Sackers

DC briefing

October 2018

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

Introduction

It seems as though we always start by saying it's been a busy few months for DC schemes but, again, it has been! There have been several publications and announcements recently, and more developments (such as consultations on collective DC and changes to statutory transfers) are expected in the latter part of the year. On top of the expected, the pensions industry has the impact of Brexit to consider and prepare for and, more imminently, the Chancellor's autumn Budget (set for 29 October).

In this DC briefing, we take a look at some of the key changes to date and set out some action points for your autumn agendas.

Investment changes confirmed

Subject to certain exceptions, by 1 October 2019 trustees of "relevant schemes" (broadly those offering DC benefits) must:

- update their statement of investment principles ("SIP") to include how they take into account "financially material considerations", the extent (if at all) to which they take "non-financial matters" into account, and their approach to stewardship
- publish their SIP on a publicly available website and include a link to the information in the members' annual benefit statement.

"Financially material considerations" include, but are not limited to, environmental, social and governance considerations (including climate change) which the trustees of the scheme consider financially material.

Following consultation, the DWP decided not to require a separate statement on members' views. This is now captured by an optional explanation of "non-financial matters" (defined as, "the views of the members and beneficiaries including (but not limited to) their ethical views and their views in relation to social and environmental impact and present and future quality of life of the members and beneficiaries of the trust scheme").

From 1 October 2020, a statement setting out how the trustees have implemented their investment policies, and explaining any change made to them, will also have to be published on a publicly available website and a link sent to members in their annual benefit statement.

TPR guidance on the key changes is due by the end of November 2018 to help trustees prepare.

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We recommend trustees begin preparations for these changes sooner rather than later. If you have any questions on any of the above, please speak to your usual Sackers contact.

Retirement outcomes update

This summer the PLSA and the FCA both published reports relating to retirement outcomes.

Having assessed how successful current policy has been in helping people achieve adequate outcomes in retirement, the PLSA proposes establishing a set of "Retirement Income Targets" ("RITs") to help savers understand how much they need to set aside for later life. It will focus on target living standards, for example, based on a basket of goods.

The RITs are due to be released in early 2019.

The wider FCA's Retirement Outcomes Review looked at how the DC market is evolving and resulted in a consultation on a package of proposals which aim to:

- protect consumers from poor outcomes
- improve consumer engagement with retirement income decisions
- promote competition by making the costs of drawdown clearer and comparisons easier.

The proposals include, requiring "wake-up" packs from age 50, improving guidance for consumers, and requiring providers to offer consumers a structured set of options (investment pathways) at the point of entering drawdown or buying an annuity. The FCA intends to publish a second consultation and a policy statement in January 2019.

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Trustees and employers should be prepared to build the results into their communications strategies in the future.

TPR's new approach to regulation

On 17 September 2018, TPR announced a significant shift in its regulatory approach.

Through its "TPR Future" programme, it concluded that although "educate, enable, enforce" has served it well, it no longer accurately reflects how TPR works. TPR has therefore started to engage proactively with a larger proportion of schemes and employers to enable it "to take a systematic approach" as well as allow it to "respond swiftly to the unexpected".

There will be dedicated, one-to-one supervision for 25 of the biggest DC, DB and public service pension schemes from October 2018, that will roll out to more than 60 schemes over the next year. This will involve regular and ongoing contact with trustees and, in some cases, their sponsoring employers.

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Trustees and employers of large schemes or schemes which could be deemed of strategic importance within the pensions landscape, should be prepared to hear from TPR if they have not already done so.

On the horizon

Guy Opperman, the Parliamentary Under Secretary of State for Pensions & Financial Inclusion, made a written statement in both Houses of Parliament on 4 September 2018 setting out some of the DWP's priorities in relation to workplace pensions. Among other things, the statement noted that:

- the new Single Financial Guidance Body is expected to be established in October 2018, ahead of a formal launch in January 2019, when it will deliver money and pension guidance, as well as debt advice
- the pensions dashboard will be industry-led and "facilitated by government", with the government seeking to "protect pension savers and personal information by legislating where necessary"
- collective DC schemes are back on the agenda. The DWP is currently working through proposals for the first CDC schemes in the UK and intends to launch a formal consultation in autumn 2018.

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Trustees and employers will need to build the new pension guidance structure into their communications and scheme documentation shortly.

Spotlight: preventing transfers to scam arrangements

The Government ban on cold calling in relation to pensions should make it more difficult for fraudsters to target pension scheme members. However, it will not stop them all. Trustees of occupational pension schemes can help to protect their members' benefits from scams through their communications and transfer processes.

Recent developments

Revised Code

On 22 June 2018, the Pension Scams Industry Group published a second version of its "Code of Good Practice" for combatting pension scams. The latest version of this non-statutory guidance:

- promotes calling members as part of due diligence information collecting
- proposes referring "insistent customers" to TPAS for impartial guidance to help them better understand the risks
- includes updates on changes to the QROPS regulations, the Hughes v Royal London judgment (which confirmed that, while a member must be in receipt of "earnings" to have a statutory right to transfer to another pension scheme, those earnings did not have to come from a sponsor of that scheme), and the growth in international SIPPs as scam vehicles
- provides template letters and example case studies.

FCA and TPR

A new pension scams awareness campaign, ScamSmart, was launched on 14 August 2018. It targets pension holders aged 45-65, the group identified as most at risk of pension scams.

TPO case (Mr N))

In 2013, TPR published its action pack on pension liberation fraud, marking a considerable change in approach to transfers. In 2014, Mr N transferred his benefits from the Police Pension Scheme ("the PPS") to the London Quantum Retirement Benefit Scheme. These funds may now be lost or misappropriated.

TPO concluded that the PPS's failure to:

- conduct sufficient due diligence on the receiving scheme
- send Mr N TPR's "Scorpion" leaflet
- engage directly with Mr N regarding the concerns it should have had with his transfer request had it assessed it properly

constituted maladministration. Were it not for this maladministration, TPO found that Mr N would not have proceeded with the transfer. The PPS was therefore ordered to reinstate or replace Mr N's benefits and to pay him £1000 for the distress and inconvenience he suffered.

Action points

Member communications

The first line of defence. If members can identify the hallmarks of a scam arrangement they may avoid ever putting their benefits at risk. Trustees should consider using regular scheme communications to raise awareness of the risks posed by unscrupulous advisers and introducers and to remind members where they can seek advice or support if they are considering a transfer.

Transfer processes

Trustees must ensure that all transfers are adequately scrutinised, both to prevent members falling prey to scams and to confirm that statutory and/or scheme requirements are met. Please speak to your usual Sackers contact about reviewing and, if necessary, revising your current documentation.

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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, Emily Forrest 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.

Quarterly Legal Update	08/11/18	Breakfast seminar (9.00am-10.30am) The latest legal and regulatory developments in the pensions world
Pensions Managers' Forum	20/11/18	Lunch seminar (11.45am-1.00pm) This forum allows pensions managers the opportunity to ask questions and share experiences on a range of different topics and issues

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