

DC briefing

March 2021

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



Introduction

It seems likely that 2021 will be a busy year for DC schemes. We're expecting a number of consultations that could lead to new legal requirements, particularly around disclosure and reporting – see “2021 at a glance”.

Meanwhile, the policy drive for members to join larger schemes with access to good governance and value continues. We are expecting to see changes to value for members assessments from the autumn which could accelerate the pace of transfers into master trusts, particularly amongst smaller DC schemes.

However, it is not all about small schemes. Larger schemes and master trusts will also need to address the new climate risk governance and reporting requirements, which are expected to lead to a very different approach to managing investments in the future.

Pension Schemes Act 2021 and DC schemes

The long-awaited Pension Schemes Act (“the Act”) finally received Royal Assent on 11 February 2021. While the headlines have been grabbed by the strengthening of TPR’s powers and changes to DB scheme funding, other measures should interest DC trustees. These are not yet in force but will eventually mean new restrictions on statutory transfers (to reduce the risk of scams), and the introduction of pensions dashboards and collective money purchase pension schemes.

Transfers and scams

There have been concerns about the potential for members to lose their hard-won pension savings through scams. Various attempts have been made in the past to reduce this risk, for example by the introduction of a ban on cold calling, but those measures have not been entirely successful. The Act aims to address this, by preventing trustees from making a statutory transfer unless certain conditions are met. These will include providing the trustees “with information or evidence about the member’s employment or place of residence”. Crucially, the member may also be required to provide the trustees with evidence that they have obtained certain information or guidance before a transfer is allowed to proceed.

Action

Although the Act is not yet in force, as soon as the underlying regulations are published, trustees should discuss the new measures with their scheme administrators to ensure that their transfer process and member communications will meet the new requirements.

Pensions dashboards

Although dashboards are unlikely to be available to members for another couple of years, trustees should get their scheme data into good order in the meantime. TPR suggests that an annual review of data is required, and we expect to see data requirements featuring more heavily in TPR guidance over the next year or so.

Action

Trustees should conduct a data cleanse now, to put them in a good place for complying with the new data standards when they come into force.

Costs and charges update

Following a consultation in June 2020 (see our [Alert](#)), the DWP has published its [response to the Review of the Default Fund Charge Cap and Standardised Cost Disclosure](#), together with the [results of the Pension Charges Survey 2020](#).

The DWP has decided:

- not to reduce the current charge cap of 0.75% “at this time”
- not to extend the scope of the charge cap to include transaction costs as they remain difficult to predict and their inclusion could limit headroom within the cap, which in turn may limit the opportunity for innovation and new types of investment
- to introduce a de minimis pot size, initially set at £100, below which flat fees cannot be charged in default funds (largely due to concerns about small pots being eroded over time by the operation of such fees – see our [Hot topic](#))

- to closely monitor the voluntary adoption of the Cost Transparency Initiative templates for disclosure of institutional investment cost data, with a view to introducing legislation in the future if it deems take-up levels unsatisfactory.

Action

Where schemes currently operate flat fees, trustees should be considering what changes will be needed to comply with the new requirements in due course. Otherwise, trustees should ensure that they continue to identify which investment options within their schemes are “default arrangements” for legal purposes, particularly where fund options change and mapping takes place without member consent. They should also monitor charges in their default(s) closely, and in accordance with statutory guidance.

Chair’s annual statement review

Since it was first introduced in 2015, the chair’s annual statement has received both good and bad reviews. While it can be a useful tool for demonstrating good governance, creating it can involve considerable time and resources, and it is not always written in a member friendly format. The DWP is expected to review the current legal requirements to see if a different approach could work better, and to report back in April with the results.

Action

Trustees should look out for the outcome of the review, and any implications for their current governance and reporting arrangements.

Transfers from property funds

Some property funds, which were closed to future contributions and transfers as a result of the pandemic, have not yet reopened. This has led to difficulties for members wishing to take a transfer out.

The [guidance](#) from TPR has been changed on several occasions over the last few months, to try and help trustees work out what they can do in these circumstances. On 11 January 2021, TPR added a section on transfer requests. It makes clear that, although TPR appreciates the difficulty of making a transfer payment from a gated fund, it does not feel able to grant an extension to the statutory timeframe. TPR therefore warns trustees that they may still be fined if they fail to take all reasonable steps to pay a transfer value within six months of the application date.

If only part of the investment is in a gated fund, TPR suggests “reasonable steps might include exploring with the receiving scheme whether the monies from the gated section could follow once the fund has reopened and, if so, offering the member a partial transfer as an interim measure”.

Action

Trustees with gated property funds should liaise with their legal advisers to ensure that they are able to pay partial transfers and continue to action all transfer requests promptly. For further information on managing the challenges created by gated funds, please see our [DC briefing \(August 2020\)](#).

2021 at a glance



February

- Pension Schemes Act 2021 received Royal Assent (see our [Alert](#))
- FCA remedies from Retirement Outcomes Review come into force (investment pathways, active choice to invest in cash, and information on costs and charges) (delayed from 1 August 2020)

April

- Requirement to report late contribution payments no later than 90 days becomes mandatory again on 1 April (having been relaxed to 150 days in light of the COVID-19 crisis)
- DWP to publish a review of the effectiveness of chairs' annual governance statements

Spring

- Outcome of the call for input in relation to the review of the UK funds regime
- Consultation on draft regulations seeking to increase consolidation of the DC pensions market and investment in "illiquid assets"
- Consultation on whether certain costs within the default charge cap affect pension schemes' ability to invest in a broader range of assets

Q1/Q2

- FCA consultation on potential TCFD aligned disclosures by UK-authorized asset managers, life insurers and FCA-regulated pension providers, designed to better inform their clients and end investors on climate risks

October

- Changes to DC governance, disclosure and charges requirements, including the "holistic" chair's statement for schemes with less than £100m in total assets due to come into force (see our [Alert](#))
- New duties on occupational pension schemes in relation to climate change due to come into force. Requirements are being phased in, starting with schemes with over £5bn in assets, authorised master trusts, and authorised collective money purchase schemes (see our [Alert](#)). For further information on investment disclosures (including implementation statements) and managing climate risk, please see our [2020 ESG guide](#) (2021's is on its way!)

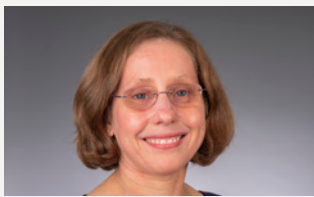
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- Revised TKU code
- TPR's new single code of practice
- Consultation on draft regulations mandating the use of simpler annual benefit statements (Please see our [response](#) to the policy consultation)
- Consultation on draft regulations to require trustees to "nudge" members to appropriate guidance when they want to access their DC pension benefits flexibly and related guidance from TPR



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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Additional DC resources



 In the current climate, our regular seminars are going ahead as webinars and we are also offering smaller virtual roundtables. You are advised to check our website for all the latest information on www.sackers.com/events

Are you considering a move to a DC Master Trust?	18/03/2021	Webinar (2:00pm-3:00pm) This joint webinar with Hymans Robertson will provide an overview of what is involved in moving to a Master Trust, including the legal considerations.
Data, data everywhere	25/03/2021	Webinar (12:30pm-1:15pm) This webinar will focus on handling personal data in the digital age, highlighting key trends and practical steps that trustees can take to mitigate risks.
Quarterly legal update	06/05/2021	Webinar (12:30pm-1:30pm) This webinar will provide an essential overview of significant developments affecting occupational pension provision in the UK for employers and trustees.

Alternatively, you may prefer to tune in to one of our popular podcasts which highlight specific areas of interest to those running DC arrangements such as DC Chair's statements and DB/DC transfers. You can sign up to receive any of our free publications and updates [here](#).