

DC briefing

October 2023

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



Introduction

September's suite of consultation response deadlines signalled the end of summer and left us feeling distinctly "back to school". As ever, the coming months promise to be busy. Schemes will need to adapt to the development of tax changes to remove the LTA, the next steps in the Mansion House reforms, and, perhaps, TPR's elusive general code, among business as usual. In this briefing, we give you the important headlines from the avalanche of reforms trailed at the Chancellor's Mansion House speech, and our "On the horizon" section highlights some key matters to keep an eye on over the coming months.

On the horizon



Lifetime allowance ("LTA") tax changes

Following changes to the AA and the removal of the LTA charge from 6 April this year, the Government has published draft legislation to remove the LTA altogether. The proposals would replace the LTA with a new "lump sum allowance" and an overall "lump sum and death benefit allowance" based on the current standard LTA (£1,073,100), from 6 April 2024. See our [Alert](#) for details.

In our [consultation response](#), we highlighted that the final legislation must be issued as soon as possible to make this timing feasible. With this still pending, schemes could have a very tight timeframe to implement changes to administration processes, communicate with members, and make any rule updates that are needed.



TPR's general code

TPR's new [general code](#) has not yet appeared "due to delays in the parliamentary timetable". It is currently expected in autumn 2023, so trustees should keep it on their radars.



ESG compliance review

TPR now expects to carry out its [campaign in the autumn](#) to make sure trustees are meeting their ESG and climate change reporting duties. The first phase involves checking trustees have published their SIPs and implementation statements where required, while the second phase involves a "qualitative review" of a cross-section of these. Trustees should take the feedback into account in complying with their ESG duties.

More developments may be on the horizon, as the DWP is expected to review the [Climate Change Governance Regulations](#) this year.

The Mansion House reforms – the pensions avalanche



This summer saw an avalanche of pensions consultations, calls for evidence and responses to some of the [January consultations](#). The scene for the reforms was set by the Chancellor’s Mansion House speech in July, which focussed on key policy aims of increasing investment in UK productive assets and improving retirement outcomes for savers. The speech also saw the announcement of a voluntary “compact” between some of the UK’s largest pension providers to commit 5% of their DC default funds to private equity and early-stage business by 2030. You can find more detail in our [Alert](#).

Value for money (“VFM”)

Intended to provide a new transparent, standardised process for schemes to assess VFM, the Government and regulators are [moving forward](#) with the January proposals covered in our [May 2023 DC Briefing](#).

Trustees and IGCs will need to assess VFM across investment performance, costs and charges and quality of services, following a prescribed process, and report annually each October. Ultimately replacing the value for members assessment requirements for small schemes with less than £100m in assets, the framework will require all DC schemes in scope to compare their value against others in the market. Underperforming schemes will need to take immediate action to improve or to wind up and consolidate, if that is in members’ best interests. Regulators may be given powers to remove poorly performing schemes from the market.

The chair’s statement was under consideration for potential reform as part of the January proposals, with the VFM requirements duplicating much of those existing requirements. For now, the statement will remain, but the DWP, TPR and the FCA will consider how it could be managed down and phased out in the future.

Action

Future consultations on draft regulations and FCA rules will come “when parliamentary time allows”. For now, we suggest liaising with your usual Sackers contact, provider, administrator or VFM adviser to consider the impact on your scheme and its implications for any future projects.

Decumulation

The Government has [consulted](#) on proposals to place a duty on trustees of occupational pension schemes to offer decumulation services suitable for their members, either in-house or by partnering with an external supplier. The DWP hopes to build more consistency between TPR and FCA regulation, and to help support member engagement and informed decision-making.

Details still to be worked out include whether trustees have responsibility for determining the suites of decumulation products suitable for their scheme, and what factors trustees should take into account when developing their decumulation offer. In the meantime, the DWP will work with TPR to issue guidance for trustees on offering decumulation products.

Action

Trustees should discuss their current decumulation position with their advisers to consider if any changes to their retirement options are likely to be needed in due course.

The Mansion House reforms – the pensions avalanche cont.

Deferred small pots

Building on its January call for evidence, the Government **consulted** on proposals to move forward with a system of multiple default consolidators. Like the decumulation proposals, much of the detail is still to come. Under the proposals, a small number of schemes would be authorised to act as automated consolidators for deferred small DC pots (of up to £1,000), with a “clearing house” acting as a central point to store and manage data and provide trustees with information about destination schemes. The DWP believes that using multiple schemes will have a less distortive effect on the market than a single consolidator, while achieving greater value for members and “opportunities to invest in productive finance” by achieving greater scale.

CDC

Responding to its January consultation, the DWP confirmed its view that CDC will have an “integral role in the future of pensions”. It plans to move ahead with expanding the CDC framework to allow unconnected multi-employer schemes, with a consultation on draft regulations planned for autumn this year. Decumulation-only CDC products remain some way off, but the DWP is “committed to moving forward” with this. It is also “working closely” with the FCA to understand whether there is potential for CDC in the contract-based space.

Trustees

A **call for evidence** looked at trustee skills, capability and culture. The Government was “particularly interested in whether trustees have the right knowledge and skills to consider investment in the full breadth of investment opportunities”. It set out questions around TKU, trustee training and accreditation, the role of advice, and other “barriers to trustee effectiveness”. With a section focussing on fiduciary duties, the call for evidence asked whether there may be a risk averse culture, or “even a perception that fiduciary duty means capital preservation at all costs”.

Action

We suggest trustees keep a watching brief as these projects develop, as they could significantly impact the DC trust-based market.

Next steps

The consultations and calls for evidence closed on 5 September 2023, and the Chancellor hopes to make decisions “ahead of the Autumn Statement” scheduled for 22 November 2023. What this means in practice remains unclear.

With a general election on the horizon, it might be ambitious to squeeze through a new Pensions Bill in the current Parliament. Many consultation responses have been published, all emphasising the need for timetables for the changes to be carefully managed. This is important to give the industry proper implementation time given packed agendas and other significant changes currently underway, not least to the LTA and pensions dashboards.

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.



Helen Ball
Partner and head of DC
D +44 20 7615 9509
E helen.ball@sackers.com



Claire van Rees
Partner
D +44 20 7615 9573
E claire.vanrees@sackers.com



Jacqui Reid
Partner
D +44 20 7615 9550
E jacqui.reid@sackers.com



Olly Topping
Partner
D +44 20 7615 9037
E oliver.topping@sackers.com

Upcoming events



 We offer an extensive programme of workshops, seminars and trustee training. If you would like to attend any of our events, please contact events@sackers.com or visit www.sackers.com/events.

Trustee training: pensions for new trustees	31/10/2023	In-person training Our free and interactive seminar is a full day session aimed at new trustees, where we focus on the key legal issues for new trustees of DB, DC and hybrid schemes, as well as those who would like to refresh their knowledge.
Quarterly legal update – Autumn	09/11/2023	Online webinar Our next Quarterly Legal Update for trustees and employers will be delivered as a webinar and chaired by Fuat Sami. Claire Carey will provide an essential overview of significant developments affecting occupational pension provision in the UK.
Admin matters: are you thinking about admin enough?	22/11/2023	Online webinar In this webinar hosted by PMI, partner Kirsty Pake will lead a discussion on why good admin matters, focussing on how trustees, pensions managers and their advisers can work together to make admin central to their strategic planning for the scheme. Kirsty will be joined by fellow partner James Bingham and two admin experts who have extensive experience working with third-party and in-house admin teams.