around what our relationship with Europe will look like in the future, we would not suggest that any immediate action is required by trustees and sponsors, other than to maintain a watching brief.

Many of the issues covered by the new Directive are, or are likely to be, on the radar of The Pensions Regulator. For trustee boards that do not already have robust governance and risk management procedures in place, this is perhaps a reminder that a review of current procedures may be timely.

If you would like to discuss this further, please get in touch with your usual contact at Cartwright.

April 2017

Mill Pool House  
Mill Lane  
Godalming  
Surrey GU7 1EY

250 Fowler Avenue  
Farnborough Business Park  
Farnborough  
Hampshire GU14 7JP

Marlborough House  
Victoria Road South  
Chelmsford  
Essex CM1 1LN

The Mansley Business Centre  
Timothys Bridge Road  
Stratford Enterprise Park  
Stratford-upon-Avon  
CV37 9NQ

T: 01483 860201

T: 01252 894883

T: 01245 293300

T: 01245 293300

E: [enquiries@cartwright.co.uk](mailto:enquiries@cartwright.co.uk)

E: [enquiries@cartwright.co.uk](mailto:enquiries@cartwright.co.uk)

E: [enquiries@cartwright.co.uk](mailto:enquiries@cartwright.co.uk)

E: [enquiries@cartwright.co.uk](mailto:enquiries@cartwright.co.uk)

