



Communicating DC Asset Security

A report from the
Security of Assets Working Party

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How can schemes communicate with members about the security of their DC assets?

(Including AVCs and DC benefits of hybrid schemes)

Over the last couple of years, schemes with DC assets (including AVCs) have been looking at DC asset security as a part of complying with the Pensions Regulator's DC Code and associated guides. Our working party has produced a guide on how to consider DC asset security which is supported by the Pensions Regulator in its DC guide on investments.

Having done the hard work of asking questions and finding out what your asset security profile looks like, what should trustees do with that information? The Pensions Regulator envisages that members will be informed. But what is the best way to go about this and where should this information be published?

As those trustees who have dug into this issue know, it is very difficult to produce a simple statement for members. What the position is depends a great deal on the underlying legal structures of the investment arrangements. Trustees are only too well aware of how difficult it is to communicate with members effectively and how easy it is to give members a wrong impression on an arrangement or unintentionally drive behaviours in an unhelpful way. So your words need to be carefully chosen; as does the manner of your communication.

This guide accompanies the working party's guide on how to assess asset security. It is not intended to tell you how to communicate with your members or provide you with a template of the right way to go about it. It is intended to give a few ideas which you can discuss with your investment consultants and lawyers to help you decide what approach to member communication will work for you and your scheme.

We are producing this guide now as collectively we have seen many schemes working on asset security struggle with how to communicate their findings in a way which is genuinely informative for members and does not dis-incentivise members to continue to save for retirement.

Asset security is important but it is also a very low risk in investment terms. It's important to communicate with members but it is also important not to create panic. This is an art, not a science and this guide is designed to give a few useful tips and hints for you to think about.

Rona Train

Chair, Security of Assets Working Party

(Members of the Working Party come from a range of funds, consultancies, pensions law firms and providers. Full details of the current members of the Working Party can be found at the end of this guide).

What should Trustees say?

There is no specific legal requirement for trustees to provide a DC asset security statement either at all or in any particular statutory member communication.

But, the Pensions Regulator suggests in its guide on investment governance to the DC Code that it is best practice for schemes to communicate to members their conclusions on asset security and any planned actions arising out of their asset security review.

The Pensions Regulator's guide goes on to state:

"You may choose to describe the range of protections that are applicable to the scheme's assets, and outline any advice you have received to inform your conclusion."

This suggests that the Pensions Regulator is looking for trustees to explain the process followed to establish asset security, what the level of risk is and how the trustees' reached that conclusion. This may be easier said than done, depending on the arrangements that you have in place.

So where might you look for inspiration?

1. Due diligence reports on an investment option can be very helpful as long as they are recent. If not then an update might be due.
2. What does the provider say? Does it have a security of assets paper the Trustees can draw on to give comfort? Does it have a communication which you can refer the membership to which is helpful? Are you happy that the provider's paper accurately summarises the whole picture for your scheme?
3. What are the characteristics of the legal structure which are important? Is the product regulated in the UK by a UK regulator? Does the FSCS clearly apply?
4. Are there helpful contractual terms? Does the provider say in its contract with the Trustees that it will stand behind all funds (both its own and those relating to other managers) or is that protection not there?
5. Who are the advisers and service providers to the product?
6. What do the providers say about the custodians or depositaries?

The challenge will then be to condense this information into a format easily understood and digestible by members.

What do trustees need to be careful of?

Member communications are the member's window into the pensions world and their pension. They are the basis upon which members often decide if they trust you. They can give enormous comfort but they can also come back to haunt you.

So what are the points you need to think about?

1. Be balanced and truthful. Misrepresenting the position has legal consequences and should be avoided.

2. Use every day language so avoiding pensions speak. If members cannot understand what you are trying to say this too could be problematic later if members complain.
3. Be definitive where you can be. Anything you are not sure of – consider if that should be a point you are still looking at and can report on at a later date.
4. Members are not reassured by the use of the word "may", so don't over use it.
5. Consider if what you say would cause an average member to disinvest or invest more when compared to other options? Member behaviour can be driven by what trustees say and care is needed not to encourage behaviour you do not intend.
6. Generic templates can be helpful as a starting point, but the communication needs to reflect your scheme, your members and their needs.
7. Ask your investment consultant to review the document. Your investment consultant can help you ensure that the statements made are reflective of the investment product from their experience of the market.
8. Ask your lawyers to review the final draft as they can help you avoid the risks of over or understating the position and ensure you have appropriate risk warnings in place. They can also check to make sure what you are saying complies with financial services law.

Where asset security statements should be placed?

The Pension Regulator's suggestion in the investment guide is as follows:

"There are a range of ways that this could be communicated to members, e.g. in the annual benefit statement or other regular member communications, or in the annual report and accounts."

For schemes which require a Chair's statement, it's the obvious place to put such a statement. For those which don't it's a more interesting question on what is the right communication.

The most important point about asset security communication is to remember that it is not likely to be the most important factor for members in deciding how to invest their pension savings. It should be a small risk that is considered in the round with other key factors relevant to investing member pots such as fund performance, costs and charges and value for money.

What about after the communication has gone out?

You should look at member investment and switching behaviour after the communication has gone out to see if members are moving their money around. If you see a spike in concerned calls about security or a spike in investment switches it might suggest that you have got the communication balance wrong and a further communication may be necessary.

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Important information

This analysis might contain information of general interest about current legal and investment related issues, but does not give legal or investment advice. It is not intended to be a detailed or definitive statement of matters relating to the security of assets for pension schemes. No liability or responsibility is accepted by any of the Working Party members – you should always seek your own professional advice.

This guide is aimed at trustees of occupational trust-based schemes and covers assets invested in defined contribution and AVC schemes. It does not cover the protections in place in relation to DB schemes. It does not constitute any form of advice (including legal or investment advice). The guide is based on our current interpretation of the position with respect to protections for DC members and is likely to change over time.

Many aspects in terms of the levels of protection for members remain unclear and trustees should always seek legal and (where appropriate) investment advice both in assessing the current structure for their scheme and making any changes to their structure or funds offered within the scheme. The questions highlighted above may not be sufficient for trustees to understand the levels of protection in all cases and further investigation may be needed, particularly where more esoteric funds are offered to members.

