Linklaters

Member options post freedom of choice

The Trustee’s tale

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ACA Sessional meeting

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Issues for trustees

Should I offer DC flexibility (and who should pay)?

Should I review my DC default investment option?

Should I review my DB CETV and commutation factors?

Should I allow “non-statutory” DB transfers?

Should I reduce CETVs for under-funding?

Should I protect members from themselves?

Should I offer DC flexibility (and who should pay)?

The Taxation of Pensions Bill includes power for trustees to pay drawdown pensions (and other “flexi-access” benefits) from DC arrangements even if prohibited by scheme rules

No need (or reason) for the employer’s consent – but …

No power to require employer pay the costs: members must pay unless employer agrees to do so

May be more cost effective to use a “third-party” packaged product (rather than self-administer)

Should I review my DC default investment option?

Members' retirement choices may now be different – but ...

- Is this really likely to affect members of <u>my</u> scheme?
- Is this my problem or for the member to think about?
- Is "collective DC" (i.e. "with-profits") the answer?

From a legal point of view

- Communication is #1 important issue
- Tell members before starting "life-style" switches
  - what you are going to do (and why)
  - about the alternatives (and why they might prefer them)

Should I review DB CETV and commutation factors?

"Consistency is all I ask … "
"Immortality is all I seek … "

(From "Rosencrantz and Guildenstern are Dead" by Tom Stoppard)

Does consistency matter between TVs and commutation?

- Not easily comparable, since based on different benefits
- Affected by different factors (e.g. benefit design; law)
- TVs include total benefit package – not just a part

Important to recognise and understand any differences – but can decide to keep them (after considering all relevant factors, etc.)

"Consistency is the last refuge of the unimaginative" Oscar Wilde

Should I allow “non-statutory” DB transfers?

Should I allow late transfers?

- Should basis be consistent with statutory CETVs?
- Are there any “age discrimination” issues?
- If TV is more than funding reserve, review TV basis (and “proportion of members likely to exercise [costly] options”)

Should I allow partial transfers?

- Seems a sensible de-risking option in principle
- May need rule amendment or employer agreement
- Should basis be consistent with statutory CETVs?

Remind DB members about <u>all</u> their options at retirement

Should I reduce CETVs for under-funding?

The short answer (almost always): “No”

- It upsets potential transferees – who may not transfer
- It upsets employers who may miss an opportunity to de-risk and reduce the amount of the deficit
- It may increase risk for remaining members (unless employer really looks on the verge of insolvency)

Do it only if there is a real risk of loss to other members – “on balance of probabilities” not “theoretical and fanciful”

Should I protect members from themselves?

The short answer (almost always): "No"

This is not the job of trustees – and the law recognises this

- The law gives members a statutory right to transfer
- The law is to let members take all their pension as cash
- Government is arranging "guidance" for DC members

No need to "check up" that DB members have taken advice

- Rely on member's written confirmation on transfer form
- However, asking member to state the adviser's name may help stress the importance of taking advice

No need or power for the Trustee to pay for financial advice