

## DC hot topic

July 2020

### Are DC schemes really “no strings attached” for employers?



For many employers, the attraction of a DC scheme is that their responsibility starts and ends with making the right contributions. This is particularly the case where the employer uses a group personal pension (“GPP”) or a master trust. But is it really true that employers have no other responsibilities towards pension scheme members?

#### Key points

1

While DC schemes generally involve fewer risks for employers than traditional DB schemes, there is still a possibility that employers could be expected to meet claims based on scheme failings.

2

Increased regulation of DC schemes, including master trust authorisation, is helpful but does not protect employers completely.

3

Employers should undertake due diligence when selecting their scheme and review their choice from time to time to ensure it remains appropriate.

4

There are a number of steps employers can take to protect their employees against unsuitable schemes and minimise the risk of any future claims.

#### What are the risks?

Employees disappointed by their company pension scheme could perhaps look to their employer (as the person who chose it) for compensation.

Increased regulatory standards for DC arrangements do not necessarily mean that all schemes are up to scratch in every respect, or appropriate for a particular set of employees. For example, the default fund charge cap offers some protection from unreasonably high charges, but cost is only one factor. Complaints can relate to many issues, for example poor investment returns, administration or communications. An employee could decide to blame (rightly or wrongly) the employer that chose the scheme.

Increased public disclosure requirements, such as chairs’ statements and publication of costs and charges information, are intended to drive up standards. However, this is only effective if those with buying power, in particular employers, properly analyse this information and hold an arrangement to account where it shows inadequate performance. Employers who are unable to demonstrate that they have fully engaged in checking and monitoring their chosen pension arrangement may be at risk of being held to account themselves.

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### What’s the good news?

Aside from the obligation to pay in contributions and meet auto-enrolment requirements, there is currently no express legal regulation that makes employers directly responsible to their employees for the performance of a DC pension scheme.

The changing DC landscape has resulted in increasingly less employer involvement in pension arrangements. Employers are able to outsource ongoing decision-making and governance by putting their employees into an appropriate master trust or a GPP.

Where employers use a master trust, they have the comfort of the **authorisation** “seal of approval” from TPR. If they choose a GPP, the **introduction of independent governance committees** (“IGCs”) means that someone else is looking over the provider’s shoulder to monitor performance.

Increased regulation of both contract and trust-based DC schemes, for example the default charge cap, chairs’ statements and increased transparency on costs and charges also means that employers can have a reasonable expectation that they are up to a similar minimum standard in those areas.

### Top tips

#### Due diligence

Employers should check that the scheme they choose is suitable for their employees and offers value for money. Undertaking due diligence on the options, including getting advice from investment experts or benefit consultants, is a good way to demonstrate that the employer has taken the right steps in this respect.

#### Don't just rely on master trust authorisation

While master trust authorisation offers some comfort, it does not guarantee that a scheme is the most appropriate for any given set of employees. Its particular terms, investments, costs and member options all need to be given due consideration for the employee profile concerned.

#### Document approach and reasons for decisions

Employers should carefully record their considerations, advice received and decision-making processes, to be able to demonstrate that they have behaved responsibly and reasonably, if challenged.

#### It's not just about cost

Employers should think about the employee experience as a whole and consider the quality of investment performance, administration and communications, not just strive for the cheapest costs.

#### Keep arrangements under review

This is not just a one-off choice; arrangements should be kept under review to make sure they remain appropriate. Employers could consider establishing a corporate governance committee to monitor member experience and service levels, and hold arrangements to account.



For further information, please speak to **Helen Ball**, **Claire van Rees**, **Jacqui Reid** or your usual Sackers contact. You can also visit [www.sackers.com/expertise/schemes/defined-contribution](https://www.sackers.com/expertise/schemes/defined-contribution).