

FYI[®] Alert

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CDC schemes – an update

The Pension Schemes Act 2021 introduced the legislative framework for collective defined contribution schemes. The DWP's response to its consultation on draft regulations was published on 15 December 2021 and on 25 January 2022 The Pensions Regulator published a consultation on a new draft code of practice.

Trustees can apply for authorisation to operate a CDC scheme for a single or connected employer from August this year.

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Background

Our FYI dated 29 July 2021 ([Collective Defined Contribution \(CDC\) schemes](#)) provided details on the background to CDC schemes, explaining how the Pension Schemes Act 2021 introduced the legislative framework, together with a summary of the DWP's consultation.

The consultation sought views on the draft regulations covering what CDC schemes needed to do to become authorised by The Pensions Regulator, how the ongoing supervision framework would operate and how changes would be made.

The Regulator's consultation (comprising 27 questions) on a draft code of practice is about the authorisation and supervision of CDC schemes. It closes on 22 March 2022 and needs to be in place by August. Eventually this code will be incorporated into the new single code in a modular format.

The DWP's response to the consultation

Being a consultation about two sets of very detailed regulations, the consultation response is technical. This briefing note does not cover all the detail but seeks to pull out a few points of interest.

There are a number of reminders to respondents that the current regulations and approach is focused solely on enabling single or connected employer CDC schemes to be established. However, the DWP does say that they are "committed to working with interested parties on how [CDC] provision can be extended".

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Level of fee

The DWP confirms that the Regulator has set the application fee for a single application calculated on a cost recovery basis as £77,000.

Member nominated trustees

There was some concern that the fit and proper person requirements in the draft regulations may prevent member nominated trustees (MNTs) from participating in CDC schemes. The DWP confirms that the requirements are not intended to do this, although “it is reasonable to expect a base level of knowledge by a trustee at the point they commence their role”. The Regulator’s code will clarify the requirements but should not act as a barrier to MNTs.

Scheme actuary role

The Pension Schemes Act 2021 requires the scheme actuary to consider the scheme rules as part of the certification process. Some concern was raised about the role of the scheme actuary and that they would have to look at non-actuarial matters (such as member communications) that were not part of an actuarial professional skillset. The DWP advises that the scheme actuary may either seek their own legal advice or have regard to the advice provided to the scheme’s trustees. Again, the Regulator’s code will provide more details of the expectations.

Disclosure and member communications

Some respondents suggested separate disclosure regulations for CDC schemes, recommended the DWP liaised with the Money and Pensions Service to ensure their guidance included CDC schemes and asked the DWP to clarify how CDC schemes would be impacted by recent ‘stronger nudge’ and dashboard proposals. There were also comments about benefit statements and the chair’s statement.

Some recommendations have been noted and the draft regulations amended.

Transfers

The CDC transfer process follows that for members of DC schemes. However, there are two differences: the CDC transfer process includes a three-week cooling off period (to ensure that before a transfer is finalised, members understand the implications of leaving the CDC scheme before retirement and consider if it is the right option for them) and actuarial input will be required when calculating the member’s share of the collective assets.

Automatic enrolment quality requirement

The DWP has prepared draft regulations that set out the alternative quality requirement for CDC schemes. This will be available to CDC schemes as an alternative to the quality requirement for money purchase schemes.

The Pensions Regulator’s consultation

The Regulator (like the DWP) confirms that the draft code only covers single or connected multi-employer CDC schemes. The draft code covers the application process for authorisation, the authorisation criteria, and supervision and reporting.

Applications for authorisation

The code covers the process for authorisation. A formal application must be submitted together with supporting evidence for each of the authorisation criteria and payment of the authorisation fee of £77,000 (for a single section). The Regulator must make a decision within a statutory deadline of six months.

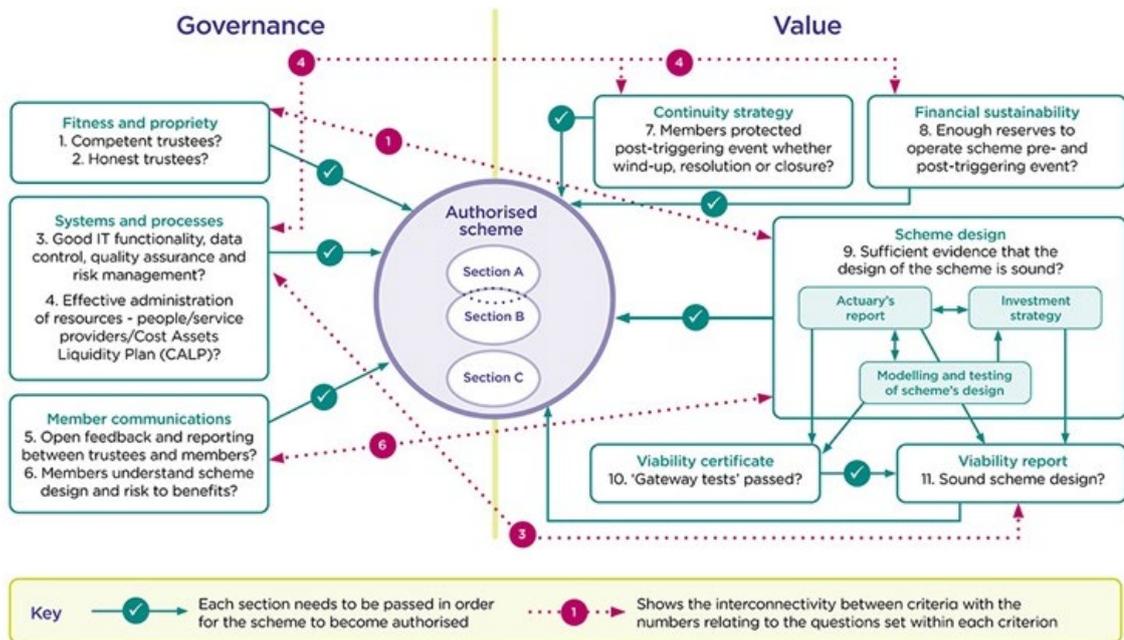
Essentially, if the Regulator is satisfied that the scheme meets all the authorisation criteria, the scheme must be authorised. If not, the scheme cannot be authorised, although the trustees can appeal the Regulator’s decision, referring it to the Upper Tribunal.

Authorisation criteria

The authorisation criteria are:

- Fitness and propriety
- Systems and processes
- Member communications
- Continuity strategy
- Financial sustainability
- Sound scheme design

None can be assessed in isolation. A diagram is provided in the code summarising the criteria and the key interrelations between them.



Source: The Pensions Regulator’s draft code of practice on authorisation and supervision of collective defined contribution schemes

Supervision and reporting

Significant events must be reported to the Regulator as soon as reasonably practicable (usually within five working days). These include, for example, a significant change to the scheme’s investment strategy, a proposal to change the design of the scheme (including closing it), or an event that may result in the scheme being unable to meet financial sustainability requirements.

Triggering events (i.e. that may indicate that the scheme cannot continue to operate) must be notified to the Regulator within seven days of the event occurring. Periodic reports have to be submitted to the Regulator during the triggering event period.

What's next?

Legislation takes effect from 1 August 2022 for single or connected employer CDC schemes. The regulations will be laid before parliament this month. The Regulator's code of practice will take effect before the first applications for authorisation can be made.

Guy Opperman, Minister for Pensions and Financial Inclusion, states in the foreword to the DWP's response: "Whilst our prime focus remains on ensuring CDC is available from [2022] for single or connected employer schemes, we have already begun engagement with interested parties to understand their proposals for multi-employer schemes and explore how CDC can best be used to help deliver good outcomes for more of tomorrow's pensioners."

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