Sackers

DC briefing

March 2019

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

Introduction

Anyone who has been following DC developments over the last couple of years will know that we are living through a "pensions revolution". The traditional individual employer-run schemes of the past are gradually making way for large scale multi-employer enterprises, some of which operate as a business in their own right.

The implications for the DC universe are far-reaching, as we have seen:

- an increasing emphasis on regulation and "control", which explains the considerable amount of new laws and regulations that now cover the DC landscape
- a growing focus on consumer protection, resulting from an increasing awareness of how vulnerable, and in need of protection against poor decision-making and scams, members can be
- the consolidation of DC benefits into larger arrangements, meaning that trustees who run them are responsible for millions of members and millions of pounds of assets.

This DC briefing looks at some of the implications of this for trustees, employers and providers.

Brexit – key actions

At the time of writing it is still not clear how, or even when, we will exit the EU. Despite the uncertainty, trustees must take reasonable steps to minimise disruption to their schemes. In particular, they should:

- check with their investment and legal advisers that there will be no impact on the scheme's ability to access European investment funds
- continue to regularly review investment performance. Like any significant economic event, the impact of Brexit will be a factor for trustees to consider (in both the short and long term)
- consider, with their investment advisers, the timing implications of any large scale fund or investment switches over the next few weeks and months
- ensure members are receiving the right communications, at the right time and in the right format. Given the likely market volatility it is important members have all the information they need to manage their savings and know where they can seek further guidance or advice
- monitor the position on making payments overseas. The DWP currently advises that, "[t]here is nothing in UK private occupational pensions legislation that prevents occupational pension schemes from making pension payments overseas. We do not expect that this will change as a result of the UK withdrawing from the EU"
- be prepared to field member queries on the impact of Brexit (but beware of giving financial advice).

Master trust transfers – points to watch

Master trusts are becoming a popular choice for employers for lots of different reasons. When looking at moving to a DC master trust don't forget to think about the following:

Employers

- What kind of master trust is most suitable? Some offer basic auto-enrolment compliance, while others offer a bespoke and tailored service.
- Is the master trust seeking authorisation and how far advanced are its plans?
- How easy would it be to exit the master trust? Could accrued funds be transferred on again in the future?
- Who will monitor whether the master trust is meeting expectations?
- Who will pay the expenses of the transfer and the ongoing administration costs?

Trustees

Trustees could be asked to consent to the closure of the DC scheme or section and / or to the transfer of assets to the master trust. From a legal perspective, they would need to consider:

- **can** they consent to these proposals (ie do they have the legal power to do so?)
- **should** they consent to these proposals (ie is it proper to use their legal powers in this way?)

To answer these questions, trustees will need to decide whether the master trust is likely to be at least as good for their members, or better overall than their current scheme. Considerations will include:

- investment and benefit options in the master trust
- security of assets within the master trust
- whether members might lose tax protections on transfer.

FCA proposes rules on investment pathways

The industry has been lamenting the lack of default retirement options ever since the introduction of pension freedoms in 2015.

The FCA's Retirement Outcomes Review has now identified that a lack of consumer engagement is having an adverse impact on member outcomes. Various proposals have been made to address this, including:

- offering non-advised consumers a range of investment solutions, with carefully designed options, to help consumers choose investments that broadly meet their objectives
- ensuring that consumers invest in cash only if they make an active decision to do so
- providing consumers with warnings about the likely impact of investing in cash on their long-term income, both when they enter drawdown (or transfer drawdown funds) and on an ongoing basis
- telling customers beginning to draw on their pension how much they have actually paid in charges over the previous year.

There are currently no plans for the above to apply to occupational pension schemes. However, it indicates the direction of travel in the industry. Trustees may wish to consider:

- how well their own at retirement communications flag the key considerations in relation to drawdown and
- whether they are satisfied that any drawdown providers which are signposted to members address these issues appropriately.

Investment innovation and future consolidation

On 5 February 2019, the DWP issued "a consultation on the consideration of illiquid assets and the development of scale in occupational DC schemes". The consultation puts forward three policy proposals that would:

- require larger DC schemes to document and publish their policy in relation to investment in illiquid assets and report annually on their approximate percentage allocation to this kind of investment
- require some or all smaller DC pension schemes to conduct a triennial assessment of whether their members may receive better value if they were transferred into a larger scheme
- offer an additional method of assessment for compliance with the default fund charge cap in order to accommodate performance fees and therefore widen the range of potential investments.

These proposals are aimed at facilitating investment by DC schemes in less liquid assets such as smaller and medium-sized unlisted firms, housing, green energy projects and other infrastructure.

The emphasis on scale is an indication of a policy designed to close off the large number of smaller DC trusts and direct members into larger schemes for the future.

Spotlight: on disclosure

2018 saw a raft of new disclosure requirements for DC schemes. The checklist below explains what is happening so you can change affected systems and processes in time. For further information and advice, please speak to your usual Sackers contact.

Chair's annual governance statement

Statements for scheme years ending on or after 6 April 2018 must set out:

- the level of charges and transaction costs applicable to each default arrangement during the scheme year
- the levels of charges and transaction costs applicable to each fund which members are able to select and in which assets relating to members are invested during the scheme year.

In addition, the statement must now include an illustrative example of the compounding effect of the costs and charges affecting members' pension savings. When preparing the illustration, trustees must have regard to statutory guidance.

Signposting

The Government intends that members will be "pushed" to the online information by their annual benefit statements ("ABSs").

Once a scheme becomes subject to each of the requirements to publish information online, member ABSs must include the relevant web address and an explanation of how the information can be obtained in hard copy (ie where the trustees are satisfied it would be unreasonable for the person to access it online).

Members will also have to be informed, via their ABS, that information about the pooled funds in which they are directly invested is available on request (see below).

Pooled funds

On and from 6 April 2019, trustees must provide members, on request, with specified information about the pooled funds in which the member is invested. Trustees may provide information on the funds as at the date of the request or, if there has been no change to the member's investment options, on another date from up to six months earlier. This means that, for the most part, trustees will be permitted to update pooled fund information on a six-month cycle.

Online information

Chair's statement

For scheme years ending on or after 6 April 2018, the following information from the chair's statement must be published, free of charge, on a website and be available for general public consumption:

- content relating to the default investment strategy
- costs and charges information
- the trustees' assessment of the extent to which the charges and transaction costs represent good value for members.

This information should be made available on a similar annual cycle to the chair's statement itself (which must be produced within seven months of a scheme's year-end).

Statement of investment principles ("SIP")

Subject to certain exceptions, by 1 October 2019 schemes are required to:

- revise their SIP to, broadly, take account of financially-material considerations (including environmental, social and governance considerations), stewardship and any policy on non-financial matters
- publish the revised SIP online.

Implementation report

From 1 October 2020, DC trustees will be required to produce an implementation report, setting out how they have acted on the principles set out in their SIP. This report will also have to be published online.

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Contact

Sackers is the leading specialist law firm for pension scheme trustees, employers and providers. Over 60 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, Claire van Rees 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.

DC Spring workshop	28/03/19	Breakfast workshop (9:00am-10:30am) Designed for pensions managers, scheme secretaries and trustees of DC schemes, this interactive session will focus on topical issues and how to address them effectively
DC Spring workshop	04/04/19	Lunch time workshop (1:00pm-2:30pm) Designed for pensions managers, scheme secretaries and trustees of DC schemes, this interactive session will focus on topical issues and how to address them effectively
Pensions for new trustees	02/05/19	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

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