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DC briefing

March 2018

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

Latest news

With recent headlines focusing on problems with transfers, scams and cyber crime, it would be easy to take a pessimistic view of the start of 2018. However, there are some good news stories out there too:

- trustees are working hard to improve the running of their occupational schemes and to make sure members' personal data is properly protected, in the light of new data protection law
- employers will soon be increasing minimum DC contributions to benefit their employees and there are now more employees saving for retirement than ever before
- master trusts and providers are focusing on the higher governance standards that TPR and the FCA are putting in place to support the new generation of workplace pension savers.

As ever in DC pensions, there are more changes ahead. In this DC briefing, we look at some of those changes and set out action points for schemes to consider.

Authorisation regime for master trusts

What employers need to know

From October 2018, existing master trusts will need to apply for authorisation from TPR or wind up and transfer members elsewhere. This reflects the fact that such schemes have grown rapidly in size and number over the last few years, mainly due to automatic enrolment.

Some of the new requirements have been subject to a recent consultation but, pending the publication of a Code of Practice in the spring, a degree of uncertainty regarding their impact remains. As a result, some master trusts have yet to decide if they wish to continue or not.

Even once an application for authorisation has been made, it will be a while before the master trust can be sure of its status as TPR has six months to respond.

! Action

Employers using, or thinking of using, a master trust should ask the provider:

- if they intend to seek authorisation
- if any changes will need to be made to the master trust (in terms of employer costs or governance arrangements)
- whether plans will be put in place to communicate such changes to employers or members

and continue to monitor developments over the next 12 months or so.

Chair's annual governance statement

Meeting TPR's expectations

In November 2017, TPR published guidance on how to produce a chair's statement, to address "some common misunderstandings and omissions" it has seen in statements so far.

The guidance does not propose any new requirements, but clarifies TPR's expectations and gives examples of what constitutes "good" and "poor" practice. In short, TPR does not expect trustees to simply treat this as a tick box exercise.

Fines of between £500 and £2,000 can be issued not only for failure to provide a statement, but also for providing a poor statement which is deemed to be non-compliant. Trustees facing a fine can also be named on TPR's website.

Broadly, the chair's statement must:

- provide a "meaningful narrative" of how, and the extent to which, trustees have complied with the governance standards
- clearly set out the measures the trustees have taken to achieve compliance, and details of how the trustees reached their conclusions.

The key is to **describe** what trustees have done. For example, according to the guidance, trustees should describe the processes they have in place to ensure that core transactions are processed promptly and accurately. In other words, it is not enough to simply state that the scheme has complied – the trustees should explain whether there is a service level agreement in place with the administrator and, if so, what it covers.

Making sense of the default SIP

Trustees must include the latest statement of investment principles ("SIP") for their default arrangement(s) in the chair's statement. While this sounds straightforward, careful thought is required where:

- the scheme has moved member funds without consent in the past (so that they have more than one default arrangement that needs to be explained in the SIP), and/or
- investment changes made during the scheme year are adopted in a new SIP before the chair's statement is signed off (so that the "current" SIP at the date of signing will not align with the reporting that is required for investments that were in place during the scheme year).

! Action

Trustees should start preparations for their chair's statement early to:

- ensure there is plenty of time for a legal review against both the legislation and TPR's standards, and
- review their SIP to make sure it aligns with the legal reporting requirements.

DC bulk transfers without consent set to be simplified

Following a consultation last autumn, we are expecting regulations which will simplify bulk transfers without consent for "pure" DC schemes (those providing money purchase benefits only).

Current legislation 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.

It is proposed that new rules would enable DC bulk transfers to be made without consent from an occupational DC scheme:

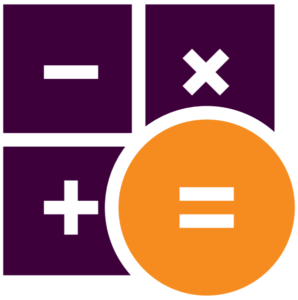
- to an authorised master trust (which, by definition, will have to meet prescribed minimum standards in respect of governance and financial sustainability), or
- to another occupational DC scheme, provided that the transferring trustees have obtained and considered the written advice of a "suitably qualified professional" who is "independent" of the receiving scheme.

In addition, the DWP proposes that members who are protected by the default fund charge cap in their current scheme should remain subject to such protection following any transfer without consent, whether between schemes or between funds or arrangements.

! Action

Employers and trustees with bulk transfer exercises on the horizon (or already in train) should note the proposed changes (which are intended to come into effect on 6 April 2018) and consider how they might affect their scheme.

Spotlight: disclosing information on costs and charges



Since April 2015, most DC trustees have been required to calculate member-borne costs and charges including, so far as possible, transaction costs and assess the extent to which they represent good value for members. This information must also be reported in the chair's annual governance statement.

Proposed changes to the law on the disclosure of such information will affect all trustees, possibly as soon as April 2018.

	Issue	Action
1 Disclosure by providers	Obtaining information on transaction costs has been challenging for most trustees. However, since 3 January 2018, an FCA-regulated firm must provide information about transaction costs, administration charges and appropriate contextual information in response to a trustee's request.	Trustees should request information on costs and charges and document their request. If the provider is unable to provide information, their response should be noted in the chair's statement alongside an explanation of the steps that the trustees will take to obtain the information in the future.
2 Disclosure by trustees in chair's annual statement	The DWP has consulted on proposals to extend the contents of the chair's statement to include more detailed information on costs and charges, including an illustration of the compounding effect they have on members' savings. The details and timing of these changes have yet to be confirmed, but they could come into force as soon as April 2018.	When gathering data for the chair's statement, trustees should assume that these additional details will be required and start planning how they will capture and disclose such information to members.
3 Publication by trustees on a website	The DWP has also consulted on the introduction of a requirement for trustees to publish information on costs and charges on a website which is accessible by all (not just scheme members), free of charge. Under the proposals, the information would be "pushed" to members via a web address which would have to be included in their annual benefit statement.	Trustees should consider how easily this new requirement could be met by their scheme, particularly if they do not currently have a scheme website. This includes reviewing website and benefit statement processes to see how they can be adapted.
4 Explaining context	The figures involved in costs and charges will be expected to sit alongside a description of what those numbers mean in practice. For example, a scheme with higher transaction costs is not necessarily worse than a comparable scheme with lower transaction costs, if those transaction costs relate to investment changes that result in a higher rate of return for members.	Trustees will need to give careful consideration to any messages offered to members about costs and charges, and take appropriate advice to make sure this is member-friendly and not misleading.

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Contact

Sackers is the leading specialist law firm for pension scheme trustees, employers and providers. Over 50 lawyers focus on pensions and retirement savings, 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, Jacqui Reid 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.

GDPR – getting in shape for 25 May (webinar)	12/03/18	Lunch time webinar (12:30-1:15pm) Practical steps to help trustees and employers get ready for the GDPR
Pensions for new trustees	26/04/18	Full day seminar (9:00am-3:00pm) Aimed at new DB and DC scheme trustees, or those wanting a refresher, this session will look at key legal issues
Quarterly legal update	09/05/18	Breakfast seminar (9:00am-10:30am) The latest legal and regulatory developments in the pensions world
Quarterly legal update	19/07/18	Breakfast seminar (9:00am-10:30am) The latest legal and regulatory developments in the pensions world

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