

# Suspending DB pension contributions

## A 10-step guide for trustees

The speed and scale of the COVID-19 crisis has had a severe impact on the economy and businesses around the globe. Understandably, this means some employers may be looking for short term relief from pension contributions. However, whilst the latest guidance from The Pensions Regulator (TPR)<sup>1</sup> acknowledges that suspending contributions may be appropriate in some situations, trustees are still expected to fully consider all requests and the implications on members' benefits.

Our 10-step guide outlines the key actions for trustees to consider:

1. **Compose a legally binding commitment stating that no dividends, or other forms of shareholder returns, will be made while contributions are suspended.** The scheme should be treated fairly, compared to other stakeholders, and the employer should be taking steps to negotiate payment suspensions with a range of creditors.
2. **Suspend/reduce contributions for as short a period as possible.** The guidance indicates that initial requests to defer contributions should be for no longer than three months, especially when the employer needs more time to gather the necessary information to fully assess the scheme's position.
3. **Ensure you have enough information to properly consider the drivers for the employer's request.** Consider how the impact of the virus, and the measures to contain it, may affect demand, supply (staff and resources) and cashflow. Also consider how the employer is planning for, and measuring, the impact of the current downturn on their business. Find out if there is any more secured debt being raised at the same time. Longer suspensions should only be granted when sufficient covenant visibility is available.
4. **Have a convincing case that stopping contributions temporarily will support the employer's ongoing viability.** If the request is indicative of a deeper problem or imminent risk of insolvency, the trustees will need to consider whether further de-risking action is required to protect members' interests.
5. **Get legal advice to confirm you have the power to do this.** Ensure that this will not cause any unintentional consequences, such as missed payments accidentally triggering scheme wind-up.

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<sup>1</sup> <https://www.thepensionsregulator.gov.uk/en/covid-19-coronavirus-what-you-need-to-consider/db-scheme-funding-and-investment-covid-19-guidance-for-trustees>

6. **Consider materiality – missed contributions should be paid within the length of the existing recovery period.** Assess the impact of recent market moves and ensure the timing of repayment will not affect the scheme's overall funding. Secure repayment before dividends recommence and adjust future repayments to maintain the total value of contributions received by the scheme if needed. Care should be taken if lump sum contributions in the proposed suspension period are substantial. It may be more reasonable for the payments to be reduced/spread rather than deferred.
7. **Consider the availability of additional protections/security.** Consider alternative forms of covenant support, such as additional security, non-cash funding or negative pledges. For example, if any additional debt is being secured over employer assets. Over longer periods include triggers to restart payments sooner, if conditions return to normal.
8. **Record all decisions carefully.** The schedule of contributions could be amended, or alternatively, you could agree temporarily not to pursue the employer for late/non-payment of contributions.
9. **Review/manage impact on short term cashflow needs.** Suspending contributions may put increased emphasis on ensuring sufficient liquidity. A plan should be in place to meet cashflow needs arising over the next few months, and where possible to avoid making disinvestments from assets which may have fallen in value.
10. **Have access to timely, relevant covenant information for ongoing monitoring.** This will enable actions to be taken as quickly as possible. Things may change materially over a short period of time, particularly in the current environment. Agree frequency and format.

Ultimately, it'll be in the long-term interests of all parties to reach an agreement and for trustees to support their sponsor through a difficult (but hopefully temporary!) situation. However, the impact of the virus, and the measures to contain it, will be different for every business. Both trustees and TPR will be keen to ensure these flexibilities are not used by employers to put off contributions which they could still afford, putting members' benefits at unnecessary risk.

If you would like further information on this or how it may impact your scheme, please don't hesitate to get in touch.

