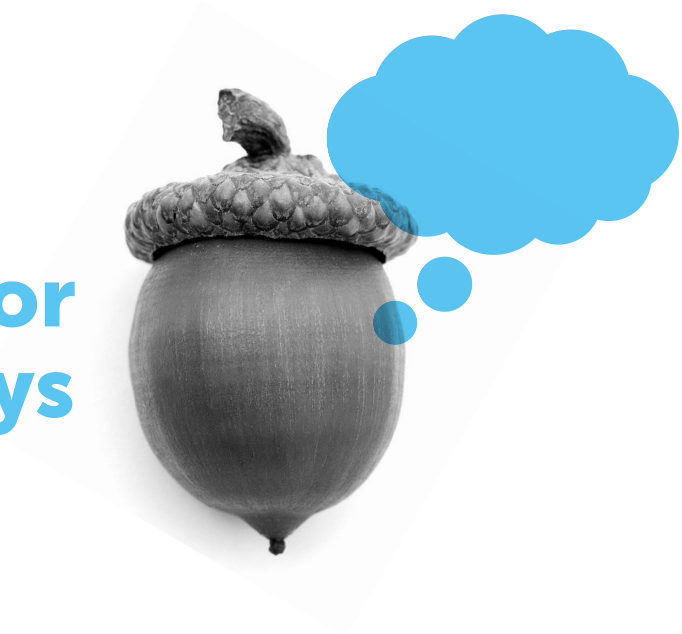
EVERSHEDS SUTHERLAND

Thoughts for Autumn days
DC Agenda

Autumn 2022



1. Default funds

The Government is **inviting views** on **draft regulations** that will require DC trustees (regardless of scheme size) to disclose the percentages of assets in their default funds allocated to each of specified asset classes. This will apply for scheme years ending after 1 October 2023 and the disclosures will need to be included in the chair's statement. DWP has issued **draft statutory guidance** to assist trustees in making these disclosures. It describes the different asset classes in more detail, explains what is required where trustees are invested in multi-asset funds and suggests approaches where asset allocation changes during the year or where it varies depending on the age of the member.

Action – Consultation closes on 10 November 2022 so trustees should consider whether to respond. They should also consider how they will be able to comply with the new requirements from October next year.

2. Illiquid investments

From 1 October 2023, the **Government is proposing** that whenever a statement of investment principles (SIP) for a default fund is updated (and in any event by 1 October 2024), trustees will need to include their policy on investing in illiquid assets and information about any illiquid assets held. Illiquid assets for these purposes are assets which cannot easily or quickly be sold or exchanged for cash. The Government is also consulting on **draft regulations** which will exclude certain performance based fees from the default fund charge cap to further encourage investment in illiquid assets. **Draft statutory guidance** explains in detail which charging structures will be covered and details of such performance fees will also need to be included in the chair's statement.

Action – Trustees should be aware of the proposals relating to illiquid assets and consider whether any changes should be made to existing investment strategies. Trustees of collective money purchase schemes should note that the new requirements will apply to their main SIP.

3. Simpler annual statements

From 1 October 2022, DC schemes used for auto-enrolment need to provide a simpler two-page annual statement to members. **Statutory guidance** provides more detail about how this requirement will work and what trustees need to do to comply. In addition, there is a new version of the **technical standard** which sets out how money purchase illustrations will need to be calculated for both the purposes of the dashboards and annual statements issued on or after 1 October 2023. The new version is intended to ensure that illustrations are more consistent from scheme to scheme and allow members to more easily compare what different schemes are providing them with.

Action – For more detail about simpler annual statements and what trustees need to do, see our **speedbrief**. Trustees will also need to ensure that all benefit statements comply with the new version of ASTM1 from 1 October 2023.

4. Corporate transparency

The Government has **issued draft legislation** which will require directors and anyone filing documents on behalf of a company (including a corporate trustee) to verify their identity. Only entities with legal personality will be able to be appointed as directors and directors of such an entity will in turn need to be natural persons who have gone through the new identity verification process. Amongst other things, the Bill will also require additional information about shareholders and persons with significant control over a company to be provided.

Action – Corporate trustees will need to consider how the new requirements will impact them and whether any changes will need to be made. Anyone carrying out company secretarial functions will also need to ensure they are aware of the new requirements.

5. Consumer duty

The FCA has published its **final rules and guidance** on the new Consumer Duty, which is intended to improve standards of consumer protection. For new or renewed products or services, the rules will come into force from 31 July 2023. Closed products and services will need to meet the new standards from 31 July 2024. The new Duty will include requirements for firms to proactively act to deliver good outcomes for customers and put their interests at the heart of their activities. Where firms identify that good outcomes are not being achieved, they will need to address this.

Action – Sponsors using group personal pension arrangements should be aware of the new Consumer Duty. It will also be relevant to DC occupational schemes where an FCA-authorised firm acts as administrator.

6. Diversity, equity and inclusion

The Pensions Regulator has published its **diversity and inclusion action plan**. It says diversity is important because a "*diverse pensions governing body made up of people who have a broad range of characteristics, backgrounds, life experiences, expertise, and skills will tend to lead to wider discussion and better decision making.*" The action plan sets out how the Regulator intends to promote high standards of diversity, equity and inclusion (DEI) which is defined widely to include things such as socio-economic status and neurodiversity. The Regulator's expectations around diversity will be included in the new single code and supported by practical guidance.

Action – You can hear David Fairs explain TPR's approach to DEI in our recent **podcast**. Trustees should be aware of the growing focus on DEI and consider whether to put in place an action plan. **Guidance from the PLSA** might help to identify where there might be issues and what action could be taken.

7. Pension scams

FCA **research has found** a quarter of consumers might consider withdrawing money from their pension early to cover their cost of living. This is supported by data which shows that the number of pension plans accessed for the first time in 2021/22 increased by 18%. The FCA suggests that scammers are preying on money worries and lack of confidence in pension savings to last through retirement. To combat this, it has launched a new **ScamSmart** campaign to help members spot potential scams and alert them to the dangers. The Pensions Regulator has also launched a new **scams strategy** which highlights current risks and the actions it proposes to take.

Action – Trustees need to be alert to the increased risk of scams as growing numbers of members may be seeking to transfer their benefits to scam vehicles. Trustees and administrators should ensure that transfer due diligence reflects current scam types.

8. Investment consultants and fiduciary managers

The CMA Order on the competitive tendering of fiduciary management mandates and setting objectives for investment consultants has been replaced with **regulations** with effect from 1 October 2022. The Regulator has also updated its **guidance for trustees**. Trustees need to set objectives for investment consultants and review performance against them every 12 months and, if appropriate, revise the objectives at least every three years.

Action – Trustees should identify where objectives are required and ensure appropriate objectives are set and reviewed at required intervals. It is also important to be aware of requirements in relation to fiduciary management mandates. For more information see our **speedbrief**.

9. Transfers

The PLSA has **issued guidance** on the due diligence issues that trustees should consider when looking at transferring to a master trust. It also goes through the statutory requirements and **guidance** on bulk transfers of DC benefits without consent and looks at the governance structures that apply to master trusts and the potential advantages they can offer to members. PASA has also **issued guidance** on DC transfers which includes the steps that a transfer process should cover and template documents.

Action – Where trustees are considering whether to transfer to a master trust (particularly in the context of the **new value for member requirements** for smaller DC schemes), the PLSA guide could be a useful tool and provide an initial checklist of issues to consider. It would also be worth reviewing individual transfer processes against the PASA guidance.

10. Tax relief

Traditionally, occupational pension schemes accessed tax relief by deducting contributions from gross pay. However, there is an alternative known as "relief at source" where contributions are deducted from net pay and the scheme claims a tax credit from HMRC, even if the member is a non-taxpayer. **Draft legislation** will require HMRC to provide that, so far as reasonable, where contributions are deducted from gross pay, non-taxpayers can be paid an amount equal to the tax credit under relief at source.

Action – The new credit will not require action by trustees or administrators but is worth being aware of, as there have been calls for schemes to change the way they operate tax relief to ensure that non-taxpayers are not disadvantaged.

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See our accompanying DC Practical Notes

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