DC briefing

October 2021

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

Introduction

As we go into the autumn, DC schemes should be readying themselves for yet more changes. Regulations for simpler annual benefit statements have been laid and Guy Opperman has recently confirmed that the Government is intending to legislate for a "statement season". We also know that final regulations in respect of changes to the statutory right to transfer and the stronger nudge to guidance are on the way. The former are expected shortly, the latter early next year. With so much to grapple with, it is key that trustees ensure they are fully briefed on what will be required and when, and that they liaise with their administrators, where appropriate, to ensure that the necessary systems and processes will be in place. The pace of developments looks unlikely to slow over the next year so hold tight, it may be a bumpy ride!

VfM changes on the horizon

New assessment for smaller schemes

With effect from their first scheme year ending after 31 December 2021, trustees of most DC / hybrid schemes with less than £100 million in total assets ("Smaller Schemes") will be required to undertake a more detailed annual value for members ("VfM") assessment and to report on it in their chair's statement. A Smaller Scheme will be exempt if it has informed TPR, at any time before the deadline for the next chair's statement, that it is in the process of winding-up.

In carrying out the assessment, trustees must have regard to statutory guidance. Support is also provided by recently updated guidance from TPR.

If the trustees conclude that the scheme is not delivering good overall value, the Government expects it to be wound up and consolidated. If members are not to be transferred, the trustees must make any improvements necessary to ensure the scheme offers value within a reasonable period, for example within the next scheme year.

The outcome of the assessment and the action the trustees intend to take (if any) must be reported to TPR in the next scheme return.

Action

Schemes in scope should consider and take advice on whether it would be appropriate to trigger wind up with a view to consolidating before the first more detailed statement falls due.

Driving VfM

The FCA has taken "a step towards a more systemic and transparent framework" for assessing VfM with its final rules on how IGCs should compare the value of pension products and services and promote the best value for scheme members. In addition, TPR and the FCA have published a joint discussion paper which invites views on developing a holistic framework and related metrics to assess VfM in all FCA and TPR regulated DC schemes. Their aim is to promote consistent assessments to allow for effective comparisons to be made. This would better equip IGCs and trustees to challenge and address poor value, and promote competition between providers.

Action

Comments are requested by 10 December 2021. Trustees should consider feeding in their views.

Simpler annual statements

On 19 October 2021, the DWP published its response to the consultation on proposed regulations and statutory guidance to introduce simpler annual benefit statements for members of DC auto-enrolment ("AE") schemes. Final regulations were laid before Parliament on the same day.

Subject to compliance with their Equality Act duties, schemes will be required to provide the relevant information in a statement not exceeding one double-sided sheet of A4 paper (in hard or soft copy). This is intended to enable a member to see:

- how much money they have in their pension plan and what has been saved in the statement year
- how much money they could have when they retire
- what they could do to give themselves more money at retirement.

The guidance includes a template which sets out how the required information may be structured and presented. This is intended to ensure there is consistency between schemes, while recognising the need to allow for some flexibility of approach.

In addition, the "Statement Season Working Group", which was set up to explore whether all DC AE schemes could send out their annual benefit statements within a time-limited window, has published its "initial administration considerations". While broadly supportive of the concept, the group notes that with pensions information increasingly being made available online, "ideally" members will ultimately have access to up-to-date information year round.

Action

With the requirements coming into force from 1 October 2022, schemes should ensure their administrators are readying themselves to issue statements in the new format.

Further consolidation on the cards

While the Government has made no secret of its desire for small schemes to wind up and consolidate, it now seems its ambition extends to schemes with between £100m and £5bn in assets.

In June 2021, the DWP issued a call for evidence on "the future of the DC pension market: the case for greater consolidation". This research is intended to begin "the next conversation on what best value looks like for the millions of pension savers in medium and large schemes that are not in scope of the new [VfM] assessment".

Our understanding is that the Government is pursuing greater consolidation both to ensure individuals are in well-run schemes, and to enable schemes to achieve the necessary scale for more innovative investment strategies.

Action

Schemes which may fall within the next phase of the push to consolidate could take this time to consider their position. Would consolidation be beneficial or are they currently offering good value to their members?

Timeline

1 October 2021	Climate change risk governance and reporting requirements came into force for schemes with relevant assets of £5bn or more and authorised master trusts. First report must be produced within seven months of the scheme year end
1 October 2021	Scheme years ending after 1 October 2021 – must report net investment returns in chair's statement
End of 2021	Changes to statutory transfer rights and draft regulations in relation to the Pensions Dashboard expected
31 December 2021	Scheme years ending after 31 December 2021 – Smaller Schemes must undertake the more detailed VfM assessment
Spring 2022	TPR's new single code expected to be published
6 April 2022	Due into force: stronger nudge requirements; de minimis pot size for flat-fee element of the combination charge
1 October 2022	Regulations introducing simpler annual statements come into force

Stronger nudge to guidance

Earlier this year, both the DWP and the FCA consulted on measures which would "nudge" members of occupational and contract-based schemes respectively to take guidance from Pension Wise (now MoneyHelper) when they apply to take or to transfer their benefits. We look at the key aspects of the DWP proposals below.

How will it work?

To make taking pensions guidance a "normal part of the pension access journey", trustees / managers will be required to ensure that individuals have either received or opted out of receiving appropriate pensions guidance before proceeding with their application. In contrast to the current signposting requirement, members will have to actively choose not to take guidance.

Key challenges

When to nudge	The nudge is to be triggered by an application to transfer or start receiving benefits. The question of what counts as an "application" is due to be set out in the final regulations, but it may be tricky to fit this within the context of existing administration processes. In order to provide a nudge at the first point of contact, it would ideally capture situations such as the provision of wake up packs and responses to transfer queries.
Booking the appointment	The draft regulations require trustees or managers to offer to book a pensions guidance appointment "at a time and of a kind suitable" for the beneficiary. It is hoped that the final regulations will clarify whether trustees will be expected to make the appointment or facilitate it.
Requirement for the opt-out to be in a "separate communication"	This is intended to provide the individual with enough time to consider their decision and to ensure opting-out isn't too easy. Our concern is that it could render the process frustrating for members. Scheme administration processes will need sufficient flexibility to achieve the policy intent in a practical, appropriate way.
Exemptions	As currently drafted, only those who have received guidance or regulated advice in the last 12 months, or who are applying for a serious ill-health lump sum, will not have to be nudged. We have suggested that those who have received targeted guidance via their employer / scheme should also be excluded.
Timing	The regulations are due to come into force in April 2022. This will leave schemes with very little time to prepare, so schemes should take the opportunity to start thinking now about any changes they will need to make.

Our full response to the consultation can be viewed here.

Action

Given the tight timing, we strongly recommend schemes consider now how their administration processes and member communications may need to change to meet the new requirements. This may require discussions with internal administration and IT functions, and external service providers.

Sackers

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 events

Our seminars are continuing as webinars for the time being and you are advised to check our website for all the latest information on www.sackers.com/events

Quarterly legal update	11/11/2021	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.
Quarterly legal update	10/02/2022	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.

Our updated ESG and climate change guide for pension funds highlights what DC and hybrid schemes need to do to comply with the new reporting requirements and by when.

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