

DC briefing

July 2015

Highlighting the latest developments in DC for trustees and employers



Introduction

It has been a busy few months but we now have all the DC pension freedoms (not to mention the minimum governance standards and the default fund charges cap) in force. Schemes are starting to bed down their new systems and processes and are really getting to grips with the new requirements.

Continuing with the theme of change, the General Election has given us a new Pensions Minister. While Baroness Altmann is a (very) familiar face for the industry, it remains to be seen how she will act now she really has the power to make changes. Will she continue with the plans of the previous administration or does she have her own ideas? She has already made clear that she does not intend savers' rights to be forfeited in the interests of the industry. Given the increasing concern over pensions scams, particularly in the light of the new DC pension freedoms, this seems a sensible starting point for DWP policy. However, it will be interesting to see how the tension between protection and HM Treasury's desire for people to be able to access the new options easily will be resolved. Will there be yet more changes to legislation? It seems likely, but we will have to wait and see!

Four key DC issues

Time to check your scheme's administration

While the trustees are ultimately responsible for a scheme, most of the day-to-day work will be undertaken by the scheme's administrators and, to some extent, payroll providers and employers. This means a key aspect of the trustees' role is to keep their administrators' and other third parties' performance under review.

While this has always been the case, the need to address administration has been brought into focus for DC schemes by the new minimum governance standards. Trustees are now required to ensure that core financial transactions are processed promptly and accurately. They must also describe in their annual governance statement how this has been achieved.

Besides checking service levels for their efficiency (the most obvious one being for investment of contributions), trustees also need to ensure that their administrators have been processing transactions accurately.

Now would be a good time to dust off any old agreements that are in need of a refresh (especially in the light of the new retirement options). Check their requirements for evidence of compliance and delivery of membership information; all important features in the post-April 2015 era.

Four key DC issues cont.

Can split default strategies work in practice?

Split default strategies seem an attractive way to accommodate different investment needs across a workforce. But as increasing numbers of people join DC schemes and benefit options become more flexible, can they really work?

Having only one default strategy can help trustees focus their energies. Given the broad array of member options now available, trustees need more than ever to concentrate on communicating with members and encouraging them to really engage and make choices which suit them.

Spiralling DC membership makes it extremely difficult for trustees to second guess individuals' needs and savings outcomes. The new DC pension freedoms, which bring an increased number of benefit options, makes choosing a "default" a more complicated decision than before.

Another variable for trustees to grapple with is the change in retirement age. State Pension Age is slowly increasing from 65 to 68 and more members are choosing to work beyond what would have been their traditional retirement date. This means a lifestyle strategy which "cashes" a member out at age 65 is unlikely to remain appropriate for the majority. Again, getting members engaged is key; only they know when they plan to retire.

Given the number of new legislative and regulatory requirements in relation to monitoring and reviewing default arrangements, as well as the cap on charges for DC auto-enrolment schemes, a single default is likely to lessen the load for trustees, leaving them with more time to spend on alternative investment funds and strategies.

It may be that split default strategies, like everything else in the DC market, evolve to meet changing demands. But if your scheme doesn't have them already, you might want to consider carefully before introducing them just now.

Preparing for the chair's annual governance statement

New minimum governance standards for DC schemes came into force on 6 April 2015. Trustees are now required to include an annual statement regarding governance in the scheme's annual report and accounts describing how these requirements have been met. The statement is due within seven months of the scheme's year end and must be signed by the chair on behalf of the trustees.

Among other matters, trustees must report the level (or range) of charges and transaction costs in the default arrangement(s), the range of costs and charges in other funds and the trustees' assessment of the extent to which the charges represent "good value". Like TPR's "value for money", "good value" is not defined. This means trustees

will need to develop their own assessment process. For further information please see our [DC briefing \(March 2015\)](#).

Trustees need to prepare a plan of action for gathering the necessary information to complete the chair's statement. The specific timetable will be dictated by the scheme's year end. Any work which has already been done on assessing the scheme against TPR's quality features will be useful.

It is still open to schemes to publish a voluntary annual statement explaining how they comply with TPR's DC code and regulatory guidance, but this is not (and has never been) a legal requirement.

Re-enrolment – the same but different!

The auto-enrolment focus has moved to smaller employers who have not yet reached their staging dates. But for larger employers, re-enrolment dates are coming around fast.

While it is true that, for the most part, the same rules apply at re-enrolment as they did at auto-enrolment, it is worth remembering that there is some flexibility built into the re-enrolment process. For example, employers need not be bound by a date exactly three years from their original staging date – they can choose a re-enrolment date during a window three months before and three months after that three year anniversary, which might fit in better with business plans. Future re-enrolment dates (and the three month window either side) will be tagged to that revised date.

There is also flexibility around who must be re-enrolled. Since this April, employers have the option not to re-enrol any jobholder who opted out of pension saving in the 12 months prior to the re-enrolment date. Previously the re-enrolment duty had simply been "turned off" in these circumstances, but now the employer can take a view on whether it wants to bring recent opter-outs back into pension saving.

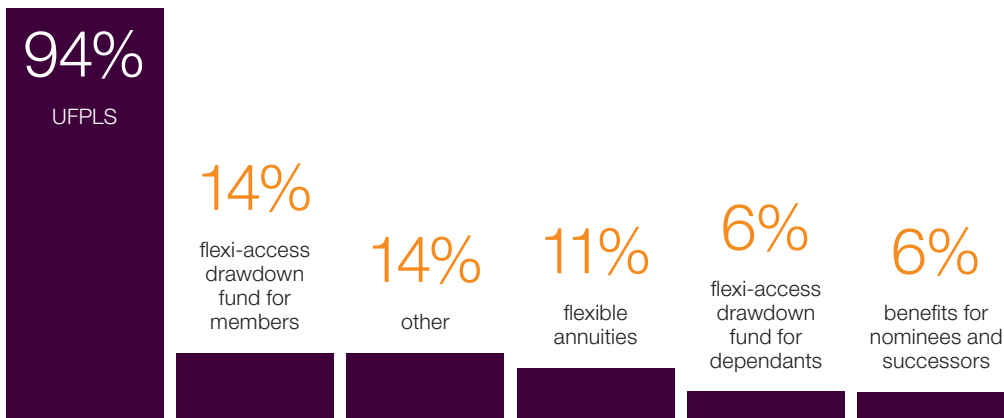
And what if an employer approaching re-enrolment has "reasonable grounds to believe" that a form of pensions tax protection applies to a jobholder? In this case the employer will again have the option of excluding that jobholder from re-enrolment (and indeed auto-enrolment), which should help mitigate the risk of accidental loss of tax protection through auto-enrolment.

Spotlight: new flexibilities in practice

We asked more than 50 of the UK's top pension schemes how they are responding to the new flexibilities which came into force on 6 April 2015. This is what they told us.

Which flexibilities will you be offering?

Two thirds of the schemes we talked to will be offering members the chance to access some of the new flexibilities. The most popular flexibility by far is the uncrystallised funds pension lump sum (UFPLS), with only 14% intending to provide flexi-access drawdown.



Our response

It's not surprising that schemes are opting for the cash lump sum since it is the least disruptive to existing arrangements. Even deciding to offer this flexibility has caused many schemes to take another look at their investment options and see whether the default strategy is still appropriate.



What are the greatest challenges for your scheme?



Our response

The challenge for trustees and employers is how to make communications as effective as possible yet still comply with the requirements. It's a very difficult balance. They cannot give financial advice, but nor do they want members to lose out on valuable benefits by transferring to pension scam vehicles.



Conclusion

Of course, it's still very early days for the pension reforms and most of our clients are opting to let the dust settle and see how the market evolves. Small steps rather than giant leaps seem to be the most popular way forward for now. As member experience and market innovation develop over the next few months, we could see a more rapid acceleration of change in the future.

Contact

Sackers is the leading law firm for pension scheme trustees and employers. Over fifty lawyers focus on pensions and its related areas, including our DC experts who provide practical and specialist help on all aspects of DC schemes. For more information on any of the articles in this briefing, please get in touch with Helen Ball, Faith Dickson or your usual Sackers contact.



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Upcoming seminars & events



We offer an extensive programme of workshops, seminars and trustee training specifically on DC issues and developments. If you would like to attend any of our events, please contact us at events@sackers.com or visit www.sackers.com.

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| Quarterly legal update | 16/07/2015 | Breakfast seminar (9.00am – 10.30am) The latest legal and regulatory developments in the pensions world. |
| Employer forum | 08/10/2015 | Evening seminar (5.30pm – 7.30pm) A forum designed to allow pension scheme employers to discuss key issues affecting their pension arrangements. |
| DC seminar | 05/11/2015 | Breakfast seminar (9.00am – 10.30am) Aimed at trustees and employers of schemes with DC benefits, this seminar will focus on the practical implications of the new pension reforms, including governance and tax issues. |
| Quarterly legal update | 12/11/2015 | Breakfast seminar (9.00am – 10.30am) The latest legal and regulatory developments in the pension world. |

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