

Trustees are responsible

All schemes with a defined contribution (DC) element, other than additional voluntary contributions (AVCs), must include a governance statement from the Chair in their Reports and Accounts for periods ending after 5 July 2015.

With the most common accounting date being the 6 April, the vast majority of schemes should now be in the process of producing their first Chair Statement.

The Pensions Regulator has already proven that it will punish non-compliers with compulsory fines between £500 and £2,000. Trustees must be aware of the need to produce such statements, what should be included, and most importantly that it is their responsibility to comply. Whilst advisers should be able to provide compliant drafts, and I would think it reasonable to expect them to firmly prompt any forgetful trustees, it is the trustees' responsibility to ensure that a compliant draft is produced and included in the Report and Accounts; it is the trustees who will be fined.

Do I Qualify?

The first step is for trustees to identify if their scheme qualifies, and although in most cases it should be obvious, this is not always the case:

- if your scheme provides only DC benefits then you need a statement (subject to an extremely small number of exceptions)
- if your scheme provides only defined benefits (DB) then you do not need a statement
- if your scheme provides only DB benefits but has a DC AVC vehicle, you do not need a statement
- if your scheme provides both DB and DC benefits then you need a statement e.g.:
 - DB and DC sections
 - not sectionalised but DB and DC members
 - members with DB and DC benefits (e.g. DC top-ups)
 - members with transfers-in on a DC basis
- if your scheme provides benefits that are both DB and DC, then it's a little more complicated (see below)

Underpin benefits

There was a time when investment returns and yields were high, joint contribution rates were around 15%, and some thought that DB schemes could be

poor value and that a better return could be achieved in DC. Thus DB schemes emerged with DC underpins, i.e. contributions were notionally earmarked, and on retirement/transfer/death a check is carried out; if the accumulated notional DC fund would provide a better benefit, the member was treated as DC.

Then there was a time when some schemes took baby steps away from DB, and provided DC benefits with a minimum guarantee of some type (e.g. capital guarantee, minimum pension, contracted out on a DB basis, etc.). Again, on retirement/transfer/death a check is carried out and the member gets the higher benefit.

For the purposes of the Chair's statement it is not important whether the underpin is DB or DC, what matters is whether it bites. If all benefits were settled in the period on a DB basis, and the actuary is using DB benefits for all in his valuation, you do not need a statement.

If, at any point in the accounting period, benefits were provided on a DC basis, or in the most recent valuation the actuary valued any members on a DC basis, you need a statement. It should be remembered that this position could change year on year, and must be monitored.

Further details on exemptions and what to include in the Chair's statement can be found in Section 6 of the regulator's guide to the DC Code. Where schemes are exempt from the legal requirement but still provide DC benefits of some description, it may still be good practice to include a statement covering key points.

Governance requirements of DC trust-based schemes have increased dramatically in recent years, and are not set to slow down any time soon. Sponsors should be considering in all but the biggest of schemes whether the standalone trust model is cost-effective. The disparity in the quality of DC vehicles has increased substantially, the requirements are not a tick box exercise, and trustees should be striving to run quality schemes.

Trustees have to know and understand the requirements, how they relate to their scheme and the associated risks – you cannot rely on advisers, they are not legally responsible. ■



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