

## DC briefing

March 2017

Highlighting the latest developments in DC for trustees, employers and providers



## The time has come to talk of many things...

In the world of DC pensions, a common understanding can be very helpful whenever trustees and employers begin big new projects (such as moving to a master trust or changing their scheme administrator) or if they wish to change their scheme's investment strategy and communication plan.

This DC briefing pulls together some of the most common issues we are being asked about by both trustees and employers. It includes developments in DC governance, master trusts and bulk transfer requirements.

In our spotlight section, we also focus on the key questions that trustees should be thinking about in terms of costs and charges, which have featured heavily in the pensions press in recent weeks.

So there is plenty to talk about over the next few months....

## 21st Century Trusteeship and Governance

TPR recently asked for views on a range of methods for ensuring that trustees can acquire and maintain sufficient knowledge and understanding ("TKU") and demonstrate that they are competent to fulfil their role.

The consensus was that good governance is essential to pension schemes delivering good member outcomes and there was strong support for the improvement of standards. However, there was no appetite to introduce minimum qualifications or any formal training framework for trustees at this time.

Instead, TPR will go "back to basics", by focusing on the fundamentals of good governance and making clear the standards it expects, in particular, of chairs and professional trustees.

TPR has identified several key areas which trustees are finding challenging, or are not sufficiently engaging with. They include:

- investment governance
- conflicts of interest
- administration
- record-keeping.

Trustees should:

- revisit the above areas of scheme management
- undertake a more general assessment of their TKU and trustee effectiveness
- look out for further TPR guidance (expected later this year).

## Master trusts – the questions employers should ask

The new regulatory regime for master trusts (which will be introduced by the Pension Schemes Bill) is expected to have a significant effect on the master trust market.

Once the measures come into force, master trusts will only be able to continue to operate if they have been authorised by TPR. To receive authorisation they must, broadly, be of good quality and financially sustainable. The exact timing of the changes has yet to be confirmed but is expected to be from October 2018, with certain provisions applying retrospectively from 20 October 2016.

Employers using master trusts should consider contacting their provider now to find out whether:

- it is committed to remaining in the market?
- any material changes to the master trust are likely to be needed for it to meet the new requirements?

- there will be any impact on the charges paid by the employer and / or its employees?

This information should enable an employer to decide if the master trust will continue to meet its needs, or whether it should change provider. If the master trust will be withdrawing from the market, participating employers will be forced to make alternative provision, but should first confirm how the exit process will be managed.

Employers who are currently considering transferring their pension arrangements into a master trust should factor these issues into their evaluation of potential providers.

## Pensions Advice Allowance (“PAA”)

The Financial Advice Market Review concluded that there is a retirement “advice gap” for people without significant wealth. It recommended allowing consumers to withdraw money from their pension arrangements to pay for such advice.

On and from 6 April 2017, consumers will be able to access up to £500 of their DC pension pot tax-free, at any age, to redeem against the cost of regulated pensions or retirement advice. The PAA may be used up to three times in an individual’s lifetime (allowing a total withdrawal of up to £1,500), but no more than once in any tax year.

However, schemes will not be obliged to offer this facility and there will be no overriding legal power for them to do so.

With April fast approaching, trustees should ask their scheme administrator if their processes could adapt to include this option and should then decide whether or not to allow PAA payments.

If PAA payments are to be permitted, trustees should check whether a rule amendment will be required before announcing any decision to members.

## Call for evidence on DC bulk transfers without consent

A call for evidence seeking views on how the statutory requirements for DC bulk transfers without consent could be improved closed on 21 February 2017.

The call is intended to provide “an opportunity to revisit a potential barrier to allowing scale to develop in the DC landscape”, by making it easier for small DC schemes to exit the market or consolidate without the need for specific legislation.

Broadly, the legislation currently permits transfers to be made without consent between occupational pension schemes where:

- the receiving scheme will provide benefits which are “broadly, no less favourable” than the transferring scheme, and
- the transferring and receiving schemes are related for the purposes of the legislation.

Both these conditions were originally intended to protect DB benefits and, as such, are not necessarily appropriate for DC. However, the DWP is concerned to ensure that the requirements will continue to provide members with sufficient protection and to offer adequate clarity for trustees.

The current conditions for a transfer without consent from a stakeholder pension scheme are also restrictive, so the DWP will look at how these provisions can be updated.

The information and views gathered will be used to inform a consultation and more industry engagement on “firmed up” policy proposals during 2017. Trustees and employers with experience of such transfers may wish to contribute to this process.

# Spotlight on costs and charges



There has been much debate around costs, charges and transparency in recent months. From a trustee perspective, it is important to separate questions about charge controls from requirements around transparency and good governance.

## Charges controls

Trustees must check that they are managing their DC scheme (with a few exceptions) in accordance with any applicable restrictions as to how much can be charged, who to, and when. Some or all of the following measures may apply:

- default arrangement charge cap of 0.75% (applied across a “charges year”)
- ban on active member discounts
- ban on consultancy charges
- ban on member-borne commissions
- early exit charge cap of 1% (expected in force later in 2017).

## Transparency requirements

To assist with good governance and the assessment of value for members, the FCA is expected to introduce new legal duties later this year for investment managers and providers to disclose certain costs and charges.

### Key questions



To comply with the requirements relating to costs and charges, trustees will need to ask their advisers a number of key questions. These include:

- what is the scheme “charges year”? (This is not necessarily the same as the “scheme year”)
- what are the scheme’s “default arrangements”? (These will be subject to the 0.75% charge cap)
- who is monitoring the application of the 0.75% charge cap, and how?
- what information do they have about transaction costs?
- are active and deferred members charged the same?
- are any consultancy or commission costs built into the charges paid by members?
- do members pay any charges if they access their benefits early (from age 55)?

### Action points



- Costs and charges should be a standing item on trustee agendas; to ensure not only that the scheme remains compliant with the legislation but that it remains good value for members.
- Trustees should make clear to investment advisers and administrators when and what information they require to keep the scheme’s costs and charges under review.
- With more regulation on transparency and disclosure of costs and charges expected, trustees should be prepared for further changes and seek regular updates from their advisers.

## Contact

Sackers is the leading law firm for pension scheme trustees, employers and providers. Over 50 lawyers focus on pensions and its related areas, including our DC experts who provide practical and specialist help on all aspects of DC arrangements. For more information on any of the articles in this briefing, please get in touch with Helen Ball, Naomi Brown 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](mailto:events@sackers.com) or visit [www.sackers.com](http://www.sackers.com).

General Data Protection Regulation seminar	05/04/17	Breakfast seminar (9:00am-10:30am) Practical tips to help you deal with the General Data Protection Regulation (GDPR) coming into force in May 2018
Pensions for new trustees	26/04/17	All day workshop (9:00am-3:30pm) Aimed at new trustees or those wanting a refresher on DB and DC benefits, this session will look at key legal issues for trustees
Quarterly legal update	11/05/17	Breakfast seminar (9:00am-10:30am) The latest legal and regulatory developments in the pensions world
Finance and investment seminar – governance and risk	01/06/17	Evening seminar (5:00pm-7:00pm) An interactive discussion exploring the increasing obligations on trustees concerning investment governance and risk